

An institutional analysis of the resale price maintenance system  
for publications in Japan—the two-tier tug-of-war  
and the survival of the system

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Nov 2006

No.38

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### **Abstract**

This paper aims to analyze the continuation of the resale price maintenance (RPM) system in the Japanese publishing industry. The Japanese publishing industry operates under the RPM system, which permits publishers to constrain the resale prices of books and magazines. This paper examines how and why the RPM system has survived by analyzing the political tug-of-war from 2 different angles: (1) between the Japanese Fair Trade Commission (JFTC) and the publishing industry, and (2) among the players in the publishing industry. The JFTC began reviewing competition policy in the early 1990s, which included a reexamination of the RPM system. The publishing industry lobbied for the retention of the RPM system. In their lobbying, the publishing industry claimed that the RPM system contributes to the development of Japanese culture. Their rationale was that the system protects the publishing industry from price competition; therefore, publishers have the opportunity to publish various kinds of books with long-term planning. In 2001, the JFTC finally decided to continue with this system. However, rather than the abovementioned cultural consideration, a political tug-of-war among the players in the publishing industry seems to be the main reason for RPM having survived in this industry. Wholesalers have played leading roles in imposing these business conditions on a major section of both publishers and retailers.

(Resale Price Maintenance; Neo-institutional Sociology; Japanese Fair Trade Commission; Anti-trust Law; Institution)

### **1. Introduction**

In Japan, people almost always purchase books and magazines at fixed prices. Table 1 illustrates the relative carfare rates for publications in Japan. The cost of book distribution to the Kanto area is taken as 100 and is the standard for comparison. The carfare rate to other areas varies from 1.2 to 2.1 times that to Kanto since most of the publishing companies are headquartered in Kanto and publications are printed there. Thus, the further the

distance from Kanto, the more expensive the distribution becomes. In addition, costs such as employment costs vary across Japan. Despite these cost differences, in Japan, the prices at the bookstore are fixed. This is because the Japanese publishing industry is regulated by a resale price maintenance (RPM) system, which permits publishers to constrain the resale prices of books and magazines. Although this is not legally compulsory, it is strictly adhered to in the publishing industry.

**Table 1 Carfare rate in the Japanese publishing industry**

Kanto	100
Hokkaido	189.7
Tohoku	121.8
Hokuriku	120.9
Koshin and Chubu	113.6
Kinki	130.3
Chugoku & Shikoku	151.2
Kyushu & Okinawa	216.1

Source: The association of Japanese book wholesalers

In 1953, the Antimonopoly Act was revised, and certain commodities designated by the Japanese Fair Trade Commission (JFTC) and copyrighted products (books, magazines, newspapers, music CDs, music tapes, and records) were exempted from the prohibition on RPM<sup>1</sup>. For a period of time, the number of designated commodities increased; however, the JFTC gradually abolished certain types of exemptions, and finally repealed all of the designated commodities in 1997.

In the present day, copyrighted products including books and magazines are still exempted from this prohibition. Although the JFTC has reviewed the RPM system for copyrighted products, it remains a legal system and a business custom in the Japanese publishing industry. This paper presents an explanation of this survival from the viewpoint of a political tug-of-war between the JFTC and the publishing industry, and within the publishing industry itself. This paper also addresses the worldview of each player in relation to this political tug-of-war.

## 2. Theoretical background and research method

This paper analyzes the background of the RPM continuation based on a sociological perspective, the new institutionalism in organizational analysis, which originated from

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<sup>1</sup> RPM falls into the category of unfair trade practices prohibited by Section 19 of the Antimonopoly Act.

Meyer and Rowan (1977). Neo-institutional sociology has been presented as an explanatory framework to analyze the organizational isomorphism resulting from institutional pressures<sup>2</sup>.

The diffusion of particular strategies or organizational form, i.e., organizational isomorphism, can be explained by other organizational theories. One of the most influential explanations focuses on the adaptation and efficiency in technical environments (the efficiency model). In brief, the efficiency model explains that organizational similarity results from an organization enhancing the efficiency of its activities.

In contrast, the institutional model addresses the social legitimacy of adopting particular strategies or organizational forms. The social legitimacy of an organization is generated through its legally sanctioned, morally governed, and culturally supported interactions with other organizations. The institutional model explains how the similarity in organizations increases the chances of organizational survival without considering issues of the efficiency of strategies and forms.

However, there is growing criticism of this assumption in the institutional model, particularly in the degree of agency accorded to organizations (DiMaggio 1988, Yamada 1993). Critics of the institutional model point to its casting of the organization as a cultural dope. Responding to these criticisms, scholars dealing with organizational isomorphism argue for organizational agency. Some researchers combine agency into the institutional model by, most importantly, adding the assumption of self-direction in the institutional model (Powell 1991). Although individuals and organizations do not necessarily accept institutional pressures, they subjectively interpret the external environment based on their interests and intentionally respond to these pressures (Fligstein 1990). Both theoretical and empirical studies using neo-institutionalism began focusing on institutional construction and change and institutional reproduction and maintenance in the past dozen years or so (Scott 2001, Dacin et al. 2002).

