

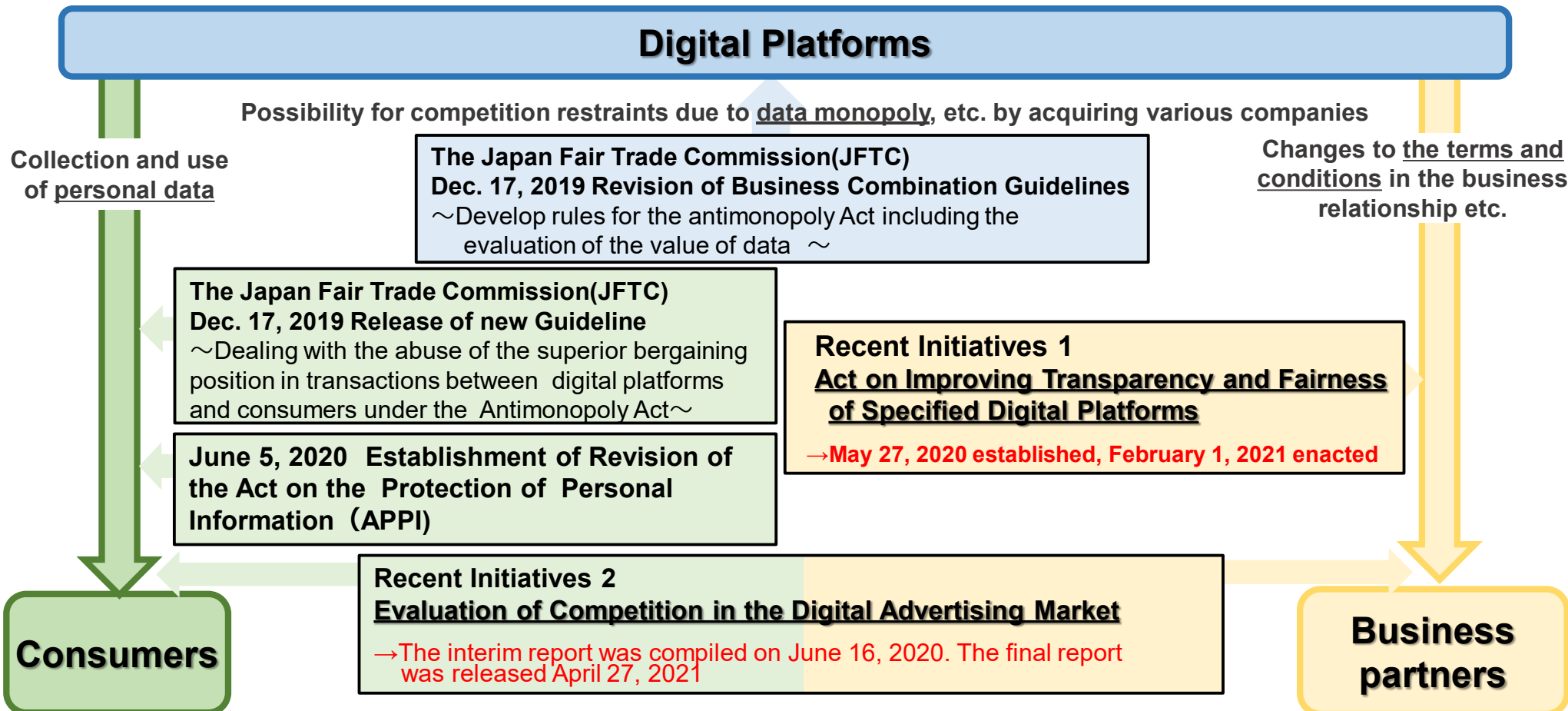
Japanese perspective on issues related to digital platformers

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- ✓ September 27, 2019 : **Establishment of Headquarters**
(Director-General : Chief Cabinet Secretary, Vice Director-General : Minister for Economic Revitalization, Relevant Ministers)
- ✓ December 17, 2019 : Digital Market Competition Council (consisting of the above-mentioned Ministers and experts) was held to **summarize the direction of acts, the content of JFTC Guidelines and the issues in Digital Ads.**
- ✓ June 16, 2020 : **The interim report of Digital Ads** was compiled. In addition, the Midium-term Vision Report on Digital Market Competition toward Society 5.0 (not only to establish rules, but also to promote an approach to change the competitive structure, especially through the use of the Trusted Web technology) was released.
- ✓ April 27, 2021 : **The final report of Digital Ads** was released.



