

"Guidelines for Privacy Protection with Regard to RFID Tags"

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1. Necessity for Privacy Protection with Regard to RFID Tags

With respect to the issues of protection of personal information, where RFID tags are dealt with (referring to tags consisting of IC chips and antennae embedded in products, etc.; the tags are then used to record ID information, etc. of said products, etc.; and through the use of radio frequencies, RFID tags have unique features that enable remote reading of the information they contain; hereinafter the same shall apply.), the use thereof shall be regulated by the Law for the Protection of Personal Information (Law No. 57 of 2003; hereinafter referred to as the "Personal Information Protection Law"). However, personal information is defined as "information about a living individual that contains name, date of birth, or other descriptions which enable the identification of a specific individual (including information which easily allows reference to other information and thereby comes to enable the identification of a specific individual)" (Article 2 paragraph (1) of the Personal Information Protection Law), thus, information which does not make a connection with a specific individual shall not fall under personal information. Accordingly, in cases where personal information is not dealt with, the Personal Information Protection Law shall not apply.

Even in cases where personal information is not dealt with, a problem of privacy protection could occur. Privacy protection itself is an issue to be discussed in a general manner. It is inappropriate to deal with it in these guidelines.

However, it is foreseeable that the problem of privacy protection could occur due to characteristics special to RFID tags. Currently, the characteristics of RFID tags are not well understood by consumers. Thus, even after purchasing a product, a consumer would not recognize that the product is RFID tagged with an RFID tag. There could be cases where the consumer moves around with the tagged product unaware of RFID tag capabilities. Furthermore, there would be a risk to the personal information, including attributes, ID numbers, etc., which could read from the RFID tags without consent and without being known by the person possessing the said product.

If RFID tags were removed at the point when a retail store hands a product to a consumer, there would not be question of risk. In the future, however, after a product obtained, it is likely that RFID tags are required to ensure some kind of consumer benefits or meet some form of social needs. Examples are cases where RFID tags would be required to recycle the product to ensure environment-friendly recycling, where RFID tags are embedded in cars to record auto-repair histories for improved safety of used cars, and where RFID tags are used to preventing the misuse of medicines. Even in such cases, however, there are cases where RFID tags should not be product-embedded depending upon purposes of individual consumers.

The "interim report from the study group on the improvement in traceability of products" (April 2003) of METI concluded that, with respect to RFID tags embedded in goods to be traded across multiple companies for the purpose of supply-chain management and traceability of products, it is preferable that personal information shall not be recorded in cost-oriented cheap RFID tags unless further technological innovation is achieved.

Where considering RFID tags other than those referred to above, however, there would be cases where RFID tags contain personal information.

Because personal information embedded in RFID tags can be read remotely due to characteristics special to RFID tags, personal information can be accessed without the consumer realizing it. It is therefore, vital to pay sufficient and careful attention to the handling of RFID tags beyond the scope of applicability of the "Personal Information Protection Law."

As referred to above, there could be problems caused by characteristics special to RFID tags, even in cases where the information contained in RFID tags would not be covered under the "Personal Information Protection Law," cause, for example, where the consumption preferences, etc. of an individual or a family could be inferred from the information. To address the privacy problems caused by characteristics special to RFID tags, it is essential to promote their social acceptance through the implementation of appropriate measures from the viewpoint of protecting the privacy of consumers.

To this end, MIC and METI jointly developed guidelines within the scope of consensus among stakeholders (consulting companies and consumer groups, etc.;

hereinafter the same shall apply.) from the viewpoint of the meaningfulness of a basic concept and defined contents thereof.

The two ministries will later carry out awareness campaigns on the guidelines directed toward relevant organizations, consumers, etc.

In line with these guidelines and considering relationships with consumers, the companies concerned would be requested to take appropriate measures for dealing with RFID tags, including verification experiments and deliberations at industry organizations.

Concepts of privacy protection would change according to alterations in socioeconomic climates, sense of consumers, technological innovations, etc. Thus, MIC and METI shall review these guidelines taking into consideration those changes in circumstances.

Furthermore, when reaching a consensus concerning RFID tags among stakeholders on privacy protection, the two ministries shall add, delete and correct the relevant provisions.