In response, this paper takes into account these research directions in neo-institutionalism and particularly deals with the reproduction and maintenance of the RPM on publications. In order to investigate the reproduction and maintenance of the RPM on publications, this paper uses Oliver's analytical framework of strategic responses to institutional pressures (Oliver 1991).

Oliver (1991) questions the overemphasis in neo-institutionalism of the institutional constraints on organizations. Complementing this criticism, she combines resource dependence arguments (Pfeffer and Salancik 1978) with neo-institutionalism by classifying

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<sup>2</sup> By organizational isomorphism, I mean particular organizational strategies and forms diffuse in organizations. For example, most firms explicitly define their general corporate domain, have a divisional structure, and adopt particular employee payment schemes.

from the most passive acquiescence to the most active manipulation. As shown in table 2, Oliver indicates the tactics of each strategy and provides existing experimental examples.

**Table 2 Strategic Responses to institutional Processes**

Strategies	Tactics	Examples
Acquiesce	Habit	Following invisible, taken-for-granted norms
	Imitate	Mimicking institutional models
	Comply	Obeying rules and accepting norms
Compromise	Balance	Balancing the expectations of multiple constituents
	Pacify	Placating and accommodating institutional elements
	Bargain	Negotiating with institutional stakeholders
Avoid	Conceal	Disguising nonconformity
	Buffer	Loosening institutional attachments
	Escape	Changing goals, activities, or domains
Defy	Dismiss	Ignoring explicit norms and values
	Challenge	Contesting rules and requirements
	Attack	Assaulting the sources of institutional pressure
Manipulate	Co-opt	Importing influential constituents
	Influence	Shaping values and criteria
	Control	Dominating institutional constituents and processes

Source: Oliver (1991)

Oliver states that organizational strategic responses are contingent on the five institutional factors listed below.

Cause: Why is the organization being pressured to conform to institutional rules or expectations?

Constituents: Who is exerting institutional pressures on the organization?

Content: To what norms or requirements is the organization being pressured to conform?

Control: How or by what means are the institutional pressures being exerted?

Context: What is the environmental context within which institutional pressure are being exerted?

However, when applying Oliver's analytical framework to the problem of RPM continuation, I have particularly focused on the following two points. Most importantly, her framework deals with responses by individual organizations, whereas this paper focuses on the collective responses of the industry participants and each subsector within the industry. In these instances, the publishing industry and each subsector within the industry are assumed to act as a uniform whole. However, it should be noted that there was considerable variation among each player's response concerning RPM.

Finally, the possibility of a combination of strategic responses must be considered. Oliver typifies strategic responses and verifies 10 hypotheses regarding the relationship between institutional factors and predicted strategic responses. However, determining only one strategic response is not necessarily possible, and considering the possibility of a combination of strategic responses seems to be more practical.

Taking into account the above discussion, the questions addressed in this paper are as follows. (1) How did the participants in the publishing industry respond to the pressure from the JFTC? Further, what kind of worldview did each player have? (2) What kind of pressure existed within the publishing industry, and how did each subsector respond? In addition, what kind of worldview did each player have?

Based on the theoretical discussion above, the research method adopted in this thesis was interview data analysis and archival data analysis.

I conducted interviews with 16 informants<sup>3</sup>. The lengths of the interviews varied from 1 h to 2 h, and most interviews were tape-recorded and transcribed. I was not allowed to tape-record the rest of the interviews; however, I made transcripts of these from handwritten memos. Although RPM seemed to be very sensitive topic, informants accepted the interview request in a positive manner.

The archival data sources included books dealing with the publishing industry and RPM, JFTC annual reports, and documents obtained from the informants. Among all these materials, the documents obtained from the informants were the most difficult to access; however, they were the most beneficial in restaging the political tug-of-war. In addition, a database of the index of Shinbunka (New Culture) from 1973 to 2005 was constructed. Shinbunka is a weekly journal on the publishing industry. The indices of the each year's compact edition were scanned using optical character recognition (OCR) software, and about

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<sup>3</sup> 13 informants are industry participants and 3 informants are involved in the JFTC. Although I contacted with 2 former members of the JFTC several times, unfortunately they did not accept my interview request.

130,000 entries were included. By using this database, about 2,000 articles on RPM as well as other RPM related articles were analyzed to capture the industry-wide trends regarding RPM.

In addition, under the Information Disclosure Law, I requested transcripts of the JTFC talks in the years from 1995 to 2001. However, the JTFC sent me a written notice of refusal to release the information<sup>4</sup>.

### **3. Revision of the RPM system**

The legal basis for the present RPM system was provided when the Antimonopoly Act, enacted in 1947, was revised and exemptions from the prohibition on RPM for certain commodities was established in 1953. Copyrighted products, including books and magazines, do not have to be designated by the JTFC, and the exemption of copyrighted products is stipulated in Section 23-4 of the Antimonopoly Act. Based on this section, the RPM system applied to copyrighted products is called “RPM designated by law,” for, in contrast to the designated commodities, the participants in the copyrighted products industry do not have to send registrations to the JTFC when they exchange a resale contract.

