



EU-Japan Centre for Industrial Cooperation

一般財団法人
日欧産業協力センター

Japanese policy and regulatory developments

Tokyo, 29, November 2024

Prepared by
Nishimura & Asahi Europe Rechtsanwalts-gesellschaft mbH



Noriya Ishikawa
Yuki Sakurada
Yumiko Kato
Kei Hattori

For further inquiries: <https://www.eu-japan.eu/be-informed>

Table of Contents

Study Group on Dealing with Issues in Information Distribution in Digital Space	3
Public Consultation on the Draft Reports of Both Working Groups on the Proper Handling of Specified User Information and Measures to Counteract Inappropriate Use	4
Request for Public Comments on the Draft Cabinet Order Specifying Business Scale under Article 3, Paragraph 1 of the Mobile Software Competition Act, etc.	4
1st Study Group on Points to Note in Contracts Regarding the AI Utilization	5
The 1st Study Group on Green Steel for Green Transformation (GX) was Held.	6
Review of the Act on the Protection of Personal Information	6
Introduction of Prior Reporting Obligations for International Transfers of Key Technologies	7
Financial Services Agency: Fourth Meeting of Working Group on Disclosure and Assurance of Sustainability-related Financial Information Organized by Financial System Council	9
Hydrogen Society Promotion Act comes into effect	9
DISCLAIMER	10

Digital-Related Matters

Study Group on Dealing with Issues in Information Distribution in Digital Space¹

(Ministry of Internal Affairs and Communications, October 4, 10)

- The MIC has decided to organize the Study Group on Dealing with Issues in Information Distribution in Digital Space to discuss future policies and concrete measures to deal with issues in information distribution within the digital space on October 4, and the first meeting of the Study Group was held on October 10.
- The main purposes of the Study Group are: (i) to discuss issues that require consideration in order to enact the Information Distribution Platform Act as soon as possible, (ii) to monitor the implementation status of large-scale platform operators under the Act and review it as necessary, (iii) to further explore the systemic responses proposed in the Study Group on How to Ensure Soundness of Information Distribution in Digital Space (published on 10 September, 2024) and consider the development of necessary systems, and (iv) to consider issues related to the distribution of digital advertising.
- Regarding the distribution of illegal and harmful information in the digital space, the Information Distribution Platform Act requires large-scale platform operators to take measures to expedite the deletion of such information and to ensure more transparency in their operations. Further efforts are expected in the future, including the steady implementation of the Act.

Takeaway: The Information Distribution Platform Act can be considered as a Japanese version of the EU Digital Services Act, which came into full effect in February 2024. Given the discussion in this Study Group, it appears that MIC is considering the establishment of: (i) the Order for Enforcement of the Act, which clarifies the requirements designating large-scale platform operators, the prior notification durations for standards on the implementation of the transmission preventive measures, specific items for publishing operational status and the like, (ii) guidelines clarifying the categories of information distributed on platforms that may infringe rights or breach laws, and provide examples of illegal information to be included in the transmission preventive measures standards, and (iii) guidelines indicating interpretation of the Act. In comparison to the Study Group on How to Ensure Soundness of Information Distribution in Digital Space, whose reports and public comments were published in September 10, the current discussions seem more focused on the efficient and prompt implementation of the Information Distribution Platform Act. Though the standards to which the Act applies has not been decided, it is expected that platform business operators will need to comply with the Act. Thus, they need to monitor the discussions in this Study Group accordingly.

¹ https://www.soumu.go.jp/menu_news/s-news/01ryutsu02_02000418.html (in Japanese)

Public Consultation on the Draft Reports of Both Working Groups on the Proper Handling of Specified User Information and Measures to Counteract Inappropriate Use²

(Ministry of Internal Affairs and Communications, October 9)

- MIC issued a public consultation from October 10 to November 8, 2024 on the "Draft Working Group Report on the Proper Handling of Specified User Information" and the "Draft Working Group Report on Measures Counteract Improper Use," which were compiled by the "Study Group on the Improvement of the ICT Service Usage Environment."
- After amendments based on the public comments are incorporated into the Draft Working Group Reports, the reports will be finalized. It is expected that the discussions in these reports will influence the applicability of the Telecommunications Business Act and the APPI to the business operations of digital services which process information from users of smart phones, mobile phones, social network services, and the like.

