

In this committee's "Comments on the 'Policy Outline of the Institutional Revision for Utilization of Personal Data'" (released July 15, 2014), it is stated that with regard to so-called list brokers, etc., "it is necessary not only to consider the measures indicated in the outline, but also to promptly consider the desirable situation for practical measures." The general rule should be that people are able to control their own personal information themselves. We will express our comments in greater detail in order to prevent the improper circulation of personal information and so that laws are reformed such that the rights and interests of consumers are not violated.

Act on the Protection of Personal Information (Current Law)

Problematic Issues

Comments from the Consumer Commission

1. Adjustment of the Opt-out Procedures at the Time of Third Party Submission and Clarification of the Responsibilities of Operators Receiving Said Provision

[Article 23 (Restriction of Provision to a Third Party), Paragraph 1]

The general rule is to receive the consent of the concerned person.

[Article 23, Paragraph 2]

In instances in which a person is notified in advance or those matters are put in a readily accessible condition for the person, the consent of that person is not necessary.

● If the opt-out procedures are published on a location such as the homepage, this is interpreted as putting said procedures "in a readily accessible condition for the person." However, in reality, provision to third parties is taking place without the concerned people having proper awareness.

● It is not possible to grasp which operators are in possession of one's personal data and the fashion in which they possess it, and procedures such as suspending provision to third parties by the opt-out is, in actuality, without effect.

- A system should be made in which not only the operator that provided a person's personal data to a third party without consent (hereinafter, "the Provider"), but also the operator who received said provision of personal data (hereinafter, "the Receiver") is required to notify a third party organization, and the third party organization who received this notification publicly announces the matter of which it was notified.
- Through the opt-out regulations, the right of claim should be considered in which a person could request, to the Receiver who received the provision of that person's personal data without the consent of that person, the discontinuance of utilization or the deletion of his/her own personal data.

2. Prevention of the Circulation of Improperly Acquired Personal Information

[Article 17 (Proper Acquisition)]

The acquisition of personal information through deception or other wrongful means is not permitted.

● When personal information acquired "through deception or other wrongful means" is passed around repeatedly as personal data, it is not clear whether each operator acquired it through measures that apply to this. This is also difficult to demonstrate for the concerned person or the cabinet minister in charge.

- It is necessary to require the following duties of both the Provider (A) and the Receiver (B) of the personal data.
 - (A) 1. To guarantee that the personal information it is attempting to provide was acquired through proper means
 2. To guarantee that it possesses the authority to provide said information (including the internal authority)
 3. To guarantee that the act of provision is lawful
 - (B) 4. To confirm in advance that the personal information it is attempting to receive has fulfilled requirements 1 to 3.

3. The Discontinuance of Utilization or Deletion of Personal Information That Was Circulated without the General Principle of the Person's Consent

[Article 27 (Discontinuance of the Utilization, etc.), Paragraph 1]
In cases in which information has been handled in violation of Article 16 (Restriction by the Purpose of Utilization) or was acquired in violation of Article 17 (Proper Acquisition), there is a requirement to discontinue the utilization of or delete the data upon the request of the concerned person.

● When personal information that has not been obtained through lawful procedures has been repeatedly circulated as personal data, it is difficult to specify the operator(s) in order to request the discontinuance of utilization or the deletion of said data.

● With regard to personal information that was received through provision that did not follow lawful procedures, there is a necessity for a system in which all operators are required to accommodate the request of the concerned person to discontinue the utilization of or to delete the relevant data.
● With regard to the discontinuance of utilization or deletion, it should be stipulated that an administrative agency (a third party organization or the cabinet minister in charge) can issue an order.

4. Securement of the Traceability of Personal Data

[Article 24 (Public Announcement of Matters Concerning Retained Personal Data, etc.), Paragraph 1]
There is a requirement to publicly announce the designated items concerning retained personal data.
[Article 25 (Disclosure), Paragraph 1]
There is a duty to accommodate the request of the concerned person to disclose retained personal data.

● As the public announcement and disclosure of aspects such as the acquisition method, acquisition source, and provision destinations of retained personal data are not included, it is not possible for a person to grasp how his/her personal data has been circulated or which operators are currently in possession of it.

● It is necessary to also require, as a general principle, the public announcement and disclosure of the acquisition method, acquisition source, and provision destinations of retained personal data.
● It is necessary to systematize notification to a third party organization, as well as appropriate public announcement by said third party organization.

5. The Handling of Personal Data That Has Been Processed

No applicable provisions

● The aims of items 1 to 4 above cannot be realized.

● In cases in which it would not have been possible in terms of social acceptability to create new personal data if personal data had not been received through the provision of a third party, the new personal data should be seen as personal data received through the provision of a third party and the system should be applied.

6. Industry Regulations regarding So-Called List Brokers, etc.

No applicable provisions



● As the actual conditions regarding list brokers, etc. have not been adequately established, it is difficult at the present time to provide a clear legal definition. First, the situation should be handled with the conduct regulations in items 1 to 5 above. In the event that the actual conditions become clear and it is judged that the conduct regulations alone are not adequate, consideration should be given to industry regulations.