The number of designated commodities, mainly those for daily use, such as cosmetics, cameras, soap, and medicinal drugs, increased; however, from 1959 onward, the JTFC did not add designated commodities to the list. The JTFC decided to start abolishing certain types of exemptions in 1966; this decision was taken because of the pressure from the consumer movement against the inflation during the high economic growth in the 1960s, which criticized the unlawful RPM and tacit price cartel as the cause for the inflation.

The JTFC has reviewed the RPM system for publications twice since the exemption was authorized in 1953. The first review originated with a comment from the then JTFC chairperson on the review of the RPM on publications at a press conference in 1978. He intended to abolish the RPM on publications. Along the lines suggested by the chairperson, in February 1979, the JTFC sent questionnaires to publishers, wholesalers, and retailers as well as conducted hearings with industry participants. According to the results, some publishers did not necessarily want their own publications to be distributed under the RPM system. In response, after October 1979, the JTFC ordered the Fair Trade Council of Japanese Publications, comprising of publishers, wholesalers, and retailers, to make some changes in RPM contracts via administrative advice<sup>5</sup>.

It should be noted that the publishing industry accepted the orders to make the system more flexible because until the first review almost all the industry participants thought that

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<sup>4</sup> After the refusal, I requested the information under the Law of Administrative Tribunals. The outcome still remains unclear.

<sup>5</sup> The RPM contract is concluded between a publisher and a wholesaler and between a wholesaler and a retailer.

the RPM was mandatory. One way to make the system flexible is *bubun saihan* (limited RPM); here, a publishing house has the right to decide whether its publications should be at the fixed price or not each time it publishes. Another method is *jigen saihan* (time limit RPM); in this method, a publisher has the right to reduce the list price after a set period of time. As a result, from October 1, 1980, the RPM contract between a publisher and a wholesaler and a wholesaler and a retailer was renewed, and the contract notably included these methods to make the system more flexible. Despite this renewal, the methods were used only in exceptional cases, and publications continued to be sold at fixed prices.

After the first review, the JFTC refrained from undertaking another review of the RPM on publications for some time. The Japan-U.S. Structural Impediments Initiative (SII) held from 1989 to 1990 accelerated the regulatory reforms in Japan, and, as a part of these reforms, a second review of the RPM system was undertaken. Accordingly, not only the JFTC but also the Japanese government established a council to review the RPM system, and therefore, at the second review, the publishing industry was exposed to stronger pressures from the JFTC and the government than at the first review. Thus, in order to observe the political tug-of-war between the JFTC and the publishing industry, and among the publishing industry participants, a study on the second review seems to be more relevant.

At the second review, the RPM on designated commodities such as cosmetics and medicinal drugs was repealed, and the RPM on cultural products experienced the danger of repeal. In particular, after July 1995, when the Subcommittee on RPM-related Questions released its interim report, the political tug-of-war between the JFTC and the publishing industry started in full swing. In March 2001, the JFTC finally decided to continue with the RPM on cultural products.

#### **4. The tug-of-war between the JFTC and the industry**

##### **4-1. Combination of the compromise and avoid strategies**

At the second review, the publishing industry partially accepted the JFTC's demand for the flexible operation of RPM, and launched it in order to disguise nonconformity behind the façade of acquiescence. This can be classified as a combination of the compromise and avoid strategies in Oliver's framework.

On March 31, 1998, the JFTC announced that the final decision on whether RPM on copyrighted products should be abolished would be made after a certain period of time. The JFTC also mentioned that the industry participants' attitude toward the flexible operation, including limited RPM and limited-time RPM, would be considered when making the decision. In response, the publishing industry accepted the JFTC's demand, but the industry participants operated the flexible RPM as a front, and RPM, as a business custom, was not influenced much.

In 1998, Shogakukan, one of the Japan's leading publishers, for the first time, adopted limited-time RPM for its weekly magazine, "Shukan-Post." Subsequently, the number of publishers who adopted limited-time RPM, mainly for magazines, increased. However, the retailers did not discount magazines despite of the adoption of the limited-time RPM. This is because the retail margin for magazines is approximately 23% of the cover price, and discounting them is believed to be almost impossible for retailers<sup>6</sup>. Furthermore, retailers do not need to discount, for retailers have a right to return unsold publications to wholesalers and obtain a full refund.

Similarly, attention should be paid to bargain book fairs because there is a possibility that such fairs were used as a front. Bargain books can be defined as books exempted from an RPM contract. In October 1994, Libro at Ikebukuro, one of the leading bookstores in Japan, held a controversial book fair<sup>7</sup>. This fair was held because some small-to-medium sized publishers needed an excuse for protecting RPM, and Libro appreciated their idea. However, the Japanese Publication Wholesalers Association and the Tokyo branch members of the Japan Booksellers Federation pressured Libro and the publishers who announced their participation in the fair, and finally, big publishers such as Shogakukan put off participation<sup>8 9</sup>.