Request for Public Comments on the Draft Cabinet Order Specifying Business Scale under Article 3, Paragraph 1 of the Mobile Software Competition Act, etc.³

(Japan Fair Trade Commission, October 28)

- The Act on Promotion of Competition for Specified Smartphone Software, commonly known as the Mobile Software Competition Act, was promulgated on June 19 this year. Six months later, on December 19, the provision related to the designation of providers subject to the Act will come into effect, in advance of full implementation, which is scheduled for completion by December next year. This will include provisions regarding obligations for designated providers, etc.
- The Japan Fair Trade Commission has prepared draft versions of the Cabinet Order and Fair Trade Commission rules related to the provision on the designation of providers, which will be implemented on December 19. The drafts were published on October 28, and public comments were invited until November 26.
- Regarding the designation of providers subject to the Act, it has been stipulated that providers "of a scale specified by Cabinet Order or larger" will be designated. The draft Cabinet Order sets a criterion of 40 million users for each specified software.
- Japan Fair Trade Commission accepted comments from relevant parties until November 26 and aims to finalize the Cabinet Order and rules based on the feedback received.

² https://www.soumu.go.jp/menu_news/s-news/01kiban18_01000239.html (in Japanese)

³ https://www.jftc.go.jp/houdou/pressrelease/2024/oct/241028_publiccomment.html (in Japanese)

Takeaway: Mobile Software Competition Act can be understood as a sector-specific Digital Markets Act. The draft Cabinet Order sets a criterion of 40 million users for each specified software, so the scope of the companies covered by this Act is limited to a small number of businesses.

1st Study Group on Points to Note in Contracts Regarding the AI Utilization⁴

(Ministry of Economy, Trade and Industry, October 30)

- The purpose of this project is to promote the use of AI and ensure appropriate allocation of benefits and risks between the parties, by organizing the key points to consider when entering into contracts regarding the use of AI and creating a checklist that can be easily used in practice.
- The document to be drafted in this project will be a simple and easy-to-use checklist that reflects regulatory perspectives, so that users can understand the points that need to be checked without reading the entire contract. It will be a few pages long and will complement the existing guidelines as an appendix.
- The mainly intended users of the checklist are in-house legal departments, corporate lawyers, and business division staff who may not have much knowledge about AI.

Takeaway: While Standard Contractual Clauses such as those under the GDPR in the EU are formulated based on laws and regulations, this checklist will show notes and is intended to serve as a reference for business when entering into contracts to utilize services driven by AI with service providers. While its use is optional, it has the potential to be widely referenced in the practice in Japan to use AI vendor services.

⁴ https://www.meti.go.jp/shingikai/mono_info_service/ai_utilization/001.html (in Japanese)

Industry

The 1st Study Group on Green Steel for Green Transformation (GX) was Held.⁵

(Ministry of Economy, Trade and Industry, October 16)

- The steel industry is a hard-to-abate one, and efforts for GX in this industry are expected to become a major key to achieving a decarbonized society.
- As more and more companies inside and outside Japan are selling green steel, the purchase of green steel by consumers may contribute to promoting GX in the steel industry. Steel is produced through a variety of processes, and the industry needs to appropriately convey information to consumers in an easy-to-understand way on the characteristics of each green steel and the significance of using such steel. It is also important for the industry to encourage consumers to choose green steel and facilitate this choice to expand the market for green steel.
- The study group was launched in September, and the first meeting was held on October 16. It focuses on the sale of green steel products, which have gained popularity, hold discussions on ideal approaches to conveying information to consumers, as well as on challenges in expanding the market, and organize future actions.

Data Protection

Review of the Act on the Protection of Personal Information⁶

(The Personal Information Protection Commission, October 11)

- The fourth meeting of the special committee regarding the triennial review of the Act on the Protection of Personal Information (APPI) was held on 11 October, 2024.
- During the meeting, discussions covered the functions of administrative fines and the activities of qualified consumer groups seeking injunction relief. The committee also addressed questions raised after the third meeting, focusing particularly on concerns regarding penalties under the current APPI and in case of introducing administrative fines for breaches.

