

The “Policy Outline of the Institutional Revision for the Utilization of Personal Data” (approved by the Strategic Headquarters for the Promotion of an Advanced Information and Telecommunications Network Society on June 24, 2014) contains many areas that are not specifically defined, such as the scope of personal data to be protected and details of measures to be taken. Therefore, the Consumer Commission has provided some comments on the policy outline for protecting the benefits of consumers in order to provide an insight when details of system design and other factors are put in a bill.

Policy Outline of the Institutional Revision for the Utilization of Personal Data	Comments from the Consumer Commission
<p>1. Providing personal data to third parties and unintended use</p> <p>(1) Handling of data with reduced possibility of certain individuals being identified ⇒ making it possible to provide personal data to third parties and use it for purposes other than those specified without obtaining consent from the persons by defining proper handling.</p> <p>(2) The scope of personal information ⇒ clarifying personal data to be protected among “those pertinent to the physical characteristics of individuals, such as fingerprint recognition data and face recognition data”.</p> <p>(3) The process to change the purpose of the use of personal data ⇒ establishing a system that enables people to request that their personal data should not be utilized for a new purpose (the opt-out method), while devising a procedure that enables them to acknowledge the changes fully.</p>	<ul style="list-style-type: none"> ○ The level of reduction and details of “the proper handling” should be clarified. Ensuring transparency that is sufficient enough to substitute obtaining consent of the persons and prohibiting re-identification form the key details of “the proper handling.” It is also important to ensure that the third-party authority responds quickly if problems occur. ○ When the scope of personal information is clarified, it is necessary to consider not to limit personal data as the scope of protection excessively. ○ On the process to change the purpose, the general rules that require consent of the persons should be applied preferentially. Moreover, permitting changing the purpose of the use of personal data by using the opt-out method without careful consideration is not appropriate.
<p>2. Creating of a framework for the establishment and compliance with the self-regulations led by the private sector</p> <p>Non-governmental organizations shall be able to lay down self-regulations (the third-party authority shall be able to certify the applicable regulations, non-governmental organizations or others).</p>	<ul style="list-style-type: none"> ○ Consumer protection should be ensured by the consumer’s practical participation in the process of establishment of self-regulations rule. The third-party authority is required to create a new guideline which will be applied for the areas where there is no self-regulations rule.
<p>3. Ensuring enforcement of an effective system by developing a third-party authority system</p> <p>(1) Developing a third-party authority system ⇒ the third-party authority shall have the powers and functions of performing onsite inspections in addition to the powers and functions which the competent minister currently has, and certify self-regulations and others.</p> <p>(2) System for accepting complaints ⇒ no clear specifics about contact points that consumers can consult directly.</p> <p>(3) Limitation of the scope of warnings and orders for corrections of the breach ⇒ excluding the breach of those that do not meet certain requirements caused by an intentional act or act of gross negligence.</p>	<ul style="list-style-type: none"> ○ The third-party authority is required to serve proper function and roll for developing the system to ensure effective enforcement and efficient operation. Experts who become involved from the perspective of customer protection should participate in the decision-making process by the third-party authority as commissioner. ○ If new contact points cannot be created, it is expected that many complaints will be lodged against Consumer affairs center around Japan. Close coordination between the third-party authority and local public organizations (Consumer affairs centers) is required, and information and training must be provided for consultants for consumers. ○ Establishment of the system proposed by the policy outline should be avoided because the purpose of the system is not clear, and there are possibilities of circumvention and decrease of effectiveness of law.
<p>4. Issues to be further discussed</p> <p>(1) Dispute resolution structure ⇒ being issues to be discussed further in accordance with the actual state of disputes that will occur in the future.</p> <p>(2) Issues related to so-called list brokers ⇒ actions that can be taken to prevent criminal acts and the victimization of consumers from occurring and the victimization from increasing shall be issues to be further discussed.</p>	<ul style="list-style-type: none"> ○ It is required to prepare the dispute resolution structure from the beginning of starting the new system. The third-party authority should take charge of dispute resolution as administrative ADR organ and advance the utilization of ADR in the private sector. ○ Implementation of the effective measures at the same time as the establishment of the new system is an urgent issue.