



## EU-Japan Centre for Industrial Cooperation

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### Japanese policy and regulatory developments

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## Digital-Related Matters

### **The Scale of Businesses is Defined in the Act on Promotion of Competition for Specified Smartphone Software (“Mini-DMA”)<sup>1</sup>**

(Japan Fair Trade Commission, December 10)

- On December 10, 2024, the Japan Fair Trade Commission (JFTC), after carefully considering the results of public consultations, announced that designated software service providers that fall within the Act on Promotion of Competition for Specified Smartphone Software are defined as follows, by Cabinet Order:

<b>Specified Software Types</b>	<b>Scale</b>
<b>Basic Operating Software</b>	40 million
<b>App Store</b>	40 million
<b>Browser</b>	40 million
<b>Search Engine</b>	40 million

\*"Scale" above refers to the average number of smartphone users who use each piece of software in Japan at least once per month during each month of the fiscal year.

- The effective date of certain provisions of this law and the related ordinances mentioned above is December 19, 2024, and the other parts of the law are scheduled to be fully implemented on a date to be specified separately by Cabinet Order.

Takeaway: The law is essentially a "Mini-DMA" (Digital Markets Act) limited to the mobile software sector. Based on the criteria, it is clear that only certain Big Tech companies will be subject to regulation. While there is merit to defining the scope of applicability in a reasonable and fair manner using the criteria, there also are criticisms, from the perspective of the principle of non-discrimination, as the law may seem to target specific companies. In light of changes in socio-economic conditions such as population decline and shifts in the market environment, some responses suggest that the criteria should be reviewed as needed to ensure appropriate adjustment of the scale.

### **The First Data Utilization System Review Committee was Launched<sup>2</sup>**

(Cabinet Secretariat, December 26)

- As resolving social issues through data utilization has become an important issue, the Data Utilization System Review Committee was held, under the authority of the

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<sup>1</sup> [https://www.jftc.go.jp/houdou/pressrelease/2024/dec/241210\\_smartphone.html](https://www.jftc.go.jp/houdou/pressrelease/2024/dec/241210_smartphone.html)(in Japanese)

<sup>2</sup> [https://www.cas.go.jp/jp/seisaku/digital\\_gyozaikaikaku/data1/data1.html](https://www.cas.go.jp/jp/seisaku/digital_gyozaikaikaku/data1/data1.html) (in Japanese)

Minister for Digital Administrative and Financial Reform to engage in comprehensive consideration of the development of systems and instruments related to data utilization in fields such as healthcare, finance, and industry.

- This Committee aims to establish a basic policy on the form of the data utilization system approximately by the summer in 2025. The main issues of discussion with regard to the promotion of data utilization are as follows:

➤ **Society-driven data sharing**

What should be the rules for utilizing data to improve the welfare of society as a whole?

➤ **Individual-driven data sharing**

What initiatives are needed to significantly improve the quality of life by enabling individuals to use generated and accumulated data proactively and comprehensively?

➤ **Consideration of data utilization by each field**

Studies have begun for each field, divided into medical care, finance, education, and industry. In addition to policy issues in each field, the study will dig into details based on the characteristics of each field, including the perspectives of personal information protection and promoting competition.

➤ **Data utilization in the public and private sectors**

What are the challenges, actual needs, and use cases surrounding the data utilization in the public and private sectors?

➤ **Architecture and Systems**

How do we think about architecture and systems to promote data utilization?

### **Interim Report Draft (Tentative) Published by the Strategic AI Council and the Institutional AI Study Group<sup>3</sup>**

(Cabinet Office, December 26)

- The Interim Report Draft, issued after discussions in the Cabinet Office, indicates the government generally should continue to adopt a “soft law” approach, based on existing laws and updating guidelines, in order to deal with risks and problems caused by AI.
- On the other hand, the Draft Report states that Japan should consider the need to implement regulations governing AI that actually poses or is highly likely to pose a serious threat to fundamental human rights and interests, such as life, body, and property, as well as a threat to social safety and national security, depending on the nature and social severity of the risks.
- The Draft Report also notes that it is necessary to consider the best ways of handling regulations, in light of the way some countries (e.g., the EU) regulate AI based on

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[https://www8.cao.go.jp/cstp/ai/ai\\_senryaku/12kai/shiryoul.pdf](https://www8.cao.go.jp/cstp/ai/ai_senryaku/12kai/shiryoul.pdf) (in Japanese)

computing power (FLOPs), the numbers of users, and the like.

- The Draft Report aims to ensure alignment to international frameworks and interoperability of standards.
- The Draft Report says it is important to indicate a basic policy for AI use, and to develop government procurement guidelines specific to AI that can be used as a reference when the government procures AI, or to strengthen existing guidelines relating to AI.

Takeaway: Currently, Japan generally plans to deal with risks and problems caused by AI through guidelines and existing laws, but if risks and problems remain that cannot be addressed by existing laws and guidelines, particularly those relating to life, physical safety, systemic risks, national security, and the like, AI might be regulated by a new law in the future. Also, if guidelines for using AI in government procurement are established, compliance with the guidelines might be a requirement for the governmental procurement process. It is important to follow the development of these guidelines and new regulations to ensure businesses in Japan address these developments.

