

Japan: Regulations Relating to Children's Personal Information

Data Protection Newsletter

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Author:

[Yuko Kawai](#)

y.kawai@nishimura.com

[Matthew Ono](#)

ma.ono@nishimura.com

In Japan, there have been ongoing discussions with respect to the protection of children's personal information; currently, Japan has no specific rules like those that protect the personal information of children in the EU, UK, California, and some other U.S. states. This newsletter summarizes relevant discussions in Japan, with reference to the "Interim Report of the Triennial Review of the Act on the Protection of Personal Information" ("Interim Report") issued by Personal Information Protection Commission of Japan ("PPC") in 2024, and the results of the related public comment procedures ("Public Comments").

1. Current Regulations in Japan

Unlike laws and regulations in some other jurisdictions, Japan's Act on the Protection of Personal Information ("APPI") currently does not contain any specific provisions addressing children's personal information, except for enabling legal representatives of a minor (meaning an individual under 18 years old) to make requests to business operators handling personal information ("Businesses") on the minor's behalf with regard to disclosures, corrections, deletions or other matters relating to the minor's personal data held by the Businesses. (APPI, Article 37, Section 2; Enforcement Order for the APPI, Article 13, Item 1)

The APPI Guidelines (General Rules) issued by PPC ("Guidelines") require Businesses to obtain consent from a minor's legal representative (such as a person with parental authority over the minor) for the Business to process the minor's personal information, if the minor does not have the capacity to assess the consequences of giving consent to the Business (Guidelines, Section 2-16). The relevant Q&A published by the PPC ("Q&A") explains that, generally speaking, children 12 to 15 years old or younger are "minors without the capacity to assess the consequences of giving consent" (although each situation is to be evaluated on a case-by-case basis, depending on the specific personal information to be processed and the nature of the business involved) and that, in principle, Businesses need to obtain consent from the legal representative of minors in that age range.

2. How the Interim Report Addresses Children's Personal Information

The APPI is reviewed periodically, in accordance with its supplementary provisions. As part of this regular review process, the PPC issued the Interim Report in 2024. The Interim Report lists items that should be considered and discussed, including the following items related to children's personal information, bearing in mind the need to balance the protection of children's rights and benefits and the burden imposed on Businesses:

Item to Be Considered and Discussed	Summary
(i) Involvement of legal representatives	It is necessary to consider clarifying, in the APPI: (i) requirements that Businesses obtain consent from a legal representative, in principle, in situations in which the consent of a data subject is required (e.g., data transfers), and (ii) requirements that Businesses provide information to a legal representative in situations in which notification to data subjects is required (e.g., notice of purpose of use).
(ii) Extension of the right to request suspension of use, etc.	Given the need to protect children, it is necessary to consider expanding the situations in which a data subject may request suspension of use of children's personal data held by Businesses.
(iii) Enhancement of safety management measures	In light of serious data incidents involving children's personal information, enhancement of measures for safe management of children's personal data should be considered.
(iv) Responsibilities of Businesses	From the perspective of promoting voluntary actions by Businesses, it is necessary to consider a new provision that establishes responsibilities Businesses should keep in mind, for example, prioritizing children's best interests (or benefits) and giving special consideration to the processing of children's personal information.
(v) Age Criteria	Age criteria relating to children's personal information should be considered, specifically criteria applicable to persons under the age of 16, in light of the Q&A and provisions of the GDPR.

3. Opinions Received in Public Comments

The Public Comments on the Interim Report indicate that many respondents agree with the overall concept of promoting the protection of children's personal information; however, each of the items above has received various comments from varying perspectives.

For example, while most respondents agree that it is preferable to clarify the involvement of a legal representative, some opinions were cautious about requiring the consent of a legal representative in all situations, for example, due to the existence of conflicts of interest between children and their legal representatives in some situations. Another opinion points out that Businesses should seek double consent from both legal representatives and the relevant children, in certain situations. Some comments expressed concerns about the excessive burden imposed on Businesses in connection with identifying children's personal data and implementing special safety control measures for this data. Some respondents commented that the age of adulthood set forth in the Civil Act (i.e., 18) should be considered when establishing age criteria, and that persons under 16 and those under 13 should be considered separately, due to differences in their capacity to comprehend and consent.

4. Future Prospects and Matters for Businesses to Watch

Based on the Interim Report and the Public Comments, it is likely that the APPI will be amended to include new regulations governing the handling of children's personal information. Businesses that provide goods or services in multiple jurisdictions, including Japan, particularly those that regularly handle children's personal

information, should take this opportunity to start reviewing data flows, consent mechanisms, data storage periods, as well the implementation and handling of data subjects' rights, as applicable to users/customers in Japan, and should monitor further developments and amendments to the APPI.

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Public Relations Section, Nishimura & Asahi newsletter@nishimura.com