When Libro held the bargain book fair in 1995, the industry participants who tried to accept flexible operation in order to appease the JFTC did not form the majority, and some industry participants believed that flexible operation would eventually lead to the demise of RPM. In contrast, after March 1998, the JFTC officially demanded the flexible operation of RPM; it was widely recognized in the publishing industry that flexible operation would contribute to appeasing the JFTC. In the autumn of 1998, the first bargain book fair implemented by big publishers was held, and the fair continued on a biannual basis (in autumn and spring)<sup>10</sup>.

At the First Bargain Book Fair, seven publishers, eight wholesalers, and 800 bookstores participated. At the Second Bargain Book Fair, 10 publishers, 11 wholesalers, and 900

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<sup>6</sup> The retail margin for books is about 22% of the list price.

<sup>7</sup> Although bargain books were distributed before Libro's bargain book fair, the number of such books was very limited compared to that after the fair was held. In addition, after Libro's bargain book fair, bargain books also include books that are exempted from the RPM contract on a temporary basis.

<sup>8</sup> Japanese Publication Wholesalers Association and the Tokyo branch members of Japan Booksellers Association picked holes in the criterion that defined a bargain book.

<sup>9</sup> The number of wholesalers that participate in the Japan Publication Wholesalers Association is 31(October 2005). The number of bookstores that participate in Japan Booksellers Federation is 7,038(April 2005).

<sup>10</sup> Whereas books were sold at real bookstores until the spring of 2002, the Bargain Book Fair, from the autumn of 2003, sold books via the Internet. In the spring of 2003, the Bargain Book Fair was not held.

bookstores participated; this represents an increase in the respective number of entries. After the Third Bargain Book Fair, the number of participating publishers did not increase while that of bookstores decreased<sup>11</sup>.

According to the Flexible Operation Report published from 1998 to 2002, the return ratio for books at each book fair amounted to about 70–90%; thus, it seems that publishers did not gain from their participation<sup>12</sup>. It was also not beneficial for booksellers to participate because the publishers did not distribute marketable books. Despite these disadvantages, bargain book fairs were continued in order to appease the JFTC. One example of this is that the bargain book fair held in the spring of 2001 was subtitled “in order to protect RPM.” In addition, the wholesalers’ attitude toward the flexible operation of RPM illustrates this point. Wholesalers organized their own bargain book fairs, but they closed the curtains on the fairs after the JFTC announced the continuation of RPM.

According to the Annual Report on Competition Policy in Japan (January–December 1999 and January–December 2000), the JFTC appreciated the flexible operation of RPM, as conducted by the publishing industry, to some extent. The following inferences can be made. (1) Until the time of the report, big bargain book fairs were rarely held; therefore, it is true that the number of the industry participants joining bargain book fairs increased. (2) After the renewal of the RPM contract in 1980, which included limited-time RPM, publishers hardly applied limited-time RPM on their publications. However, the number of magazines that were added to limited-time RPM list increased, although these magazines were rarely discounted at bookstores. (3) The strongest indication is that although the JFTC recognized that the publishing industry used the flexible operation of RPM as a front, the JFTC could do nothing but appreciate the flexible operation of RPM because the publishing industry lobbied for RPM continuation.

Even if the last inference is true, it cannot indicate that a combination of the compromise and avoid strategies was effective for the continuation of RPM; however, it does indicate that a combination of the defy and manipulate strategies contributed to the survival of RPM.

#### **4-2. Combination of the defy and manipulate strategies**

The industry participants objected to the JFTC’s viewpoint and lobbied for the continuation of RPM by developing an argument that RPM protected and promoted the publishing culture. Finally, the JFTC was forced to continue with RPM. This industry-wide move can be categorized as a combination of the defy and manipulate strategies in Oliver’s framework.

First, mainly in the 1990s, some publishers issued books that called for the protection of

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<sup>11</sup> At the Third and Fourth Bargain Book Fairs, approximately 300 bookstores participated; and 193 bookstores participated at the Bargain Book Fair in the spring of 2002.

<sup>12</sup> The RPM Flexible Operation Promotion Committee has annually published the Flexible Operation Report since 1998.

the RPM. Further, the members of the Japan Book Publishers Association and Japan Magazine Publishers Association infolded an advertising catalogue titled “What is the characteristic of copyrighted products?” in their publications in September 1995<sup>13</sup>. This catalogue requested readers to understand and support the RPM on copyrighted products. In addition, in January 2000, a booklet titled “Dear readers” was distributed at bookstores that were members of the Japan Booksellers Federation. Moreover, the members of the Council on Distribution infolded an advertising catalogue in their own publications<sup>14</sup>.

