

A study on the Resale Price Maintenance of Retail Commodities under the Development of Digital Economy

Abstract

Keyword(s): digital economy, e - commerce, resale price maintenance

This study introduces the recent development of the legal system of resale price maintenance on e-commerce in the United States, the European Union and Japan in the digital economy, and analyzes the impact of RPM on competition under e-commerce. This research also analyzes the Fair Trade Law regarding to the provision of RPM under the digital economy. The subject of analysis includes decisions of court and Fair Trade Commission. The research found that the Fair Trade Law doesn't have special RPM regulations on e-commerce. The facts and reasons in decisions of FTC are sometimes difficult to understand the period of violation. The fines of RPM tend to be low, and the consideration factors are not clear. Regarding the judgment of whether there are justifiable reasons for the RPM in e-commerce, this research found that the fairness of the case of FTC does not seem to be completely consistent. This research also found that the Intellectual property owner often reported to the e-commerce platform indicated that the seller selling below the recommended price on the platform infringed intellectual property rights, and requested that the seller's products to be removed from the webpage. It has become one of the measures for upstream product supplier to require downstream distributors to comply with the recommended selling price set by them in recent years.

This research suggests that the main text in the format of the decisions of FTC should be consistent and clear, so that the sanctioned person can know what his illegal acts are. In addition, due to the diversity of e-commerce models in the digital economy, when ordering the offender to cease the illegal act, the FTC can refer to the format of Japanese sanction decision to order the sanctioned person to stop engaging in the illegal RPM. The measures taken should be sent to the FTC for admission. The facts and reasons of the FTC's decisions shall contain the facts that are found to be illegal based on the evidence, and the reasons shall clearly record the time and the RPM practices of the person being punished. For the division of RPM restrictions related to e-commerce, the amount of fines should be adjusted appropriately, and the factors of fines in the FTC's decisions should be clear. The procedure of decision-making and discussion of the justifiable reasons for RPM should adopt consistent standards, and should allow the punished person to claim that if there are justifiable reasons, and a certain amount of fines should be reduced or exempted.

The procedure is still limited to the punished person in the judgment of the justifiable reasons. Whether the claim is established shall prevail and shall not exceed the claim of the person being punished. The notice of infringement on e-commerce platforms is listed as a measure to ensure that the resale price is maintained; and the relationship between the e-commerce transaction model and the requirements for RPM should be reviewed. At the end of this research, it is suggested that the FTC should continue to observe the development of new types of e-commerce activities and price competition; continue to study the impact of price comparison websites on price competition in the digital economy.