#### **“Office of the National Cyber Director” Established<sup>4</sup>**

(Cabinet Secretariat, December 27)

- The Cabinet Secretariat announced the establishment of the Office of the National Cyber Director, starting in FY2025, to improve Japan's cybersecurity capabilities. The new office will be led by a Vice-Minister level Cybersecurity Director and will serve as central command for the Japanese government's cybersecurity policies. The National Center for Incident Readiness and Strategy for Cybersecurity (NISC), currently located within the Cabinet Secretariat, will be reorganized and expanded.
- This organizational restructuring is based on recommendations from an expert meeting held on November 29, 2024, aimed at enhancing Japan's cybersecurity capabilities and developed reorganization of NISC. The meeting made recommendations including the following ones to achieve active cyber-defense:

- Promote bilateral information sharing between the public and private sectors to address concerns about sophisticated cyberattacks, including those backed by nation-states.
- To prevent damage from major cyberattacks, collect and analyze a certain amount of communications data (particularly with regard to communications involving foreign countries) under certain conditions without identifying specific targets in advance.
- Grant the police and the Ministry of Defense the authority to access and neutralize attacker servers, etc., to address major cyberattacks proactively.
- Strengthen human resources exchanges between the public and private sectors to cultivate and ensure cybersecurity talent, while reviewing the structure of Cybersecurity Strategy Headquarters and reorganization of NISC for development.

<sup>4</sup> [https://www.cas.go.jp/jp/gaiyou/jimu/jinjikyoku/files/satei\\_r7\\_kekka.pdf](https://www.cas.go.jp/jp/gaiyou/jimu/jinjikyoku/files/satei_r7_kekka.pdf) (in Japanese)

Takeaway: The government has announced about organizing outline of a bill, in line with the expert meeting's recommendations to introduce "active cyber-defense." However, efforts to address public concerns about privacy violations, particularly regarding the use of communications data, will be necessary.

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## Industry

### **How to Establish Appropriate Price Pass-Through Across the Supply Chain<sup>5</sup>**

(Japan Fair Trade Commission, December 25)

- The Japan Fair Trade Commission (JFTC) is focusing on reviewing business customs to keep prices of goods or services, particularly with regard to price pass-through across the supply chain.
- In order to establish appropriate price pass-through as a new business custom in Japan, the "Corporate Transactions Study Group" was held to examine the appropriate approach to regulation of the abuse of a superior bargaining position, focusing on the Subcontract Act.
- The following are the main directions that were discussed at the study group.<sup>6</sup>

1. In addition to the current regulations on unfair trade practices in the Subcontract Act, it is worth considering regulating actions that unilaterally determine subcontracted payment amounts, such as not responding to bargaining from subcontractors or the main subcontracting businesses failing to provide necessary explanations, which unfairly harm the interests of subcontractors, when changes in cost have occurred.
2. Do not allow the use of promissory notes, which are paper-based securities, as a means of payment for subcontracted work under the Subcontract Act so as to ensure subcontractors receive cash and/or bank deposits on the due date given that subcontractors are likely to have issues with cash management.
3. In the context of transportation, it is worth considering introducing a new regulatory category of transactions under the Subcontract Act for cases where a consignor (main subcontracting entrepreneur) commissions a transport operator (subcontractor) for the transportation of goods in order to address the problem that transport operators are likely to be forced to accept various requests from consignors in Japan.
4. To ensure an environment where subcontractors can easily report issues to the authorities, it is worth considering adding the competent ministers of relevant industry, in addition to the current JFTC and the Director-General of the Small and Medium Enterprise Agency, as contacts for reporting on retaliatory measures (Article 4, Paragraph 1, Item 7).
5. In addition to the current criteria of capital or total contributions, it is worth considering defining the scope of entities using an employee-based criterion (e.g., the criteria of 300 employees (for manufacturing contract, etc.) or 100 employees (for service contract, etc.)).

<sup>5</sup> [https://www.jftc.go.jp/houdou/pressrelease/2024/dec/1225\\_kigyotorihiki\\_repot.html](https://www.jftc.go.jp/houdou/pressrelease/2024/dec/1225_kigyotorihiki_repot.html) (in Japanese)

<sup>6</sup> [https://www.jftc.go.jp/houdou/pressrelease/2024/dec/241225\\_kigyotorihiki\\_1.pdf](https://www.jftc.go.jp/houdou/pressrelease/2024/dec/241225_kigyotorihiki_1.pdf) (in Japanese)

Takeaway: EU companies that subcontract Japanese companies or are considering subcontracting them might comply with updated requirements resulting from the revision of Japan's Subcontract Act if these proposals are specifically implemented. It is important to stay updated with the latest information in order to effectively respond to the new regulations.