Recent Initiatives 1: the Act on Improving Transparency and Fairness of Specified Digital Platforms (Took Effect on February 1, 2021)

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Basic Principles

- Based on digital platform providers voluntarily and proactively working to improve transparency and fairness. Stipulates that **government involvement and regulations will be kept to a minimum** (adopt the “co-regulations” regulatory methodology that delegates details to the voluntary efforts of businesses, while also setting out the general framework for regulations in law).

Platforms Subject to Regulation

- Designate from among the digital platforms as “**specified digital platform providers**” the businesses providing platforms that have a particular need for a high level of transparency and fairness in transaction and **make them subject to regulation**.
 - * Specifically, for the time being, large-scale online malls and app stores for which the actual state of transactions has been clearly ascertained through surveys are subject to regulation.

The Role of Specified Digital Platform Providers

- Specified digital platform providers **are required to disclose information on transaction conditions, to establish procedures and systems, and to submit a report with a self-evaluation** each fiscal year that covers the measures they have implemented and an overview of their business.
 - * Obligated to notify users providing products beforehand when changing their terms and conditions and to establish a system for handling complaints and disputes.

The Role of the Government

- Perform **reviews of the operational state** of platforms based on the reports and **publish the results of evaluations** together with the overviews of the reports. In the process of the review, **listen to the opinions of client businesses, consumers and scholars** and promote the sharing of issues and mutual understanding between the actors involved.
- **In cases where a violation of the Antimonopoly Act is found, the Minister of Trade, Economy and Industry, based on the Act on Improving Transparency, can request that the Japan Fair Trade Commission take measures.**

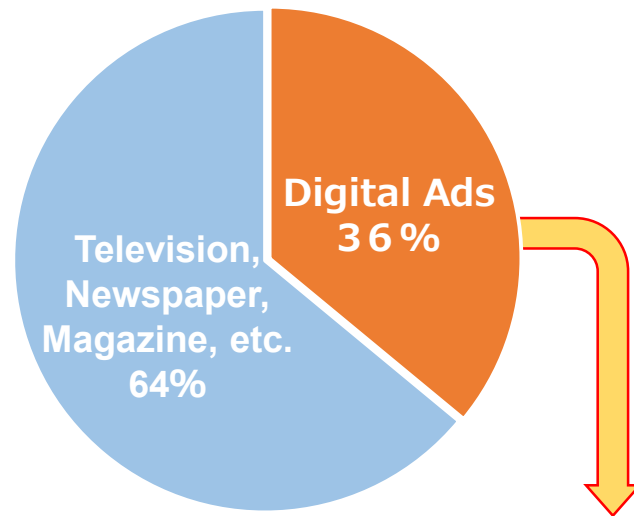
* The regulations in this act apply **regardless of whether the business is located in Japan or abroad. Establish procedures for service by publication** with reference to examples where the Antimonopoly Act has been applied to the business located abroad as well.

Recent Initiatives 2:

Evaluation of Competition in the Digital Advertising Market

The Digital Market Competition Council **assessed the competitive environment, market transparency, and quality of services in the digital advertising market**, categorized them under **ten main issues**, and then organized the direction of measures to be taken. The Council compiled the interim report on June 16, 2020 and released the final report on April 27, 2021.

Breakdown of Overall Advertising Spending in Japan (2020, total 6.16 trillion JPY)



- The digital advertising market, for the first time, **surpassed TV media advertising expenditures in 2019**
- It has grown to account for approximately 36% of Japan's overall advertising expenditures (**Approx. ¥6.16trillion**),
- By transaction method, **programmatic advertising** accounts for **approximately 80%** of all digital ads transactions
- **568.7 billion JPY** in advertising on **social media** (Approx. 30% of the total)

■ **Issues relating to competitive environment :**

- There are claims that network effects function on both sides and the market becomes oligopolistic.
- There are concerns that data is becoming concentrated within certain PFs and oligopolization is accelerating as data distribution becomes restricted due to privacy protection.
- Consequently, the influence of certain PFs is growing in terms of market design and operation.