Takeaway: The special committee is considering whether the systems for administrative fines and consumer's injunctive relief and/or damage recovery claims should be introduced as efficient enforcement systems to encourage business operators to deal with personal data lawfully and appropriately. Monitoring the ongoing discussions in the PPC's special committee is important to understanding how the amended enforcement and remedy systems will be implemented in the next APPI amendment.

⁵ https://www.meti.go.jp/shingikai/mono_info_service/green_steel/001.html (in Japanese)

⁶ https://www.ppc.go.jp/personalinfo/kentohkai/3nengotominaoshi_kentohkai4/ (in Japanese)

Economic Security

Introduction of Prior Reporting Obligations for International Transfers of Key Technologies

- The final rule requiring Japanese residents (including resident companies) to submit prior reports to the Ministry of Economy, Trade and Industry (METI) for transactions involving the transfer of certain technologies in which Japan holds a competitive advantage (designated technologies) to foreign entities was published on October 30, 2024. This rule is part of Japan's security export control measures under the Foreign Exchange and Foreign Trade Act (“FEFTA”). Under this new rule, if a business engages in dialogue with METI regarding technology management following prior reporting to METI and receives a notification indicating a risk of technology leakage (e.g., potential military use), the business will be required to obtain a license for the relevant technology transfer.
- The technologies subject to this new rule are those that other countries are interested in acquiring and in which Japan has a competitive advantage. These include technologies that: (1) are subject to catch-all controls under the security export control and (2) carry risks of diversion to military use if the recipient of the technology does not properly manage the information containing the technology after the technology is provided. The designated technologies subject to this requirement pertain to the design or manufacturing of items in the following four categories and ten specific items:

Electronic components

- (a) Multilayer ceramic capacitors
- (b) Surface acoustic wave (SAW) filters and bulk acoustic wave (BAW) filters
- (c) Electrolytic copper foil⁷
- (d) Dielectric film⁸
- (e) Barium titanate powder

Fibers

- (f) Precursors for carbon fiber
- (g) Precursors for silicon carbide fiber

⁷ Limited to technologies for circuit boards that have the same or higher performance than U in the IPC-4562B standard established by the Institute of Electrical and Electronics Engineers.

⁸ Limited to technologies that can be used in smoothing film capacitors for devices that control the energy of electric-powered vehicles (including those that use fuel).

Semiconductor integrated circuits

(h) Photoresists⁹

(i) Non-ferrous metal target material¹⁰

Electron microscopes

(j) Scanning electron microscopes and transmission electron microscopes

- Japan's conventional security export control system has focused on whether there is a concern about the risk of goods and technologies being used as weapons at the time of cross-border transactions. However, once technology has been transferred, there is a risk that it could spread over time. Recently, the distinction between military and civilian technology has become increasingly blurred; therefore, even if a transaction is intended for civilian use, there are concerns that the end user or the end use may change in a way that results in military use(s) that could not be foreseen at the time of the transaction. In response to these changing circumstances, the system aims to introduce measures to strengthen the management of technology, considering the long-term risks associated with its use and dissemination.
- The reporting requirement under the new rule will come into force on December 30, 2024.

⁹ Limited to technologies that are optimized for use with light of a wavelength of 248 nanometers or less.

¹⁰ Limited to technologies that are used to increase the purity of metals for use in manufacturing integrated circuits, when manufacturing ingots from raw materials or, where ingot manufacturing is not involved, when mixing and synthesizing raw material powder, which is necessary for manufacturing non-ferrous metal target materials that are used in the wiring process for integrated circuits that are formed using equipment for manufacturing integrated circuits using extreme ultraviolet rays.

