A Japanese Culture of Privacy

Submitted by: Japan
A Japanese Culture of Privacy

Session I: The Asian Culture of Privacy

Hiroshi Miyashita
Cabinet Office, Government of Japan

APEC ECSG Data Privacy Seminar
Peru, Lima
February 18, 2008

Topics of A Japanese Culture of Privacy

1. Privacy Conceptions in Japan
   (1) What is Privacy?
   (2) Public Opinion Polls
   (3) Court Cases

2. The Japanese Act and its implementation
   (1) History of Privacy Laws
   (2) Outline of the Acts on the Protection of Personal Information
   (3) Implementation Status of Act

3. Beyond A Privacy Culture
1. Privacy Conceptions in Japan
(1) What is Privacy?

- the right to be let alone
- information privacy
- bodily privacy
- privacy of communication
- territorial privacy
- penumbras

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1. Privacy Conceptions in Japan
(1) What is Privacy?

- European Privacy
- Asian Privacy
- American Privacy

- dignity
- ?
- liberty values
1. Privacy Conceptions in Japan

(2) Public Opinion Polls

Interest in Personal Information Protection

- Yes: 73.5%
- No: 25.2%
- N/A: 1.3%

1811 valid answers
(interviewed in Sep. 2006 by Cabinet Office)

Knowledge of difference between privacy and personal information

- Yes: 33.9%
- No: 66.1%
- N/A: 3.9%

1811 valid answers
(interviewed in Sep. 2006 by Cabinet Office)
1. Privacy Conceptions in Japan

(2) Public Opinion Polls

Personal Information which One Does Not Wish to Disclose

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
</tr>
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<tbody>
<tr>
<td>Account number, credit card number, dealing records</td>
<td>88.7%</td>
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<tr>
<td>Image, picture</td>
<td>74.2%</td>
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<tr>
<td>Family, marriage, divorce</td>
<td>53.3%</td>
</tr>
<tr>
<td>Medical record &amp; physical disability</td>
<td>52.8%</td>
</tr>
<tr>
<td>Public assistance, pension</td>
<td>49.5%</td>
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<tr>
<td>Birthday &amp; age</td>
<td>48.6%</td>
</tr>
<tr>
<td>Political view, religion, doctrine</td>
<td>44.9%</td>
</tr>
<tr>
<td>Others</td>
<td>42.5%</td>
</tr>
<tr>
<td>Total valid answers</td>
<td>38.9%</td>
</tr>
</tbody>
</table>

1811 valid answers
(interviewed in Sep. 2006 by Cabinet Office)

1. Privacy Conceptions in Japan

(3) Court Cases

- **private life**
  
  “The right to privacy is recognized as the legal protection or the right not to be disclosed of private life”

  Utage-no-Ato Case (Tokyo District Court, 1964)

- **personal information**
  
  “It is reasonable that one refuses disclosing such information to others with whom one does not connect, and his or her expectation should be legally protected.”

  Jiāng Zémìn lecture Case (Supreme Court, 2003)
2. Japanese Act and its Implementation

(1) History of Privacy Laws

Thailand (1998)
Chile (1999)

Additional law
Large Amendment


(2) Outline of the Act on the Protection of Personal Information

Scheme of the System - Multi-layer Measures & Relevant Sectoral Minister System

The Quality-of-Life Council
Submit Recommendations to the government

Act on the Protection of Personal Information

Information Disclosure and Personal Information Protection Review Board
Submit Recommendations to the government

Basic Philosophy
Responsibilities and Measures of the State and Local Public Bodies,
Establishment of the Basic Policy

Private Sector

Public Sector

Duties of Entities Handling Personal Information, etc

Minister, etc. concerned with jurisdiction over the business
- Establishment of Guidelines
- Guidance and Supervision

*35 guidelines are established in 22 business fields as of Sept 1, 2007.
(2) Outline of the Act: Mechanism of Ensuring Effectiveness
- Autonomous approach; mechanism to encourage the business entities to protect personal information

Outline of the Act:

**Handling of Complaints**
- Entities handling personal information (Article 31)
- Authorized personal information protection organizations* (Article 43)
- National Consumer Affairs Center
- Local Public Bodies (Article 13)
- Resolution between the interested parties

**Relevant Ministers**
- Collection of Report and Advice (Article 32, 33)
- Recommendation (Paragraph 1 of Article 34)
- Order (Paragraph 2 and 3 of Article 34)

**Penalties**
- Imprisonment of not more than six months or a fine of not more than 300,000 yen

* In case of emergency

**Trial Procedure**

- Remedy by the entity

2. Japanese Act and its Implementation
(3) Implementation Status of Act

- 893 cases of leakage* made public by entities in FY 2006.
  *Including “loss” or “damage” besides “leakage.”
  cf.) 1556 cases in FY 2005.
- Many cases relatively small as to number of persons affected by leakage.**
  **Referred as “number of leakage-affected persons”

<table>
<thead>
<tr>
<th>Fiscal 2006</th>
<th>Number of Cases</th>
<th>Percentage of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>500 or less</td>
<td>683</td>
<td>76.5%</td>
</tr>
<tr>
<td>501 to 5,000</td>
<td>109</td>
<td>12.2%</td>
</tr>
<tr>
<td>5,001 to 50,000</td>
<td>60</td>
<td>6.7%</td>
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<tr>
<td>50,001 or more</td>
<td>36</td>
<td>4.0%</td>
</tr>
<tr>
<td>Unknown</td>
<td>5</td>
<td>0.6%</td>
</tr>
<tr>
<td>Total</td>
<td>893</td>
<td>100.0%</td>
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</tbody>
</table>

*34 authorized personal information protection organizations are established as of Sept. 1, 2007.
2. Japanese Act and its Implementation

(3) Implementation Status of Act

PrivacyMark
JIPDEC
(Japan Information Processing Development Corporation)

PD Mark
Kanagawa Prefecture

3. Beyond A Privacy Culture