■ **Issues relating to market transparency :**

- The complexity of overall system and extremely rapid changes cause difficulty for the parties concerned to grasp market conditions. In particular, matching by real-time bidding is handled on the system with algorithms, resulting in much opaqueness (black box).

■ **The problem of “quality” in the digital advertising market :**

- Amid the rapid development of digital advertising, there are various problems in the quality of services provided in the digital advertising market.
 - inflating the number of views, etc. (ad fraud), brand safety, viewability, dissatisfaction that the number of views (which is the basis for billing) is not objectively measured by a third party, poor transparency in transaction details, and concerns about the handling of personal data

- The digital advertising market is exposed to a variety of issues concerning the digital markets, including competitive environment, transparency, enclosure of data, service and information quality in digital spaces, and privacy.
⇒ **Touchstone** for thinking about the establishment of rules for the digital market
- Since the businesses that act as advertisers and publishers are diverse in scale and industry and almost all consumers come into contact with digital ads, it is important to make it easy for anyone to understand the issues and risks for the digital ads.
⇒ An environment is essential where **a variety of actors can work to resolve these issues**.

Basic Principles for Rulemaking

- 1) Establish the following three points as essential elements for the sound development of the digital advertising market.
 - (1) Secure **"fairness"**
 - (2) Improve **"transparency"**
 - (3) Ensure **"availability of choice" for each market actor** including general consumers, through the above.
- 2) As this is a fast-changing market, build a **framework that encourages solutions through innovation** rather than excessively inhibiting innovation.
- 3) **Issues should be addressed with a cross-cutting perspective** that takes into account the impact that responses to concerns related to personal data handling will ultimately have on the market competition.

[Approach to Issues]

*Use an effective approach in accordance with what is needed for each issue

- The Act on Improving Transparency and Fairness of Specified Digital Platforms ('the Act on Improving Transparency') is a framework addressing the issues in the digital advertising market. In order to address the issues through innovation from businesses in fields where the speed of change is swift, this Act **adopts the "co-regulation" methodology where the government and private enterprise each bear their respective roles, using the ingenuity of large-scale platforms** while simultaneously having the government present the general framework.
- Going forward, we will work to **establish the necessary rules, such as by making the digital advertising market subject to the Act on Improving Transparency**.
- Applying the Antimonopoly Act strictly when a violation of the AMA is found. **Using other approaches as well according to the issues** (the Act on the Protection of Personal Information, the Telecommunications Business Act, etc.).

Approach

Proceed with legal consideration toward applying the Act on Improving Transparency.

Guidelines of Ministry of Internal Affairs and Communications

Legal review on the application of the Act on Improving Transparency.

Enforcement of the Antimonopoly Act in case of violations

OTransparency

Thorough accountability related to the quality of digital ads such as ad fraud (*issue (1), issue (2) (respond in issue (1))*)

Disclosure of connection rules for third party measurement tools (*issue (3)*)

OConcerns Over Data Enclosure

Disclosure of conditions for obtaining and using audience data (*Issue (4)-2*)

OConcerns Over Conflicts of Interest and Self-Preferencing

Formulate and publish "Conflict of Interest and Self-Preferencing Management Policy," etc. (*issue (4)-3, (5), (6)*)

OFairness in Procedures, etc.

Prior notification and explanation of reasons for system/rule changes

Explanation of reasons for restriction of client activities or for refusal of transactions

(*issue (8), (8)-2, issue (7) (handle as a category of issue (8))*)

OPersonal Data

Disclosure of the handling of personal data in an easy-to-understand form (*issue (10)*)

OSearches

Disclosure of main parameters and setup of consultation desks (*issue (9)*)

Evaluation of competitive environment on the default setting of search engines (*issue (4)-1*)

The Ministry of Internal Affairs and Communications (MIC) has implemented the following policies to promote online platform service providers' measures against illegal and harmful information and to properly handle secrecy of communications and user information.

- Countermeasures against online harassment, "fake news" and disinformation in platform services such as SNS.
- Extraterritoriality of the Telecommunications Act (entered into force in April 2021), Ensuring of appropriate handling of user information

Countermeasures against illegal and harmful information

1. Countermeasures against online harassment

MIC announced The "policy package" in September 2020 in order to deal with online harassment, which has become a severe social problem.

