

Guest Editor's Note: Ten-Year Overview of the Rapid Growth of the Japanese Personal Information Protection System

I am greatly honoured to join as guest editor of this Japan-special issue of the *Global Privacy Law Review*. My sincere gratitude goes to Ceyhun Necati Pehlivan, Editor-in-Chief, and Wolters Kluwer, for kindly publishing and promoting this issue.

Please let me briefly describe the rapid ten-year growth of our personal information protection system. This is inseparable from the history of establishing an independent supervisory authority, until which the Japanese personal information protection system was said to have fallen behind leading data protection countries, such as the EU Member States. The Japanese Act on the Protection of Personal Information (APPI), enacted on 23 May 2003, was not largely revised until the amendment made on 3 September 2015. The most critical issue we had to address was the lack of an independent supervisory authority, which was partly explained by the fact that establishing a new public authority did not fit the governmental policy towards administrative reform.

However, since 2010, multiple steps have been taken to establish and expand the power of an independent supervisory authority. The first step was enacting the so-called 'My Number Act' (Act on the Use of Numbers to Identify a Specific Individual in Administrative Procedures) in 2013. During discussions on the creation of the My Number system in governmental bodies, the Expert Committee suggested establishing an independent supervisory authority to properly protect specific personal information, which meant personal information containing individual numbers allocated to each citizen. The government therefore successfully established the Specific Personal Information Protection Commission (SPPC) on 1 January 2014.

However, the SPPC still had limited coverage and authority over handling specific personal information. The second step was to revise the APPI. This amendment altered or introduced a series of important

provisions, including the definition of personal information, sensitive personal information, anonymously processed information, personal information protection guidelines promulgated by an Accredited Personal Information Protection Organization, ensuring traceability, prohibiting the exploitation of personal information for illegal profits, and establishing the Personal Information Protection Commission (PPC). The SPPC was reorganized and expanded its scope of supervision authority to establish the PPC on 1 January 2016. Although we had recognized how integral the independent supervisory authority was to the data protection system, at least from the late 1990s, we finally formulated the PPC after many years. Professor Masao Horibe, who is Professor Emeritus of Hitotsubashi University and who also served as the first chairman of SPPC and PPC, has greatly contributed to developing our personal information protection system.

After the European Commission published its 'Communication from the Commission to the European Parliament and the Council Exchanging and Protecting Personal Data in a Globalized World'¹ on 10 January 2017, the European Commission and the PPC engaged in intensive dialogue, and finally agreed to create a framework for the seamless and mutual transfer of personal data between Japan and the European Union on 23 January 2019.² This agreement undoubtedly demonstrates the surprising advancement of our personal information protection system.

There are two important supplemental articles accompanying the 2015 amendment. The first article concerns amendments to the APPI every three years. Article 12(3) of the supplementary provisions states:

Every three years after the commencement of this Act, the government shall review the status of exercising the new

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¹ Communication from the Commission to the European Parliament and the Council Exchanging and Protecting Personal Data in a Globalised World, COM(2017) 7 final (10 Jan. 2017), http://europa.eu/rapid/press-release_IP-17-16_en.htm (accessed 27 Aug. 2020).

² Commission Implementing Decision (EU) 2019/419 of 23 Jan. 2019 pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council on the Adequate Protection of Personal Data by Japan Under the Act on the Protection of Personal Information, 2019 O.J. (L 76) 1–58 (EU).

APPI taking into account international trends concerning personal information protection, developments in information and communication technology (ICT), the creation and development of new industries using personal information, and so on, and it shall take measures as and when necessary based on the results of such a review.

According to this, the APPI was amended on 5 June 2020, and promulgated on 12 June of the same year. This amendment intends to strengthen individual rights, imposing new obligations for Business Operators Handling Personal Information, and expanding the supervisory powers of the PPC to foreign business operators.³ The said Article 12(3) of the supplementary provisions allows more flexible amendments to the APPI, in accordance with international and domestic dynamic changes.

The second article is about formulating a comprehensive data protection system. Article 12(6) of the supplementary provisions states:

Taking the status of implementing the new APPI, the measures set forth in paragraph 1 and other circumstances into account, the government shall consider the way to be taken toward the personal information protection regime, including consolidating and integrating provisions of personal information prescribed in Article 2(1) of the new APPI and provisions of the Act of the Protection of Personal Information Held by Administrative Organs

The Cabinet Secretariat and the PPC jointly launched the Expert Committee for Reviewing the Personal Information Protection System in March 2020.⁴ On this Committee, experts have discussed how to formulate the comprehensive personal information protection system, how to unify the different provisions among the public and private sectors while protecting the constitutional rights of academic research, how to organize the comprehensive supervision system of the PPC, and how to handle individual appeals to administrative organs in cases of access rights, etc. The draft interim report was published on 21 August 2020, and the final report will be published at the end of this year. The next amendment bill will be submitted to the National Diet of Japan in the beginning of 2021. Thus, we are further advancing our personal information protection system to achieve international harmonization in terms of data protection.

I wholeheartedly hope that the third issue of the Global Privacy Law Review will be widely acknowledged by privacy professionals and contribute to a deeper understanding of discussions on privacy and personal information protection in Japan.

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³ Personal Information Protection Commission, *The Amendment Act of the Act on the Protection of Personal Information, etc. (Overview)*, https://www.ppc.go.jp/files/pdf/overview_amended_act.pdf (tentative translation in English) (accessed 27 Aug. 2020).

⁴ See, https://www.cas.go.jp/jp/seisaku/kojinjyoho_hogo/kentoukai/dai1/kaisai.html (in Japanese) (accessed 27 Aug. 2020).