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Competition and Agentic AI – Note by Japan

8 December 2026

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More documents related to this discussion can be found at oe.cd/ciaai.

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Japan

1. Introduction

1. The Japan Fair Trade Commission (hereinafter referred to as the "JFTC") has been conducting market studies on generative AI-related markets, and has published the Discussion Paper "Generative AI and Competition" (hereinafter referred to as the "Generative AI DP") in October 2024, the "Report Regarding Generative AI ver. 1.0" (hereinafter referred to as the "Generative AI Report ver. 1.0") in June 2025, and the "Report Regarding Generative AI ver. 2.0" (hereinafter referred to as the "Generative AI Report ver. 2.0") in April 2026, respectively. Prior to these initiatives, in March 2021, a study group established by the JFTC[1] published the report "Algorithms/AI and Competition Policy" (hereinafter referred to as the "Algorithms Report"). In these reports, the JFTC has presented its views under the Antimonopoly Act and competition policy regarding algorithms and generative AI, and the reports on generative AI have also covered emerging technologies utilizing generative AI, including references to AI agents.

2. Although the JFTC has not specifically addressed Agentic AI in its past market studies, from the perspective of contributing to discussions at the OECD, this paper organizes and introduces views under the Antimonopoly Act and competition policy regarding Agentic AI, based on the discussions on algorithms and generative AI in past reports.

2. Discussions on AI Agents and Agentic AI in Japan

2.1. Definition and Characteristics of AI Agents

3. In the Generative AI Report ver. 1.0, the JFTC defines an "AI agent" as "an AI system that recognizes its environment and makes decisions autonomously to achieve a specific goal". The report states that AI agents are automated entities that sense and respond to their environment and take actions to achieve their own goals. It also highlights perspectives from industry stating that AI agents feature that: (i) they can connect to and operate existing IT systems and other tools; and (ii) they can determine what actions are necessary for a given task and operate on their own.

4. Furthermore, in 2024, the Generative AI DP points out that AI agents[2] "would offer increasing benefits to users as the number of compatible external applications grows. This increase in the user base might enhance the value for external application developers, leading to more integration and potentially creating an indirect network effect".

2.2. Status of Adoption of AI Agents

5. The Generative AI Report ver. 2.0, published in April 2026, points out that their adoption has since gained momentum, becoming established in everyday tasks and

[1] The Study Group on Competition Policy in Digital Markets

[2] In the Generative AI DP, they are expressed as "agent-type products—generative AI products that can interact with external applications (e.g., chat applications and schedule management tools)".

services; it also introduces feedback from companies stating that AI agents are expected to advance rapidly in areas such as online shopping and coding in software development, and that competition in the AI agent sector—including platforms for AI agents—is intensifying.

2.3. Definition of Agentic AI in the AI Guidelines for Business

6. In March 2026, the Ministry of Economy, Trade and Industry (METI), and the Ministry of Internal Affairs and Communications (MIC), jointly published the "AI Guidelines for Business Ver. 1.2". While adopting the same definition of AI agents described in Section 2.1 above, the Guidelines define Agentic AI as "a goal-driven AI system that autonomously makes decisions and takes actions through the use of multiple AI agents," a concept that is broader and more evolved than AI agents."

3. Potential Issues under the Antimonopoly Act in Relation to Agentic AI

7. As mentioned above, the JFTC's reports have never addressed Agentic AI. However, given that Agentic AI is an AI system that combines AI agents based on algorithms and generative AI, we consider that the views under the Antimonopoly Act regarding algorithms and generative AI that the JFTC has presented to date are also applicable to Agentic AI.

8. Below, among the issues under the Antimonopoly Act discussed in the past reports on algorithms and generative AI, we take up those considered closely related to Agentic AI, provide an overview of them, and introduce our thoughts regarding Agentic AI.

3.1. Concerted Practices

3.1.1. Concerted practices by parallel algorithms

A. Discussions in the Algorithms Report

9. The Antimonopoly Act prohibits, as an unreasonable restraint of trade (Article 3), any firm from mutually communicating with other firms to arrange, in concert with such other firms, the price, sales volume, production quantity, etc. of any product, which each firm should intrinsically determine by itself. With regard to, among the conditions for unreasonable restraints of trade, those particularly problematic in relation to concerted practices by algorithms, the establishment of "in concert with other enterprises" (Article 2, paragraph (6)) requires an "agreement," namely the "communication of intention," between/among multiple firms when they raise their prices or limit their sales volumes. Practices that are regarded as amounting to "agreements" are understood to include the "tacit communication of intention" through which firms become mutually aware of another firm's action affecting a price increase, etc. and implicitly accept such action. On the other hand, so-called "conscious parallelism" does not constitute an unreasonable restraint of trade.

