

TECH, IP AND TELECOMS LAW UPDATES

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1. AI Policy Updates: “Perspectives on AI and Copyright,” “AI Business Guidelines Version 1.0 (Draft),” and other developments
2. Cabinet Approval of the Bill to Amend the Provider Liability Limitation Act (Information Distribution Platform Act)
3. Digital Agency: Cabinet Approval of the Bill to Amend the Basic Act on the Formation of a Digital Society and related laws
4. The commencement of public comments regarding the operation of the partial lifting of the ban on ride-sharing

We are pleased to present the March issue (Vol.8) of “TECH, IP AND TELECOMS LAW UPDATES,” a collection of the latest information about Japanese technology, intellectual property, and telecommunications law. We hope that you will find it useful to your business.

1. AI Policy Updates: “Perspectives on AI and Copyright,” “Draft AI Guidelines for Business Version 1.0 (Draft),” and other developments

In recent months, there have been significant developments in legal and policy discussions surrounding AI. Most notably, new versions of the “Perspectives on AI and Copyright” and “Draft AI Guidelines for Business,” which incorporated public comments, were released. Another significant development is that the Liberal Democratic Party’s project team initiated discussions on a “Fundamental Law for Promoting Responsible AI (tentative title).”

The Copyright Committee of the Cultural Council's Sub-Committee on Legal Systems compiled and announced the final version of “[Perspectives on AI and Copyright](#)” on March 15, 2024 based on public comments. With around 25,000 public comments

TECH, IP AND TELECOMS LAW UPDATES

submitted, this document has attracted unprecedented attention. Due to some cautionary opinions regarding hasty interpretations without sufficient debate, the revised document clarifies that it does not hold legal binding power or make a definitive legal evaluation of any specific generative AI at this point. This perspective provides guidelines, along with concrete examples, on when the data analysis exception under Article 30-4 of the Copyright Act would no longer apply as it could "unjustly harm the interests of the copyright holder" with regard to the use of generative AI. Given the lack of legal precedents in Japan regarding AI and copyright, this document serves as an important reference.

Moreover, [a joint meeting with the AI Business Guidelines Review Committee, AI Network Society Promotion Conference, and AI Governance Review Conference](#) resulted in the publication of the main text and attachments of the new "Draft AI Guidelines for Business Version 1.0" on March 14, 2024, incorporating public comments. The AI Guidelines for Business target all entities carrying out business activities that involve the development, provision, and use of AI. They provide a basic framework for necessary measures to utilize AI, whether for developers, providers, or users. Companies using AI in their business operations, for instance, might consider using the checklist in Annex 7 of the AI Guidelines for Business as a starting point to identify necessary measures.

Additionally, in February 2024, the Liberal Democratic Party's "[AI Evolution and Implementation Project Team](#)" initiated discussions on the "Fundamental Law for Promoting Responsible AI (tentative title)," which drew considerable attention. The draft bill proposes to designate certain AI infrastructure model developers, based on their size and objectives, as "Specific AI Infrastructure Model Developers." There is currently a discussion regarding whether to impose obligations on them, which includes maintaining systems and reporting duties based on U.S. self-regulatory pledges. However, it should be noted that there is currently no concrete prospect of the bill being passed and we should keep an eye on the progress of the debates.

In addition, other significant developments include the establishment of the AI Safety Institute (AIS) in February 2024. The institute aims to discuss and promote the evaluation methods and standards for AI safety, further accelerating discussions on AI policies. For businesses leveraging AI, it is crucial to review "Perspectives on AI and Copyright" and the "AI Guidelines for Business" and identify potential issues in their operations while simultaneously exploring ways to leverage these as business opportunities.

TECH, IP AND TELECOMS LAW UPDATES

2. Cabinet Approval of the Bill to Amend the Provider Liability Limitation Act (Information Distribution Platform Act)

On March 1, 2024, the Cabinet approved a draft law to partially amend the “Act on the Limitation of Liability for Damages of Specified Telecommunications Service Providers and the Right to Demand Disclosure of Identification Information of the Senders” (“Provider Liability Limitation Act”) and change its name to the “Act on Dealing with Infringement of Rights Caused by Information Distribution via Specified Telecommunications” (“Information Distribution Platform Act”).

In order to tackle the spread of illegal and harmful information (e.g., slander and libel) online, the proposed law stipulates the following obligations of platform operators above a certain size: to establish and publicize a method for a person alleging that his or her rights were infringed by the distribution of information to request the removal of the postings (Article 22); to investigate the infringement of rights upon receipt of a request, and to make a decision within 14 days of such request, and to duly notify the requestor of the outcome (Article 23 and 25); and to establish and publicize the criteria for deleting postings (Article 26). The proposed name change of the law is due to the broadening of its scope beyond the disclosure of sender identification, which was a key provision in the original law.

The draft law is based on the [“Third Summary from the Study Group on Platform Services,”](#) which was published by the Ministry of Internal Affairs and Communications (“MIC”) on February 2, 2024. We reported in [Volume 7 of this Newsletter](#) that the draft of this study was made public, with public comments being solicited.

It is expected that the proposed law, if passed, will be enforced within a year of its promulgation. The details for determining the platform operators who will be subject to the law will be outlined in an MIC ordinance, and the operation of the law will be under close watch.

3. Digital Agency: Cabinet Approval of the Bill to Amend the Basic Act on the Formation of a Digital Society and related laws

On March 5, 2024, the Cabinet approved a bill submitted by the Digital Agency entitled [“Bill to Amend the Basic Act on the Formation of a Digital Society and Other Related Laws to Improve the Convenience of Administrative Procedures and Other Related Matters and to Simplify and Increase the Efficiency of Administrative Management through the Use of Information and Communications Technology.”](#) This bill amends several laws, including the Basic Act on the Formation of a Digital Society, and includes amendments related to the development and promotion of the Base Registries and their use, as well as to My Number and My Number Card.

