Outline of the amended Personal Information Protection Act

April, 2016
Personal Information Protection Commission
Japan
1 Current Legal Framework of the Protection of Personal Information in Japan

2 Why was the Act on the Protection of Personal Information (PIPA) amended?

3 The Establishment of the Personal Information Protection Commission (PPC)

4 Outline of the amendment of the PIPA

5 What the PPC is going to do?
1. Current Legal Framework of the Protection of Personal Information

**Act on Protection of Personal Information**
Ch. I to III: Fundamental Provisions, Responsibilities of National and Local governments, Measures for Protection of Personal Information

**Act on Protection of Personal Information**
Ch. IV to VI: Duties, Penal Provisions, etc. for Business Operators

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*1 This framework is implemented until the amended Act on the Protection of Personal Information comes into force, which is within 2 years from the promulgaion, September 9, 2015.

*2 Act on the Protection of Personal Information Held by Administrative Organs

*3 Act on the Protection of Personal Information Held by Incorporated Administrative Agencies, etc.
2. Why was the PIPA amended?

Personal Information Protection Act (PIPA) came into force (2005)

Circumstances have changed

1. Increased possibility of using personal data due to development of Information Technology
   Demand for clarifying the definition of “personal information”

2. Evolution of Big Data
   Demand for appropriate use of “Big Data” while protecting personal information

3. Globalization
   Demand for making rules on cross-border data transfer
Personal Information Protection Commission

Duty
To take necessary measures to ensure the proper handling of personal information including MY NUMBER while taking into consideration the effective use of it.

Organization
- An independent supervising authority of personal information protection
- Chairperson and 8 Commission members exercise their authorities independently
3. Establishment of the Personal Information Protection Commission, Japan (Cont.)

PPC’s duties

【MY NUMBER】
※MY NUMBER Act is held jurisdiction over by the Cabinet Office.

Administrative Organs and Local Governments

Businesses

Individuals

guidance

Assessment Report

Supervision

Complaint

Mediation

Personal Information Protection Commission

- Formulation & Promotion of Basic Policy
- Public Relations and Promotion Activities
- International Cooperation
- Report to the Diet etc.

Specific Personal Information Protection Assessment

Supervision

Mediation

Accreditation & Supervision*

Accredited Personal Information Protection Organizations

Supervision*

Businesses

Complaint*

Individuals

Mediation*

※These duties start from when the amended Personal Information Protection Act fully takes effect.

The PPC holds jurisdiction over Personal Information Protection Act.

※MY NUMBER Act is held jurisdiction over by the Cabinet Office.

Establishment of the Personal Information Protection Commission, Japan (Cont.)

Accreditation & Supervision*
3. Establishment of the Personal Information Protection Commission, Japan (Cont.)

* Personal information protection is now under the supervision of the relevant competent Ministers according to the business field. These authorities will be aggregated to the PPC when the main amendments take effect.
Clearer definition of “Personal Information”

Define in detail what “Personal Information” is, so as to remove any gray areas.

Personal Information

- Name
- Address
- Date of birth
- Fingerprint data
- Facial-recognition data
- Passport number
- Driver’s license number
- MY NUMBER (Individual numbers)

*Other information will be determined as personal information by Cabinet Order.
4 Outline of the amendment of the PIPA②

Newly Defined Sensitive Personal Information

Sensitive Information is
- race,
- religion,
- medical history
- personal information which has potential to bring about unjustifiable discrimination or prejudice

Require prior consent in obtaining Sensitive Personal Information
Set rules for utilization of De-identified Information

De-identified information is information
① processed to be unidentifiable to said person
② prohibited from restoring said personal information
* both conditions should be met
Globalization

- Set 3 permissible types of transfer of personal data to a third party in a foreign state

  ① Obtaining prior consent to do so
  ② The third party is in a state where regulation on personal information protection is considered to be equivalent to that of Japan.
  ③ The third party maintains an internal personal information protection system consistent with standards set by the PPC.

- Set rules of the extraterritorial application of the Act

- Cooperation by the PPC in cross-border enforcement
Accredited Personal Information Protection Organizations

- The PPC discloses “Personal Information Protection Guideline” to the public.
- Hearing from multi stake holder when drafting the Guideline.
- Making a guidance and a recommendation to their member business operators for ensuring the “Personal Information Protection Guideline” is an obligation for the Organizations
Other amendments

● Clarify the ‘right’ to disclosure, correction and discontinuance of using personal data as a right of data subject claiming in a trial.

● Introduce criminal penalties for improper use of Personal Information databases, such as data theft or providing information to third parties etc., for wrongful gain.

● Apply to small business operators handling 5,000 or less items of Personal Information, which are not subject to the current act.
5 What the PPC is going to do?

Timeline

- **January 1, 2014**  Established the **Specific Personal Information Protection Commission**
- **September 9, 2015**  Promulgated the **amended Act on the Protection of Personal Information**
- **January 1, 2016**  Establish the **Personal Information Protection Commission**
- **2017(TBD)**  The main amendments take effect
1. Drafting Cabinet Orders, Commission Rules and Guidelines

- Main topics stipulated in Cabinet Orders
  - definition of “personal identification code”

- Main topics stipulated in Commission Rules
  - details about provision to a third party in a foreign country
  - details for ensuring traceability in relation to the provision to a third party with personal information
  - standard to process personal data into “de-identified data”

- Main topics stipulated in Guidelines
  - measurement specified to SMEs
5 What the PPC is going to do? ③

2. Mediation of complaints

- Establishment of handling complaints mechanism in cooperation with institutions which handle complaints from consumers such as:
  - Accredited Personal Information Protection Organizations (42 organizations as of January 2016)
  - National Consumer Affairs Center of Japan
  - Consumer Affairs Centers

3. Promoting cooperation with foreign authorities

- Becoming an accredited member of international frameworks
- Having a dialogue and promoting cooperation with foreign authorities including EU DG Justice