10. In concerted practices through parallel algorithms, algorithms serve to coordinate the prices of competing firms, and the applicability of the Antimonopoly Act to this type is as follows.

(a) When using algorithms in parallel for price setting based on an agreement

11. In cases where an agreement, such as that on a price cartel, has been made among competing firms, utilizing in parallel an algorithm configured to set prices according to the

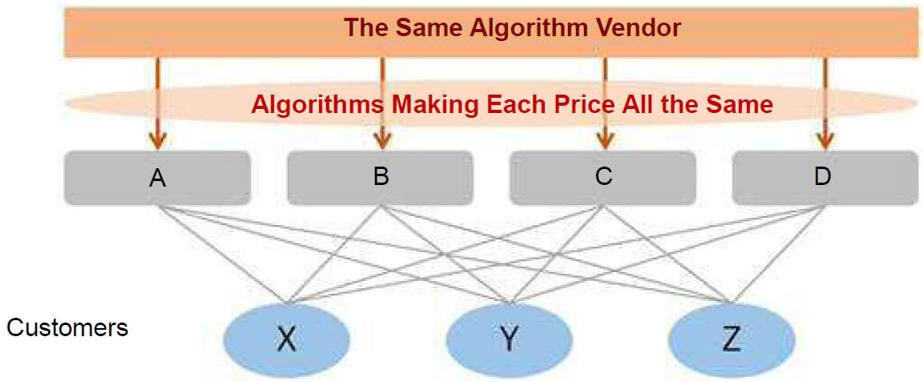
agreement enables those firms to automatically set prices in accordance with the agreement. In these cases, since there is an agreement among multiple firms on engaging in certain practices even prior to the use of such algorithms, this situation can potentially constitute an unreasonable restraint of trade.

(b) When prices are coordinated by parallel algorithms provided by a third party (hub-and-spoke arrangements)

12. There would be cases where multiple competing firms use an algorithm provided by the same third party (e.g., a vendor of a price-setting algorithm), and the use of this algorithm leads to the coordination of their prices. For instance, this may be a case where multiple competing firms ask a specific algorithm vendor to develop a price-setting algorithm to coordinate their prices and use this algorithm in their practices.

13. Furthermore, even if firms utilizing algorithms do not intend to coordinate their prices, a vendor providing a vast majority of the price-setting algorithms used in a specific market provides those firms with an algorithm designed to coordinate their prices without informing such user firms to that effect. Such practice could constitute coordinated price-setting. In such cases where price coordination occurs in this way, the prices of those firms come to be coordinated with each other with the third party acting as the hub; accordingly, such cases are categorized as "hub-and-spoke" type scenarios.

Figure 1. Concerted Practices by Parallel Algorithms (Hub-and-Spoke Arrangements)



i. Where algorithm-using firms have a common recognition concerning price coordination

14. In cases where multiple competing firms use a price-setting algorithm offered by a single third party, such as the same vendor, while mutually recognizing that the use of such algorithm leads to price coordination, it can be considered that the firms in these cases have a common recognition that their prices are coordinated even without exchanging information directly or indirectly among those firms. If such algorithm is used with such recognition, the algorithm-using firms cannot be found to independently set prices and are found to engage in the communication of intention; accordingly, this type of arrangement may possibly be regarded as an unreasonable restraint of trade and thus held in violation of the Antimonopoly Act.

ii. Where an algorithm provider coordinates the prices of multiple algorithm-using firms without those firms being aware of price coordination

15. For example, if an enterprise providing a great majority of the price-setting algorithms used in a specific market supplies user firms with an algorithm coordinating their prices without informing those firms to that effect, the communication of intention among those firms cannot be found; however, if the enterprise has user firms adopt its specific price-setting algorithm and coordinates pricing among them through the algorithm, the enterprise's conduct may constitute a violation of the Antimonopoly Act on the ground of private monopolization.

