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Client Alert

Enactment of Japan's Smartphone Software Competition Promotion Act: Paving the Way for Fair Competition and Game Publisher Growth

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Introduction

Japan, like many other countries, has experienced rapid smartphone adoption, making mobile technology a critical infrastructure for both daily life and economic activities. However, the markets for essential smartphone software—including smartphone operating systems, app stores, browsers, and search engines—have been predominantly provided by a small number of major players. This dominance has created high entry barriers and limited competitive dynamics within Japan.

To address these challenges, Japan passed the Act on Promotion of Competition for Specified Smartphone Software (**the “Act”**) on June 12, 2024, marking a significant step toward fostering

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competition and opening up the mobile software ecosystem.

The Act is scheduled to come into force by the end of 2025, allowing for a phased rollout of relevant regulations and guidelines.

This article outlines the objectives and key provisions of the Act, while also analyzing its specific benefits for game publishers.

Background and Purpose of the Act

The Act seeks to reduce the monopolistic control of key digital platforms, fostering a competitive environment that encourages innovation and benefits consumers.¹ This legislation addresses the limitations of Japan's existing antitrust framework, which has often struggled to promptly address market abuses in digital sectors due to lengthy investigative processes.

Key Provisions of the Act

1. Designation of Specified Software Providers

The Act empowers the Japan Fair Trade Commission (JFTC) to designate providers of (i) smartphone operating systems (OS), (ii) application stores, (iii) browsers, and (iv) search engines **(the “Specified Software”)** that meet size and scope criteria as “Designated Providers.”² These entities will be subject to heightened scrutiny and specific regulatory obligations.

As of this article's publication, the government has not yet identified the Designated Providers. However, it is anticipated that at least Apple Inc. and Google LLC will be designated. The prohibitions and compliance requirements discussed below will apply to these Designated Providers.

2. Major prohibited practices and compliance requirements

The Act introduces several prohibitions and obligations for Designated Providers to address competition concerns, including:

- ***Prohibition of Restricting Third-Party App Stores:*** Designated Providers shall not restrict third-party providers from offering their own application stores.³
- ***Prohibition of Restricting Third-Party Payment Systems:*** Designated Providers shall not

¹ See, “Outline of the Act on Promotion of Competition for Specified Smartphone Software” by The Japan Fair Trade Commission (JFTC), at p.2, available at <https://www.jftc.go.jp/file/240612EN3.pdf>

² Article 3 of the Act.

³ Article 7, Item 1 of the Act.

restrict other application developers from using third-party payment systems.⁴

- **User Control Over Default Settings:** Designated Providers shall ensure that users can modify default settings through straightforward procedures and provide choice screens for browsers, etc.⁵
- **Prohibition of Preferential Treatment in Search Results:** Designated Providers shall not give preferential treatment to their own services over those of competitors in search result displays without a justifiable reason.⁶
- **Prohibition of Misusing Competitor Data:** Designated Providers shall refrain from using data obtained about competing applications for the benefit of their own applications.⁷

3. Enforcement Mechanisms

The Act includes comprehensive measures to ensure compliance, such as mandatory reporting, collaborative monitoring with related government agencies, and the authority for the JFTC to impose fines of up to 20% of domestic sales related to the service involved in the serious violations.⁸

This regulatory framework also involves continuous dialogue with stakeholders (including the Designated Providers) to support adherence and improve business practices.⁹

Potential Benefits and Considerations for Game Publishers

The Act has the potential to offer several advantages for game publishers:

1. Improved Profitability and Greater Pricing Flexibility

The Act stipulates that Designated Providers must not impose conditions that prevent the use of third-party payment systems. Following the passage of the Act, game publishers are increasingly adopting web-based payment systems instead of relying solely on major digital platforms.¹⁰

By utilizing web-based payment systems, game publishers can significantly reduce the high transaction fees typically associated with in-app purchases. While in-app purchases through major digital platforms often incur fees of around 30%, web-based transactions generally involve fees of only 3–5%. This reduction allows publishers to retain a greater

⁴ Article 8, Item 1 of the Act.

⁵ Article 12, Items 1 and 2 of the Act.

⁶ Article 9 of the Act.

⁷ Article 5 of the Act.

⁸ See, “Outline of the Act on Promotion of Competition for Specified Smartphone Software” by JFTC, at p.4, available at <https://www.jftc.go.jp/file/240612EN3.pdf>

⁹ *Id.*

¹⁰ *Nihon Keizai Shinbun*, November 15, 2024

share of revenue, enabling them to reinvest more effectively in game development and marketing.

Further, with web-based payment options, publishers can set more competitive prices and terms for in-game items and currencies. For example, by offering discounts on items purchased via web payment, publishers can incentivize players to use these alternative payment methods, enhancing user satisfaction and loyalty.

2. **Reduced Dependence on Major Technology Platforms**

Traditionally, game publishers heavily relied on the payment systems of a few dominant digital platforms for in-app purchases. However, with the Act in place, publishers can more easily implement independent payment methods. This reduces their dependency on major tech giants and gives them greater control over their business models, fostering increased flexibility and resilience in their operations.

3. **Enhanced User Experience**

Web-based payments also increase the flexibility available to players, allowing them to choose payment methods other than in-app purchases. This flexibility improves the user experience, potentially boosting player engagement and retention by reducing payment friction.

4. **Access to Third-Party App Stores**

The Act may also open the possibility for game publishers to distribute apps through third-party app stores, bypassing major platforms like Apple or Google. For example, apps that do not meet Apple's App Review Guidelines¹¹ could potentially be distributed to iPhone users through alternative app stores.

Conclusion

The Act represents a significant development in Japan's digital market regulation, aiming to foster a more open and innovative environment for mobile software. By removing restrictive practices and lowering market entry barriers, the Act not only empowers developers and diversifies consumer options but also aligns Japan with a global movement toward fairer digital ecosystems.

The outcomes may signal broader transformations in how digital giants interact with local markets

¹¹ <https://developer.apple.com/app-store/review/guidelines/>

and the conditions under which they operate, paving the way for more balanced relationships between technology companies, developers, and consumers alike.

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