Criticisms from learned individuals of the interim report of the Subcommittee on RPM-related questions, released in July 1995, were featured in major newspapers. In these articles, not only the RPM on newspapers but also the RPM on publications was firmly advocated. The theory of RPM protection being more widely disseminated through newspapers was beneficial for the publishing industry. Moreover, it can be speculated that the newspaper industry enhanced the legitimacy of the RPM on newspapers by organizing newspaper campaigns for RPM protection with such articles on the RPM on publications. However, it seems appropriate that the relationship between the newspaper industry and publishing industry concerning this newspaper campaign was not based on a system of cooperation. Instead, the newspaper industry played a key role, and the publishing industry took a free ride on the campaign.

The newspaper campaign also contributed to the lobbying for RPM protection. As described below, the JFTC had to compromise on an agreement for the continuation of RPM.

First, the Subcommittee on deregulation appointed by the Japanese government’s Administrative Reform Committee drafted a final report, which was politically influenced. Although the final report basically expresses skepticism about the RPM on copyrighted products, it refers to “various concerns from citizens about the review of the RPM, which has been thought to contribute to promotion and diffusion of culture.” The final report seems to make concessions to the advocates of RPM protection.

Although the Subcommittee on deregulation considered the possibility of clearly stating “abolishment of RPM” in the final report, they avoided it because they thought that it was not practical. According to Miwa (1998), who was a member of the Subcommittee on deregulation, the industry related to the RPM on copyrighted products would lobby, and thus, they considered the possibility that a final report suggesting an abolishment of the

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<sup>13</sup> The number of publishers who participated in the Japan Book Publishers Association and Japan Magazine Publishers Association is 482 (March 2003) and 92 (May 2003), respectively.

<sup>14</sup> The number of publishers who participated in the Council on Distribution is 104 (April 2006). Despite the RPM contract renewal after the first review, the Council on Distribution negotiated with the JFTC and finally obtained the approval of their own type of RPM contract that did not include the items of limited RPM and limited-time RPM. Therefore, the Council on Distribution is one of the most active organizations promoting for RPM continuation.

RPM on copyrighted products would be rejected at by the policy making advisory board or cabinet council.

Similarly, lobbying influenced the Study Group on Government Regulations and Competition Policy when it drafted a final report on the RPM on copyrighted products<sup>15</sup>. While this final report indicates a need to abolish RPM from the perspective of competition policy, it considers the adverse influence of an immediate abolishment of RPM and even appreciates the cultural and public viewpoint to some extent.

In order to analyze the background of this final report, the membership of the Study Group on Government Regulations and Competition Policy needs to be studied. On February 19, 1997, the JFTC stated at a press conference that the Study Group on Government Regulations and Competition Policy would be resumed from February 25 of that year. In addition, they announced that the membership of this study group would be reorganized and six new members, including three of the learned individuals who had endorsed the theory of RPM protection in the newspaper campaigns, would join the study group<sup>16</sup>. Jun Eto, a writer and one of the three members who advocated RPM protection, stated in a newspaper for booksellers (August 6, 1997, Zenkoku Shoten Shimbun) that their joining the study group was realized because the newspaper industry had approached politicians.

Furthermore, according to “Fifty five years’ history of Japan Booksellers Federation,” some members of the Japan Booksellers Federation met with Kiyoshi Mizuno, a politician belonging to the “Meeting for Publishing” of the Liberal Democratic Party, at the end of 1995<sup>17</sup>. Mizuno stated at that time that some lawmakers required the JFTC to include advocates of RPM protection. However, Uchihashi(2002), an economic commentator and advocate of RPM protection, criticized the JFTC’s intention to reorganize the study group for giving the appearance that the JFTC has an understanding of the theory of RPM protection.

Although I have not yet obtained materials that prove that the JFTC reorganized the study group because of lobbying, it is true that the reorganization brought about the tug-of-war between the opponents and advocates in the Study Group. One example of this is the first meeting of the Study Group. According to a leading newspaper, Yomiuri Shimbun (February 26, 1997), there was a conflict concerning the election of the chairman at the first meeting of the Study Group.

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<sup>15</sup> Since July 1988, The JFTC has organized the Study Group on Government Regulations and Competition Policy, which is made up of academics and other experts, and commissioned its members to address problems of government regulation and competition policy in individual sectors.

<sup>16</sup> The three learned individuals who joined were Jun Eto, Katsuto Uchihashi, and Hideo Shimizu.

<sup>17</sup> “Meeting for Publishing” was organized within the Liberal Democratic Party in 1991 in order to discuss the ethics of publishing.

There seems to be a possibility that both the Administrative Reform Committee's Subcommittee on deregulation and the Study Group on Government Regulations and Competition Policy were affected by lobbying. In the lobbying, the "Printed Word Panel," which consisted of Diet lawmakers who supported the theory of RPM protection, played an important role. This panel was organized on December 13, 1996, and the founding members consisted of 18 lawmakers. After the JFTC announced the RPM continuation, the number of members who joined the panel finally reached 100 on the eve of March 23, 2001.