B. Thoughts on Agentic AI

16. In accordance with the discussions above, it could become a problem under the Antimonopoly Act in cases where multiple competing firms use in parallel Agentic AI provided by the same third party for price setting based on an agreement; where multiple competing firms engage in coordinated price setting by using Agentic AI provided by the same third party; and where an enterprise providing the vast majority of Agentic AI used in a specific market makes user firms adopt its specific Agentic AI configured to coordinate prices, without informing the user firms of such functionality, thereby coordinating prices among them.

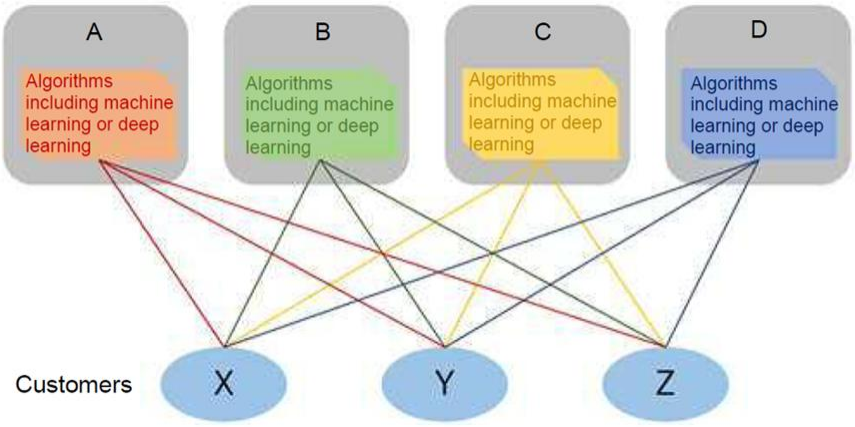
3.1.2. Concerted practices by self-learning algorithms

A. Discussions in the Algorithms Report

17. It is considered that, in concerted practices by self-learning algorithms, the prices of competing firms would be set above competitive prices as a result of each competing firm using machine learning or deep learning to set its price. While there is a concern that, even where each firm uses a self-learning algorithm only to set its price without intending to mutually coordinate prices, its price may result in being above competitive price due to interactions among self-learning algorithms, questions have also been raised about whether concerted practices by self-learning algorithms will be realized in real markets.

18. Even if concerted practices based on the interaction of self-learning algorithms are realized in a real market, if prices are coordinated only as a result of mutually autonomous price setting by multiple self-learning algorithms, it is considered that this fact alone will not constitute an unreasonable restraint of trade.

Figure 2. Concerted Practices by Self-Learning Algorithms



B. Thoughts on Agentic AI

19. Although concerted practices based on the interaction of Agentic AI are considered theoretically possible, there is still an insufficient accumulation of cases and experience that can form the basis of discussions; therefore, it is necessary first of all to closely monitor the feasibility and conditions of such practices as well as relevant technological trends.

3.2. Unilateral Conduct

3.2.1. Tying (Tie-in Sales)

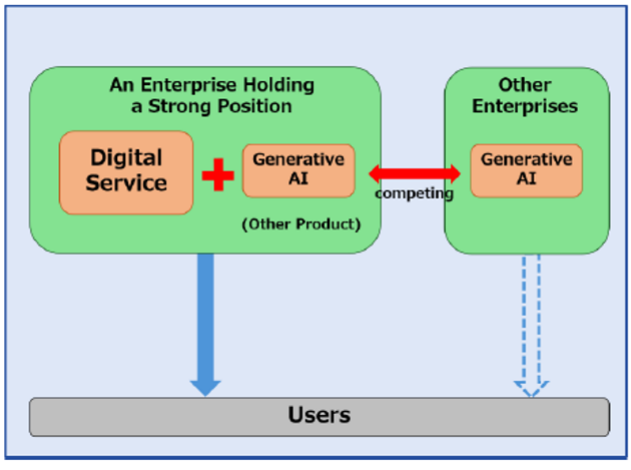
A. Discussions in the Generative AI Report ver. 2.0

20. When an enterprise holding an influential position in a specific digital services market integrates generative AI into that digital service and offers it to users, this could create conditions that impede the business activities of existing competitors in the generative AI model or generative AI application markets or raise barriers to entry.

21. For the act of integrating generative AI into an existing digital service to constitute a tie-in sale, the generative AI (the tied product) integrated into the existing digital service (the tying product) must qualify as "other goods". Whether a product sold in conjunction with another product falls under "other goods" is determined by whether each of the combined product possesses distinct characteristics and is traded independently.