⇒ Regarding the Provider Liability Restriction Act, the revised law regarding disclosure of senders' information to the Diet this time was submitted, and passed on April 21st.

2. Countermeasures against "fake news" and disinformation

Regarding measures against "fake news" and disinformation on the Internet, MIC compiled and announced a policy.

⇒ Since February 2021, MIC is monitoring (verify the effects) efforts by Platform Service Providers to deal with online harassment, "fake news" and disinformation in the "Study Group on Platform Services."

Appropriate Handling of Secrecy of Communications and User Information

3. Response to the Globalization of the Telecommunications Market

To secure the users' interests related to telecommunications services, the Act aims to develop regulations for telecommunications businesses ran by foreign corporations, etc. (the Act amended in May 2020).

⇒ the Amended Act is entered into force in April 2021 (It is applied to Platform Service Providers.)

4. Ensuring of appropriate handling of user information ※

※ location information of communication terminal, action history on the Website, terminal ID, cookie etc.

Specific consideration is moved forward with the way of regulation related to protection of privacy and secrecy of communications so that it will fit in the new era.

⇒ Established WG on handling of user information concerning platform services in February 2021, then conduct monitoring and consider review of Guidelines for Protection of Personal Information in Telecommunications Business.



- In September 2020, the Ministry of Internal Affairs and Communications announced a Policy Package in order to deal with online harassment, which has become a severe social problem.

1. Awareness-raising activities to improve information moral and ICT literacy for users

- ①Publicize the 2020 supplementary version of the “Case Study of the Internet Trouble” and disseminate it to schools through regional branch office of MIC. [publicized and disseminated in Sep. 2020]
- ②Update the course material of “e-net caravan” (lectures on the safe use of the Internet, mainly held by telecommunication companies), adding contents on online harassment. [implemented in Sep. 2020]
- ③Enhance measures to raise information moral and ICT literacy in society as a whole by expanding and enriching the “#NoHeartNoSNS Special Web Site” (sponsored by the MIC, MOJ, SMAJ(Social Network Service business association)) [ongoing]

2. Supporting the voluntary efforts of platform service operators and improving transparency and accountability

- ①Hold a working-level review meeting to promote business operators’ smooth response to deletion requests from the MOJ. [holding regularly]
- ②Encourage the implementation of measures against online harassment and the examination of their effectiveness through exchanging opinions with businesses and business groups. [ongoing]
- ③Promote measures to ensure business operators’ transparency and accountability by reporting voluntary efforts, and grasp the status of actions and examine evaluation methods [implement during this fiscal year in Study Group on Platform Services]
- ④Deepen international dialogue by paying close attention to the global institutional framework and response status [ongoing]

3. Revising the law regarding disclosure of senders’ information

- ①Clarify that the name and address associated with the telephone number can be answered in response to the bar association inquiry, based on a guideline. [implemented in Nov. 2020]
- ②Revise the Provider Liability Restriction Act, regarding the creation of new court procedures and the early preservation of specific communication logs. [passed in April 21st, 2021]
- ③ Revise the Provider Liability Restriction Act, in order to clarify the login information as the object of disclosures. [passed in April 21st, 2021]
- ④Supporting private-sector efforts regarding the establishment of private-sector counseling organizations and the enhancement of guidelines to contribute to the determination of requirement suitability. [the guideline was publicized in Apr. 2021]