TECH, IP AND TELECOMS LAW UPDATES

Based on Article 31 of the Basic Act on the Formation of a Digital Society, the Digital Agency promotes the development and utilization of the Base Registry, a set of data that serves as the foundation of society (defined as “Public Basic Information Database” in the Act). In this bill, a new provision on ensuring the quality of data comprising the Base Registry is added in the Basic Act on the Formation of a Digital Society. In addition, in the Act on the Advancement of Government Administration Processes That Use Information and Communications Technology (“Digital Procedures Act”), a new provision has been added to create a “Plan for Improvement of Public Basic Information Database Development” and other provisions.

Furthermore, with regard to the Act on the Use of Numbers to Identify a Specific Individual in Administrative Procedures (“My Number Act”), a provision has been added to establish a system that allows identification of a person with a My Number Card using only a smart phone.

4. The commencement of public comments regarding the operation of the partial lifting of the ban on ride-sharing

As introduced in [Volume 7 of this Newsletter](#), a policy was announced last December in response to serious societal challenges such as a lack of local transport providers and insufficient travel options. Starting from April 2024, this policy will partially lift the ban on ride-sharing services that use private vehicles and ordinary drivers in the region.

Under the Road Transportation Act (the Act), anyone intending to run a general passenger automobile transport business must obtain permission from the Minister of Land, Infrastructure, Transport and Tourism (Article 4, Paragraph 1 of the Act). Furthermore, private vehicles, except in cases stipulated in each subsection of Article 78, must not be used for transport for a fee.

Therefore, in the [“Interim Report on Digital Administrative and Financial Reform”](#) announced on December 20, 2023, a new system based on Article 78, Subsection 3 of the Act was set to be introduced, under the operational management of taxicab operators, aiming toward the partial deregulation of ride-sharing from April 2024. In addition, in regards to the establishment of the new system, it was decided to review driver work styles from a safety perspective and improve and expand the conventional paid passenger transport system for private use (related to Article 78, Subsection 2 of the Act).

Article 78: Private vehicles must not be used for transport for a fee, except in the following cases.

- 1: When it is urgent due to a disaster.
- 2: When the municipality, a specified non-profit corporation defined in paragraph 2 of

TECH, IP AND TELECOMS LAW UPDATES

Article 2 in the Act on Promotion of Specified Non-profit Activities, or any other entity defined by a Ministry of Land, Infrastructure, Transport, and Tourism ordinance, provides transport to local residents, tourists, or any other people visiting the area or any other passenger transport defined by a Ministry of Land, Infrastructure, Transport, and Tourism ordinance (hereinafter referred to as “paid passenger transport for private use”).

3: When, in an unavoidable case for ensuring public welfare, transportation is provided with the permission of the Minister of Land, Infrastructure, Transport, and Tourism, limiting the scope to a specific region or period.

In light of these issues and developments, [the Automobile Subcommittee of the Ground Transport Division of the Transportation Policy Council](#) of the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) advanced discussions regarding the aforementioned issues. From February 9, 2024, the proposal of [“The Handling of Permitting Paid Transportation Using Regional Private Vehicles and Drivers to Complement Transportation Services by Corporate Taxicab operators”](#) related to Article 78, Subsection 3 of the Act (the public comment proposal related to Article 78, Subsection 3) has been disclosed for public comments. In addition, from February 29, the proposal of the amendment of the related notice concerning the paid passenger transportation system using private vehicles ([“Concerning partial amendments, etc. to the Ministry of Land, Infrastructure, Transport, and Tourism's view on the Regional Public Transportation Council.”](#)) related to Article 78, Subsection 2 of the Act (the public comment proposal related to Article 78, Subsection 2) has been disclosed for public comments.

In the public comment proposal related to Article 78, Subsection 3, the following criteria are listed for granting permission: (i) In terms of target regions and such, MLIT will designate regions, times and periods where cabs are insufficient, as well as the number of lacking vehicles, based on data from Car Distribution Apps and other sources. (ii) The operator has obtained permission to operate a general passenger automobile transport business. (iii) As for the management and operating system, set-ups are required for operational management, vehicle maintenance management and the implementation of training and education, along with monitoring driver working hours. (iv) Taxicab operators have enrolled in voluntary insurance covering over 80 million yen per person and over 2 million yen per incident for property damage. The conditions of the license were also presented, such as requiring drivers to undergo prior training and education, and requiring taxicab operators to assume responsibility for transportation. The handling of permissions based on Article 78, Subsection 3 of the Act, factoring in the public comments on the proposal, is expected to be announced and implemented in March 2024.

In addition, the public comment proposal related to Article 78, Subsection 2 stipulates

TECH, IP AND TELECOMS LAW UPDATES

the following items in each related notice: (i) introduction of dynamic pricing, (ii) establishment of a joint operation mechanism between taxicab operators and municipalities, NPOs, and other relevant entities, (iii) review of the operation method of regional public transport councils, and (iv) establishment of the flexibility of setting up transportation zones, to be specified in each relevant notice. The amendments to the relevant notices for the paid passenger transport system for private use, factoring in the public comments on the proposal, is expected to be announced and implemented in April 2024.

Also, a legal framework that would allow operators other than taxicab operators to enter ride-sharing services (commonly referred to as the complete deregulation of ride-sharing services) is being discussed. Based on the evaluation of the impact of the partial deregulation of ride-sharing services starting from April 2024, the discussions are set to continue to June 2024.