In addition, the effect of this lobbying can be viewed as follows: a written statement that supports the continuation of the RPM on copyrighted products was adopted at local assemblies. 22 prefectural and city governments and 212 local authorities adopted a written statement calling for RPM continuation. The logic developed in almost all the written statements is the same as that shared by other RPM advocates, which assumes that RPM prohibits price competition, thereby protecting booksellers, and, in turn, realizing equal access to all publications.

One of the reasons for large-scale lobbying was the nation-wide network of the Japan Booksellers Federation, which has its branches all across Japan. The Japan Booksellers Federation proprietary launched "One Hundred Million Signature Campaign" through its branches<sup>18</sup>. The number of signatories reached the half-million mark in March 1996, and approached almost a million by October 1997. These signatures were handed over to lawmakers and submitted to the Diet session on December 2, 1997<sup>19</sup>.

#### **4-3. The decision to continue RPM on copyrighted products**

The JFTC, finally, had to announce the continuation of the RPM on copyrighted products on March 21, 2001 because of the combination of the defy and manipulate strategies adopted by the publishing industry. In this announcement, the JFTC referred to public opinion as an important factor that affected the final decision. However, the public opinion might not reflect the opinion of the consuming public, and furthermore, there is a possibility that the public opinion was invited because of lobbying.

In December 2000, the JFTC started to invite public comments about the RPM on copyrighted products<sup>20</sup>, and publicized the final results of a public poll, as shown in table 3.

**Table 3 Public comments on RPM (the number of comments)**

	Continuation	Abolition
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<sup>18</sup> "One Hundred Million Signature Campaign" was begun on November 27, 1995.

<sup>19</sup> Furthermore, on February 19, 1998, 88 members of the Japan Booksellers Federation visited the Diet and each of them petitioned local members of parliament to support the theory of RPM protection.

<sup>20</sup> The deadline was January 25, 2001.

Books & magazines	13,388	60
Newspapers	11,787	57
Music CDs	488	28
Copyrighted products as a whole	2,380	193

Source: The JFTC

The number of public comments was concentrated in “books and magazines” and “newspapers.” More than 99% of the comments on “books and magazines” and “newspapers” asked for a continuation. From the result, the continuation of RPM was supported by an overwhelming majority of the Japanese people.

These results do not seem to reflect the collective view of the general consuming public. Instead, regarding the number of comments that support the continuation of the RPM on books and magazines, it can be said that the participants in the publishing industry prepared certain common forms of documentation and sent documents based on these common forms to the JFTC.

The JFTC could anticipate that the participants in the industry would take every possible step to increase the number of comments in favor of the continuation of RPM before inviting the public opinion. If this is the case, it cannot be denied that the JFTC, influenced by the lobbying, had already decided to continue with RPM before inviting public comment, and it invited public comment solely for descriptive purposes.

Thus far, the tug-of-war between the JFTC and the publishing industry is analyzed. When the publishing industry claimed the importance of RPM, they developed an argument that RPM contributed to the promotion and diffusion of publishing culture, and thus, the consumer benefit was maximized.

Whereas the publishing industry advocated RPM from the cultural perspective, the JFTC viewed RPM from the viewpoint of market competition. From this, it can be said that there was a conflict between the worldview of the publishing industry and that of the JFTC. However, there is a loose coupling (Meyer and Rowan 1977) between the logic the publishing industry used in their lobbying and the actual reason why the participants in the publishing industry desired the survival of the RPM system. This is analyzed below.

## 5. The tug-of-war among the industry participants

### 5-1. Responses regarding RPM within the industry

Each subsector of the publishing industry assumed that RPM has economic benefits, and conflict over the economic interests of each subsector contributed to the survival of the RPM as a business custom.

First, each subsector's perception of economic benefits from RPM is analyzed. Regarding

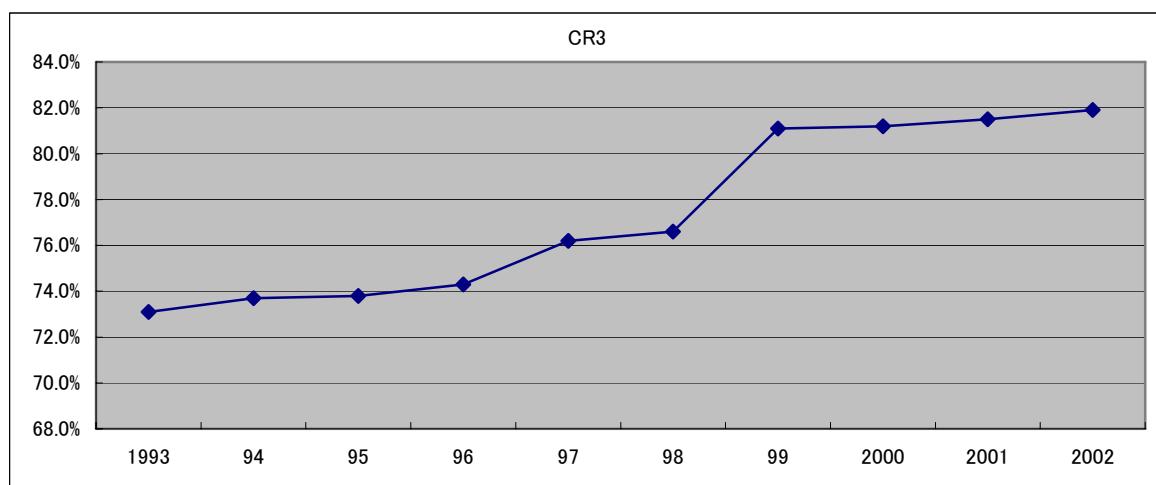
the publishers, the existing publication distribution system based on RPM was originally created in order to circulate mass magazines across the country. In addition, this mass magazine distribution network was simultaneously utilized as a book distribution network, and therefore, the publication distribution cost was kept low (Kurihara eds. 2001). In brief, the RPM based distribution system contributed to low publication distribution costs and brought publishers more sales opportunities.