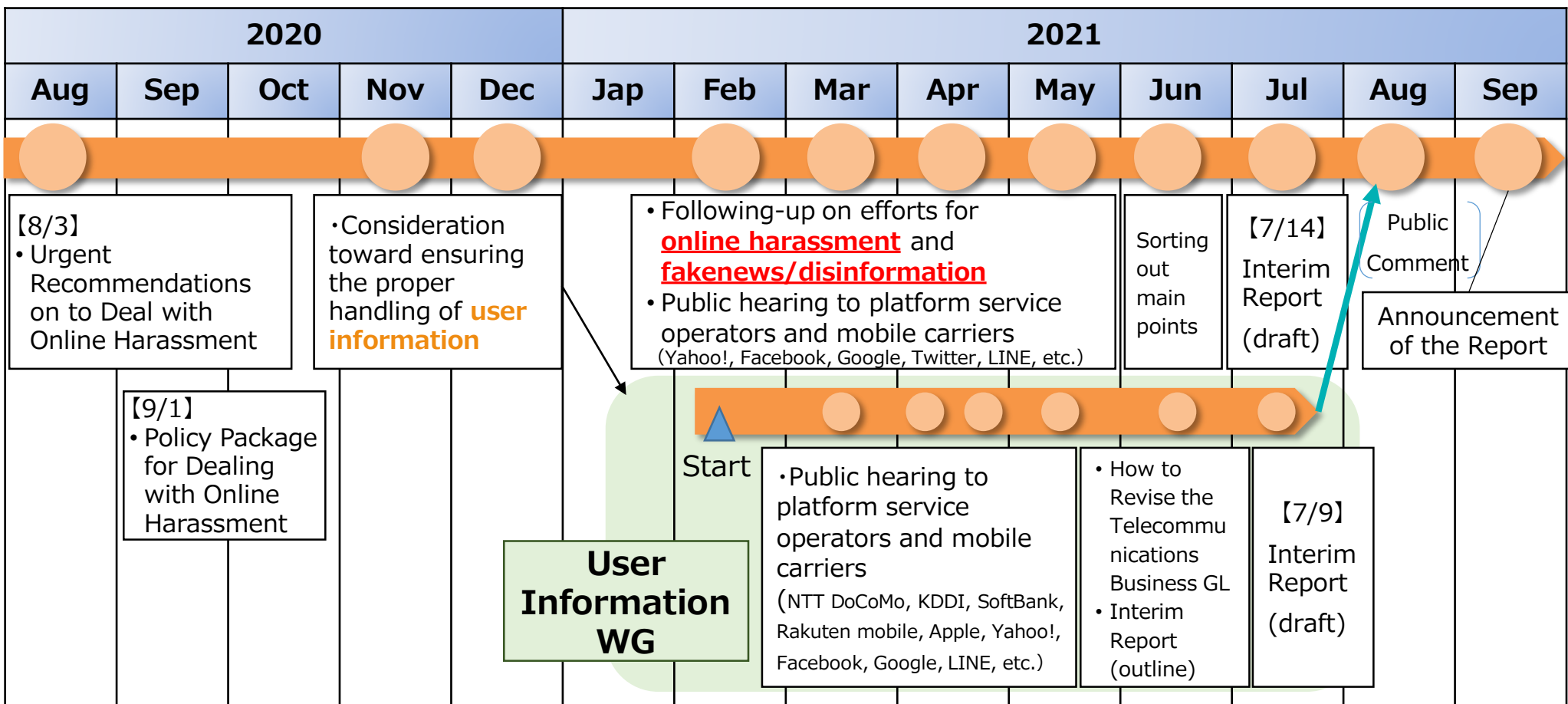
4. Cooperation and building up systems for enhance consultation from victims

- ①Build up the system of “illegal harmful hotline” by increasing the number of counselors and analyze the number and contents of consultations. [ongoing]
- ②Enhance cooperation with other counseling institutions, such as introducing between counseling institutions according to the content of the consultation. [ongoing]
- ③Announce guide of consultation institutions for users to understand easily, through creating guide maps that describe the consultation institutions’ features and merits. [announced in Dec. 2020]



- Given the more seriousness of illegal and harmful information on SNS platform services and collection of huge amount of user information without explanation to the users, MIC has been holding Study Group on Platform Services to **monitor voluntary efforts by platform services operators** and **examine countermeasures** against following issues;

- ① Measures against illegal and harmful information on the Internet such as **online harassment** and **fakenews/disinformation**
- ② Ensuring the proper handling of **user information** (holding User Information WG)





Policy for Future Consideration on Countermeasures against Online Harassment and Fakenews/Disinformation

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Online Harassment

<Supporting **voluntary efforts by platform service operators**>

- Encouraging smooth actions such as deletion in response to requests from the Human Rights Bureau of the Ministry of Justice

<Monitoring **transparency and accountability**>

- MIC **continually monitor the efforts by platform service operators** and their **transparency and accountability**.
- MIC will specifically consider a certain level of administrative involvement for ensuring transparency and accountability, if the next result of monitoring shows that those efforts are not enough

<Awareness-raising activities **to improve information moral and ICT literacy** of users>

- It is necessary to **take effective measures to improve ICT literacy**, according to its actual conditions and analysis results, in cooperation of industry, academia, government and the private sector.