22. Based on this reasoning, when the tied generative AI falls under "other goods," if the integration of such an existing digital service with generative AI is carried out by a provider holding an influential position in the relevant existing digital service market, and this results in a market foreclosure effect on the market of the tied product—generative AI—such integration constitutes a tie-in sale and may raise issues under the Antimonopoly Act.

Figure 3. Integrating Generative AI into Existing Digital Services



B. Thoughts on Agentic AI

23. In cases where Agentic AI (the tied product) integrated into an existing digital service (the tying product) qualifies as "other goods," and the integration of the relevant digital service and Agentic AI is carried out by an enterprise holding an influential position in the relevant existing digital service market, resulting in a market foreclosure effect in the Agentic AI market (the market for the tied product), it is considered that such conduct may raise issues under the Antimonopoly Act.

3.2.2. Ranking manipulation

A. Discussions in the Algorithms Report

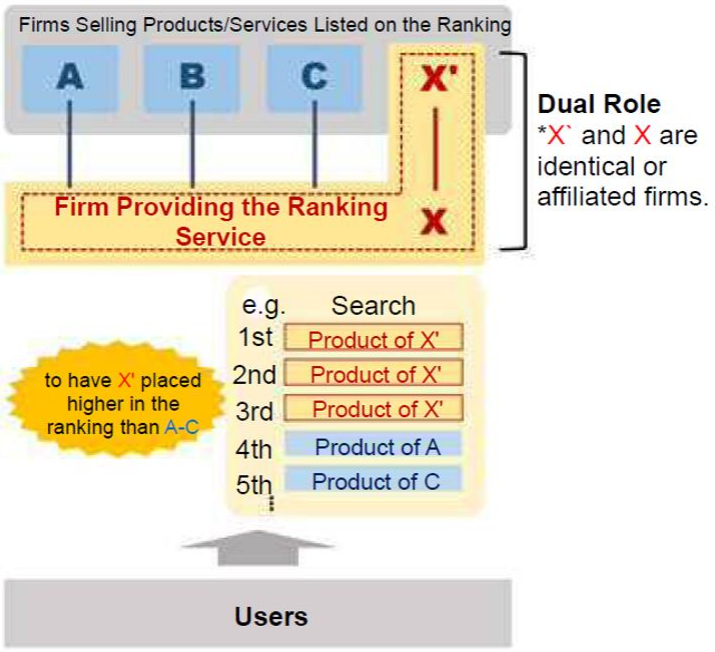
24. Cases in which competition may be restricted due to conduct by an enterprise providing a ranking service[3] (hereinafter referred to as a "provider") using rankings can be organized as follows.

25. First, when a provider that holds an influential position in the ranking service market includes its own or its affiliates' products or services in the rankings as well, it may unfairly interfere with transactions between consumers and competing user firms in the supply market of such products or services by, for example, arbitrarily manipulating the ranking algorithm to place its own or its affiliates' products or services higher, or granting them an undue advantage when the algorithm is modified (self-preferencing).

26. Furthermore, there would be cases where a provider holding an influential position in the ranking service market discriminates a specific user firm when determining the rankings, such as placing the products or services of the specific user firms low in the rankings without any reasonable grounds, and such an act directly and significantly affects the competitive function of the specific user firms in the supply market of the products or services listed in the rankings, and has an adverse effect on the fair competitive order among user firms.

[3] The Algorithms Report states that "Some services that use rankings aim to provide ranking results themselves, such as search services, while others provide rankings as part of intermediation services, such as online malls," and that "these services in which rankings are used are collectively referred to as 'ranking services.'"

Figure 4. Dual role in ranking



B. Thoughts on Agentic AI

27. Where a ranking service provider engages in conduct such as that described above using Agentic AI in the ranking service it provides, it is considered that such conduct may raise issues under the Antimonopoly Act.

4. The JFTC's Next Steps

28. In light of the current state of flux in generative AI-related markets, the JFTC has proceeded with the market studies in a more rapid and flexible manner than previous studies. Given that changes and technological innovations those could affect the market structure—including Agentic AI—are occurring every day in the environment surrounding generative AI-related markets, and that the market environment is expected to change dynamically in the future, it is crucial to properly understand market trends. The JFTC will continue to closely monitor these trends in cooperation with other competition authorities and relevant domestic ministries and agencies.