Wholesalers believe that they can efficiently operate and reduce operational costs because of the identical prices guaranteed by RPM. Bookstores recognize that RPM protects them from the effects of price competition. Moreover, bookstores acknowledge that they do not have to cut prices of publications, and thus, they can reduce operational costs.

However, the perceived merit substantially varies among the subsectors, and conflict over it has contributed to the survival of RPM as a business custom. In brief, it can be said that the wholesalers, particularly the two largest wholesalers, maintained the RPM system as a business custom by imposing business conditions on a major part of both publishers and retailers (Kinoshita 1997). Although publishers and retailers have not completely accepted the wholesaler's conditions, both have acquiesced to the pressure in general.

One of the major characteristics of Japanese publication distribution systems is that the number of wholesalers is small compared to that of publishers and bookstores. The number of publishers is 4,361 and that of bookstores is 18,156<sup>21</sup>. In contrast, the number of wholesalers is only a few dozen distributed across the country, and furthermore, the concentration ratio of the three largest wholesalers is over 80% after 1999, according to Figure 1. Of the three largest wholesalers, the largest wholesaler's annual sales in 2005 was about 701 billion yen, the second largest was 648 billion yen, and the third largest was 109 billion yen. Thus, the top two wholesalers play a key role in publication distribution.

**Figure 1 The concentration ratio of the top three wholesalers in the publishing industry**



Source: The JFTC

Another example of the importance of the wholesalers is that in 2004, the percentage of the route that goes through publishers, wholesalers, and bookstores was 65.9%, and that of the route that goes through publishers, wholesalers, and convenience stores was 20.9%<sup>22</sup>. The total percentage of both these two routes is 86.8%, and this constitutes the majority of the publication distribution routes.

As stated above, wholesalers assume a major role in publication distribution. In addition, the pressures introduced by the wholesalers on the publishers and bookstores were the major factor in maintaining RPM as a business custom. Against these pressures, the publishers and bookstores generally yielded. These responses are classified as acquiescence in Oliver's framework.

### 5-2. Pressures from wholesalers on publishers

Pressures from wholesalers on publishers are especially pronounced in the imposition of business conditions on newcomer publishers in the long term. Table 4 illustrates the status of the opening of commodity accounts for books for the top two wholesalers from 1995 to 1999. The availability ratio is not necessarily low. However, newcomer publishers are usually presented with unfavorable conditions, and if they do not agree to the imposed conditions, they are referred to other wholesalers. The unfavorable conditions include extra payments to wholesalers. The wholesalers explain these extra payments as insurance against returned publications which tend to be high amongst newcomers. Furthermore, they are often required to pay commissions for operation of retuned publications. These conditions do not improve even when newcomer publishers achieve favorable sales.

**Table 4 The status of the opening of commodity accounts for books for the top two wholesalers**

Year	The number of publishers who applied	The number of publishers who opened the account	The availability ratio	The number of publishers who were refused
1995	80	67	83.8%	13
1996	100	78	78.0%	22
1997	82	56	67.5%	27
1998	82	73	89.0%	9

<sup>21</sup> The number of publishers is from "Publication Almanac" (2003), and that of bookstores is from the research conducted by AluMedia, a publisher.

<sup>22</sup> The data is from "New Culture," issued on October 20, 2005.

1999	90	70	77.8%	20
Sum	435	344	79.1%	91

Source: The Japan Publication Wholesalers Association

A good example of the business conditions presented by the wholesalers to newcomer publishers is Transview, which built direct consumer sales channels. While Transview solely employed direct sales in the beginning, they now deal with a mid-sized wholesaler because they required the search system operated by the wholesalers. Without this search system, which linked almost all bookstores, Transview could not receive an order from a bookstore.

When Transview started to seek wholesalers as trading partners, they first negotiated with large wholesalers. However, Transview did not agree with the business conditions presented by them, because the business condition , as reported by Transview, was a demand for extra payment amounting to 5% of the transacted amount.