Fakenews/Disinformation

<Observation of the actual conditions>

- It is necessary for providers to properly observe the actual conditions for the problem of disinformation on their services.

<Making cooperation relationship>

- Encouraging discussion and studies on Anti-Disinformation Forum, which consists various private stakeholders

<Supporting **voluntary efforts by providers** and monitoring of **transparency and accountability**>

- MIC **continually monitor efforts by platform service operators** and their **transparency and accountability**
- Considering a certain level of administrative involvement for ensuring transparency and accountability, if the next monitoring result shows those efforts are not enough

<Promoting Factcheck>

- Promoting the cooperation between platform service operators, factcheckers, factcheck promoting organizations, and traditional media toward factchecking

<Ensuring credibility of information>

- It is desirable to deepen the study on the way to ensure credibility of information in cooperation among the stakeholders such as traditional media and platforms

<Promoting the improvement of ICT literacy>

- It is necessary to **take effective measures to improve ICT literacy**, with the characteristics of disinformation in mind.



Future Direction for Measures regarding Proper Handling of User Information

1. Measures based on the Telecommunications Business Act, the Act on the Protection of Personal Information etc.

- Information stored in a user device and information associated thereto should be considered as communication-related privacy, which is the right of users to be protected. Focusing on not only telecommunications carriers and telecommunications facilities but the rights of telecommunications users, protecting privacy of telecommunications service users in addition to protecting the secrecy of communications needs to be considered as the purpose of the Telecommunications Business Act and all of operators handling information stored in a user device and information associated thereto should fulfill obligations to protect the information.
- Referring to discussion on the proposal for an ePrivacy Regulation, it's appropriate to consider regulatory framework including contents, scope etc. of proper handling of user information in the Telecommunications Business Act etc. for institutionalization.**

2. Measures regarding Guidelines for Protection of Personal Information in Telecommunications Business and other relevant guidance

- It's needed to review Guidelines for Protection of Personal Information in Telecommunications Business in line with the enforcement of the Amended Act on the Protection of Personal Information (the Act was amended in 2020 and 2021).
- It's also needed to consider the revision of Guidelines for Protection of Personal Information in Telecommunications Business for ensuring of appropriate handling of user information.**
(Examples: Personal Information Protection Manager, Privacy Policy, Handling of Various Types of Information including Location Information (including User Information))

3. Conducting regular monitoring

- It's important to set requirements for handling of user information in Guidelines for Protection of Personal Information in Telecommunications Business and **regularly monitor the status of compliance with the requirements and the voluntary efforts of operators.**

4. Importance of accumulating and disseminating technical knowledge

- It's desirable to consider putting together and continuously revising the report of technical trends through discussion in a taskforce by experts.

5. Promotion of user understanding and external review

- Operators and industry associations etc. are expected to promote awareness-raising activities to improve literacy of users.
- It's useful that external review of privacy policy of operators etc. from technical aspect is conducted and its results are published.

6. International dialogues and cooperation

- With proceeding with institutional consideration and monitoring of operators such as platform service operators in Japan, it's useful to positively promote dialogues and cooperation in bilateral frameworks. Furthermore, it is expected to promote cooperation with international and regional organization such as OECD, APEC etc. with explaining measures in Japan.



The COVID-19 pandemic has driven a steep increase in the use of the internet and different services provided online, such as social media, and has clearly demonstrated the importance of improving internet safety. Online content that is illegal, and content that is harmful, can have a major impact on people, especially women and children, and on our societies. In the principles set out below:

- The G7 **RECOGNISES** that international cooperation is vital to address the shared global challenge of internet safety. This cooperation should be multi-stakeholder in nature and include governments, companies, academia, civil society and other interested stakeholders.

Underpinning Principles

1. **Fostering Human Rights Online**
2. **Multi-Stakeholder Approach**
3. **Corporate Responsibility**
4. **Transparency and Accountability**

- We **BELIEVE** that companies should be transparent, including with consumers, about the presence of known illegal and harmful activity on their services, and the decisions and measures taken to improve internet safety, as well as be accountable for the decisions made to counter illegal and harmful content in line with their terms and conditions at global, national, and regional levels.



Thank you !

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