



Global Data Alliance Comments on Draft Partial Amendment of Guidelines for the Act on the Protection of Personal Information

June 18, 2021

The Global Data Alliance¹ appreciates the opportunity to submit the following comments to the Personal Information Protection Committee (**PPC**) regarding the draft partial amendment of Guidelines (**Draft Guidelines**) for the Amended Act on the Protection of Personal Information (**APPI**), which was promulgated in June 2020.

The Global Data Alliance is a cross-industry coalition of companies, headquartered in different regions of the world, that are committed to high standards of data privacy and security. Alliance member companies rely on the ability to transfer data responsibly around the world to create jobs and make local industries more competitive.

Members of the Global Data Alliance share a deep and long-standing commitment to protecting data across technologies and business models, as they recognize that today's cross-border economy depends on the trust of customers and the general public. The Global Data Alliance strongly supports Japan's efforts to enhance personal data protection and standards of data governance while also promoting cross-border data transfers.

The ability to access technology and transfer data securely across international digital networks is of central importance to any company with international business activities. Cross-border data transfers support many important priorities, including international sales and marketing, transnational research and development, cybersecurity, fraud monitoring and prevention, anti-money laundering, anti-corruption, and a broad range of other activities relating to the protection of health, privacy, security, intellectual property, and regulatory compliance. The Global Data Alliance supports Japan's commitment to creating economic opportunity, advancing personal data protection, and advancing the other policy objectives outlined above through cross-border data transfers.

Further to our earlier comments² on the Commission Rules of APPI, we offer the below observations to support PPC's efforts to achieve this goal.

Provision to a Third Party in a Foreign Country Volume of the Draft Guidelines / 5-2 Information to be Provided / (2) Information on the System Relating to the Protection of Personal Information in the Said Foreign Country

¹ The Global Data Alliance (globaldataalliance.org) is a cross-industry coalition of companies that are committed to high standards of data responsibility and that rely on the ability to transfer data around the world to innovate and create jobs. The Alliance supports policies that help instill trust in the digital economy while safeguarding the ability to transfer data across borders and refraining from imposing data localization requirements that restrict trade. Alliance members include BSA members and Abbott, American Express, Amgen, AT&T, Citi, Cortex, ExxonMobil, FedEx, General Motors, LEGO, Lumen, Mastercard, Medtronic, Panasonic, Pfizer, RELX Group, Roche, UDS Technology, United Airlines, Verizon, and Visa. These companies are headquartered across the globe and are active in the advanced manufacturing, aerospace, automotive, consumer goods, electronics, energy, financial services, health, supply chain, and telecommunications sectors, among others. BSA | The Software Alliance administers the Global Data Alliance.

² <https://www.globaldataalliance.org/downloads/en01252021gdacmtsappirules.pdf>

The Draft Guidelines reflect a requirement imposed by the APPI amendments that companies provide certain information to data subjects regarding international data transfers.

The Draft Guidelines also list examples of the information to be provided to a data subject regarding the system for personal information protection in the foreign country in which the third-party recipient is located. We are concerned, however, that this approach will result in different information being provided individually from different companies and could lead to confusion by a data subject that would ultimately interfere with the utilization of personal information. We therefore recommend that the information on the personal information protection system in foreign countries be based on information that PPC provides on the PPC website.

The Draft Guidelines also specify a range of information to be provided, including under (d), information regarding the “existence of other systems that may have significant impact on the rights and interests of the principal.” We provide comments (below) on the two examples provided in the Draft Guidelines that purport to illustrate systems that might have such an impact.

Example 1 references “a system that allows the government to collect a wide range of information on personal information held by businesses operators by imposing on businesses operators an obligation to cooperate extensively with government information collection activities.” However, this example introduces several uncertainties, as it is not clear what will fall as “wide range” and “information collection.”

Example 2 indicates “a system pertaining to the obligation to preserve personal information within the country which may not enable business operators to respond to a request for deletion, etc. from a principal. However, how an “obligation to preserve within the country” relates to “the possibility of not being able to respond to deletion request” is not clear in the Draft Guidelines.

In implementing the Draft Guidelines in relation to “other systems that may have a significant impact,” we recommend that the PPC focus on circumstances where a business operator is unable to comply with a data subject’s demand for deletion, such as by describing: “a case in which the country’s laws prohibit a company from responding to or executing a deletion demand.”

Conclusion

The Global Data Alliance appreciates the opportunity to comment on the Draft Guidelines. We hope that our recommendation will be useful as you continue to refine the Guidelines. We appreciate PPC taking steps to update and involve a wide range of stakeholders during the development of the Draft Guidelines and look forward to continuing the conversation in the future on the topic. Please let us know if you have any questions or would like to discuss comments in more details.