As seen in the case of Transview, publishers, especially newcomers, are subjected to unfavorable business conditions by the large wholesalers. Although Transview sought a mid-sized wholesaler, most of the newcomer publishers yield to the pressures from the large wholesalers.

### 5-3. Pressures from wholesalers on bookstores

The same is true of pressures from large wholesalers on bookstores. As stated earlier, wholesalers hold a dominant position in publication distribution. Wholesalers exert pressures on bookstores in sending publications.

Based on previous sales, wholesalers choose the content pattern of the publications shipped to each bookstore (Minowa 1990). These patterns amount to several hundred in number. It can be said that this method of publication distribution is especially suited to mass distribution. However, some problems concerning this form of distribution are pointed out.

For example, wholesalers distribute books and magazines featuring the content on pollen allergy to bookstores in Okinawa prefecture, where there are no Japanese cedars. Moreover, although Okinawa has its unique way of performing ceremonial functions, publications profiling the Japanese way are distributed. These publications are not popular in Okinawa, and therefore, bookstores in Okinawa have to return them to the wholesalers.

However, returning publications to wholesalers is not beneficial to bookstores because bookstores are required to pay for the return freight charges. Such demands are not made of bookstores in areas around Tokyo as most wholesalers are located there. Bookstores that acquiesce to wholesalers' distribution methods are known as "isomorphic bookstores." This is a trivial name for a bookstore that has no alternative but to stock best-selling lines of books and magazines.

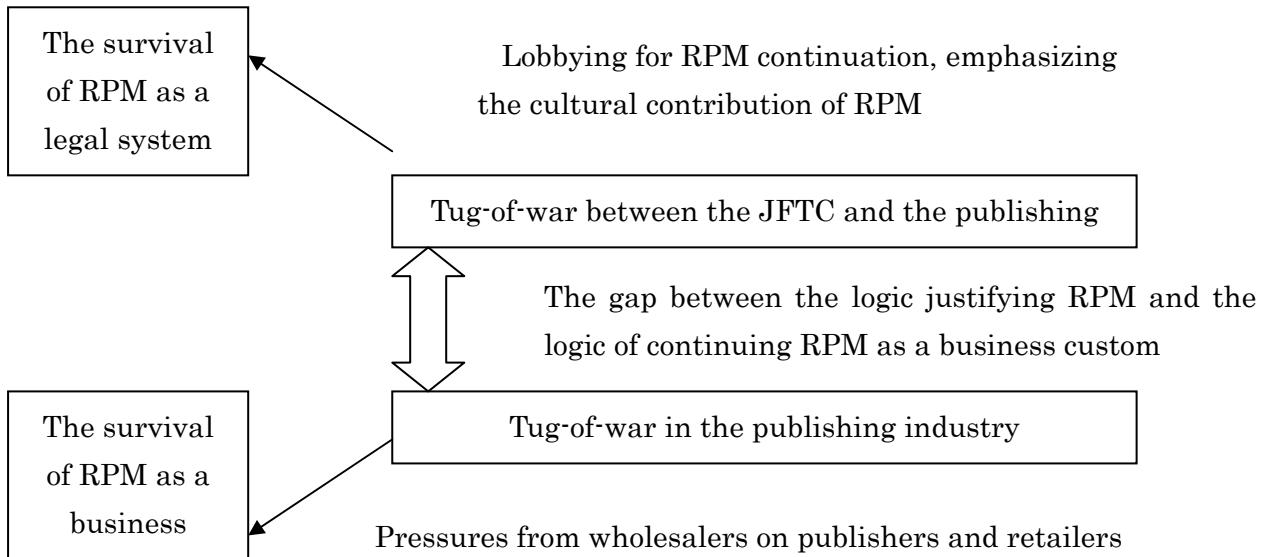
Although bookstores can strengthen their selection of unique publications, or return publications that they believe are not appropriate and avoid lapsing into isomorphic bookstores, most bookstores accept the wholesalers' distribution methods. In brief, bookstores, in general, acquiesce to the pressures from the wholesalers.

## 6. Conclusion

Figure 2 highlights the essence of this paper. RPM as a legal system has survived through a tug-of-war between the JFTC and the publishing industry. The critical factor in sustaining RPM was lobbying. In this tug-of-war, the JFTC's viewpoint emphasized market competition. In contrast, the publishing industry underscored the cultural functions of RPM.

However, RPM, as a business custom, has survived not because of cultural considerations but because of a tug-of-war among the industry participants. Wholesalers have exerted pressure on both publishers and bookstores, and they have not necessarily accepted the pressures; however, in general, they acquiesced to these pressures.

**Figure 2 The continuation of RPM and its background**



The findings suggest that while the publishing industry adopted intentional responses to the pressures from the JFTC, publishers and bookstores did not adopt intentional responses to the pressures from wholesalers. The findings also contribute to a discovery of the mechanisms of the reproduction and continuation of institutions.

## Acknowledgments

This research was assisted by grants from the Hitotsubashi University 21 Century COE program "Dynamics of knowledge, Corporate System and Innovation." I am also thankful to

all those interviewed for the research.

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