## Data Protection

### **Report on the Review of the Act on the Protection of Personal Information <sup>7</sup>**

(Meeting on the Review of the Act on the Protection of Personal Information, December 25)

- The Meeting discussed whether to implement the administrative fine system and the group injunction and restitution scheme in the Act on the Protection of Personal Information (Act No. 57 of 2003) (“APPI”), and this Report summarizes the factual and legal backgrounds and systems assumed to be introduced on these issues.
- Given that the administrative fine system aims to strengthen the deterrent effect on businesses against violation of laws by imposing monetary fines, the Report proposes an idea to limit the scope subject to the administrative fine system based on the action or event of breach (e.g., unlawful disclosure of personal data, inappropriate collection or usage, violation of purpose limitation, and violation of obligations on data breach and/or security management measures ), subjective factors, the impact on rights and interests, and the level of violation.
- The Report proposes the introduction of an injunctive relief system where the enforcement by the PPC is not effectively implemented in order to prevent damages of unspecified and numerous consumers. For example, it is worth considering introducing an injunctive relief system where the qualified consumer group makes reports in the cases where rights or interests of individuals are likely to be infringed (e.g., violation of purpose limitation, prohibition of inappropriate use or collection, disclosure to third parties).

Takeaway: There were specific updates on the arguments about the amendment of the APPI, but it is still under high level discussion before articles are publicized. EU companies handling personal information in Japan will need to closely monitor the developments with regard to the APPI, including but not limited to administrative fines and group injunction and restitution scheme accordingly.

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[https://www.ppc.go.jp/files/pdf/241225\\_shiryuu-1.pdf](https://www.ppc.go.jp/files/pdf/241225_shiryuu-1.pdf) (in Japanese)



## **Japanese Government Revised Sector-Specific Investment Strategies in an Effort to Promote Investment for the Realization of Green Transformation<sup>8</sup>**

(Ministry of Economy, Trade and Industry and Ministry of the Environment, December 27)

- On December 27, 2025, the Japanese government announced the revision of sector-specific investment strategies as a part of the effort to promote investment measures for the realization of green transformation (GX).
- The Japanese government picked up 16 sectors as prioritized fields to promote investment for green transformation, namely Steel, Chemicals, Paper and Pulp, Cement, Automobiles, Batteries, Aircraft, Sustainable Aviation Fuel (SAF), Ships, Life-Related Industry, Resource Circulation, Semiconductors, Hydrogen and its Derivatives, Next-Generation Renewable Energy (Perovskite Solar Cells, Floating Offshore Wind Power, and Next-Generation Geothermal Power), Nuclear Power, and Carbon Capture and Storage (CCS).
- The strategies focus on the promotion of investment measures through GX economy transition bonds and describe basic principles and policies for the commitments required for businesses.
- The Japanese government will implement revised strategies to encourage investment in GX and support accelerating GX in Japan.

Takeaway: Japan aims to achieve decarbonization, economic growth and a stable energy supply through GX. The revised strategies show next 10 years commitments and predictability encouraging companies to investment GX fields.

## **Release of "GX2040 Vision (Draft)"<sup>9</sup>**

(Ministry of Economy, Trade and Industry, December 27)

- The GX Implementation Council which has been discussing Japan's Green Transformation (GX) policies, has updated its strategy in response to recent changes in international circumstances and has released the "GX2040 Vision (Draft)."
- In this context, the Ministry of Economy, Trade and Industry calls for public comments on the "GX2040 Vision (Draft)" in order to broadly gather public opinion to the Draft.
- Given the increasing uncertainty in future outlooks, such as the impact of Russia's invasion of Ukraine and tensions in the Middle East, and the impact of increased electricity demand due to the progress of GX and electrification, the Japanese government aims to provide a long-term national strategy to enhance the predictability of investments towards GX, stable energy supply, economic growth and

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<sup>8</sup> [https://www.meti.go.jp/english/press/2024/1227\\_001.html](https://www.meti.go.jp/english/press/2024/1227_001.html)

<sup>9</sup> <https://www.meti.go.jp/press/2024/12/20241227007/20241227007.html> (in Japanese)

decarbonization.

- Main outlines of the GX2040 Vision (Draft):
  - **GX industrial structures:** creating new GX business using innovative technology and enhancing industrial structure
  - **GX industrial locations:** accelerating industrial clusters development to utilize decarbonized electricity
  - **Feasible transition and contribution to global decarbonization:** introducing feasible transition considering geopolitics and contributing to rule making, decarbonization of the world, including Asia.
  - **Commitment to enhancing GX in various sectors including energy:** accelerating GX commitment based on sector specific investment strategy and energy plan.
  - **Growth-oriented carbon pricing:** introducing phased in GX support program including carbon pricing system, emissions trading and emissions auction for power generation providers.
  - **Just transition:** supporting the shift of workforce from fossil fuel industries to new industries created through GX.
  - **Evaluation and reviewing:** monitoring the progress in the implementation of GX policy.

Takeaway: This shows Japan's strong commitment to GX and rich opportunities to investment in GX field. Legislative reform is expected including revision of GX Promotion Act in 2025 to support GX policy mentioned above.

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