Human Rights/ Environment/ Climate

Financial Services Agency: Fourth Meeting of Working Group on Disclosure and Assurance of Sustainability-related Financial Information Organized by Financial System Council¹¹

(Financial Services Agency, October 10)

- On October 9, 2024, the Financial Services Agency (FSA) published the agenda and handouts of the fourth meeting of the Working Group on Disclosure and Assurance of Sustainability-related Financial Information organized by Financial System Council.
- At the meeting held on October 10, 2024, FSA provided a briefing on safe harbors and sustainability assurance framework taking current global trend for sustainability disclosure.

Takeaway: Requirements for disclosure related to sustainability gets stricter globally, especially in Europe. FSA considers introducing authorization of assurance service provider to encourage compliance related to disclosure.

Hydrogen Society Promotion Act comes into effect¹²

(Agency for Natural Resources and Energy, October 23)

- Hydrogen Society Promotion Act came into effect on October 23, 2024.
- It is a scheme to subsidize the gap between the price of low-carbon hydrogen, etc. (standard price) and the price of existing fuels and raw materials (reference price) so that certified low-carbon hydrogen, etc. supply businesses can continuously supply low-carbon hydrogen, etc. in accordance with their certified plans.
- In addition to subsidies, applicants approved by METI under the Act are entitled to the following special measures: Deemed approval and notification exemption under the Port and Harbor Act, Special approval under the High Pressure Gas Safety Act, and Mandatory approval under the Road Act.

Takeaway: The formal implementation of the Hydrogen Society Promotion Act marks a major step forward in Japan's efforts to achieve its carbon neutral goal. By promoting the development of a stable and predictable hydrogen environment, the subsidies under the Act are expected to have a significant impact on market participants and investors, both domestic and international. Companies considering applying for subsidies should review the forms issued by METI regarding business plan approval procedures and consider whether consultations with METI would be helpful in their application.

¹¹ https://www.fsa.go.jp/singi/singi_kinyu/sustainability_disclose_wg/shiryou/20241010.html
(in Japanese)

¹² https://www.enecho.meti.go.jp/category/saving_and_new/advanced_systems/hydrogen_society/carbon_neutral/index.html (in Japanese)

DISCLAIMER: The information contained in this report has been compiled by one or several independent experts and reflects the views of the author(s) indicated on the front page and above, and not necessarily the views of the EU-Japan Centre for Industrial Cooperation nor the views of the European Authorities. It is made available for general information and non-commercial purposes only. It does not claim to be comprehensive or up to date and is not intended to provide legal or other advice. No person should rely on the contents of this report – or of internet web sites or other information sources indicated in this report – without first obtaining advice from a qualified professional person. This report is made available on the terms and understanding that the EU- Japan Centre for Industrial Cooperation and the European Authorities, which have not verified its content, are not responsible for the results of any actions taken - or omitted to be taken - on the basis of information in this report, nor for any error in or omission from this report, or for any plagiarism. The EU-Japan Centre for Industrial Cooperation and the European Authorities expressly disclaim all and any liability and responsibility to any person in respect of anything and the consequences of anything, done or omitted to be done by any such person in reliance, whether wholly or partially, upon the whole or any part of the contents of this report. Without limiting the generality of the above neither the EU-Japan Centre for Industrial Cooperation nor the European Authorities shall have any responsibility for any act or omission of the author(s) of this report.

Co-funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Innovation Council and SMEs Executive Agency (EISMEA). Neither the European Union nor the granting authority can be held responsible for them.

COPYRIGHT: The contents of this report are protected by copyright under international conventions. Reproduction is authorized for non-commercial purposes, provided that (i) the name of the author(s) is indicated and the EU-Japan Centre for Industrial Cooperation is acknowledged as the source, (ii) the text is not altered in any way and (iii) the attention of recipients is drawn to this warning. All other use and copying of any of the contents of this report is prohibited unless the prior, written and express consent of the EU-Japan Centre for Industrial Cooperation is obtained. All logos and figures published in this report are copyrighted and may not be reproduced without the full consent of their respective author(s).

GOVERNING LAW AND JURISDICTION: Any dispute arising from or related to the use of this report and/or the information in this report shall be submitted to the exclusive jurisdiction of the competent courts in Brussels, Belgium, which will apply Belgian law, with the exclusion of private international law rules.

Published by the EU-Japan Centre for Industrial Cooperation.