2. "Guidelines for Privacy Protection with Regard to RFID Tags"

Article 1. (Purpose)

The purpose of these Guidelines shall be to clarify basic matters common to relevant industries on privacy protection for consumers pertaining to RFID tags, in order to utilize the advantages of RFID tags, ensure benefits to consumers and enable society to smoothly accept RFID tags.

Article 2. (Scope of these Guidelines)

These Guidelines shall, where RFID tags are embedded in products and stays there even after consumers have been handed said products, stipulate preferable rules that companies dealing with the said RFID tags and products tagged with said RFID tags should abide by.

Article 3. (Indication, etc. of the Fact that Products Are Tagged with RFID Tags)

Where RFID tags are embedded in products and stays there even after consumers have been handed said products, the companies concerned shall, prior to transactions, explain or post the fact that products are tagged with RFID tags, tagged positions of RFID tags, features thereof and information contained in RFID tags (hereinafter referred to "RFID tag information"), or attach indications to said products

or packages thereof so as to enable consumers to recognize details of RFID tag information. The companies concerned shall be requested to make efforts at their stores to enable consumers to recognize the said fact through such explanations or indications.

Article 4. (Reservation of the Right of Final Choice of Consumers with Respect to Reading of RFID Tags)

Where RFID tags are embedded in products and stays there even after consumers have been handed said products, the companies concerned shall, when a consumer wants to deactivate said RFID tags while recognizing the features of said RFID tags, explain or post in advance the methods to deactivate said RFID tags, or attach indications to said products or packages thereof so to ensure that the consumer has a choice.

[Examples of methods to deactivate RFID tags]

1. Where it is possible to shield RFID tags by aluminum foils, communications between RFID readers and RFID tags can be blocked.
2. Electromagnetically erase all information including unique numbers in RFID tags or part information selected by consumers, or deactivate reading functions relating to said information.
3. Remove RFID tags.

Article 5. (Information Offerings Concerning Social Benefits of RFID Tags)

In cases where the reading functions of RFID tags are deactivated pursuant to Article 4, and where consumer benefits or the social interests is eroded, such as where environmental problems occur by losing information necessary for recycling products, or where driving safety is not ensured by losing information on auto-repair histories, the companies concerned shall make efforts to provide consumers with information to the effect that consumer benefits or the social interests would be eroded through methods including indications.

Article 6. (Handling of RFID Tags in Cases Where Information Is Used by Linking Personal Information Databases, Etc. Stored in Computers with RFID Tag Information)

Even in cases where a specific individual cannot be identified only by information recorded in RFID tags, when information can be easily processed by linking personal information databases, etc. stored in computers with RFID tag information, and when the specific individual can be identified, the information recorded in said RFID tags shall be deemed as personal information to be covered under the "Personal

Information Protection Law."

Responsibilities under the "Personal Information Protection Law" pertaining to companies dealing with personal information (examples)

- (1) In relation to purposes of the use of personal information
 - To specify the purposes of the use of personal information to the greatest extent possible
 - To obtain consent from the principal when using personal information for purposes other than the purposes of the use of personal information
- (2) In relation to collection of personal information
 - To prohibit unlawful collection of personal information
 - When having collected personal information, to inform the person concerned of the purposes of the use of personal information without delay, or to announce to that effect
- (3) In relation to management of personal data
 - To make efforts to keep personal data correct and to reflect the latest status
 - To take measures for safety management to prevent leakage, lose, damage, etc. of personal data
 - When providing a third party with personal data, to obtain the consent of the person concerned

Article 7. (Limitations on Information Collection and Use in Cases Where Recording Personal Information in RFID Tags)

Companies dealing with personal information by recording such information in said RFID tags shall, notwithstanding the amount of personal information to be dealt with by the said companies, where collecting or using personal information, make efforts to inform persons concerned of the purposes of the use of personal information or announce to that effect. Companies shall make efforts to obtain consent from the principal when using the said personal information for purposes other than the purposes of the use of personal information

Article 8. (Ensuring of Information Accuracy Where Recording Personal Information in RFID Tags)

Companies dealing with personal information by recording personal information in RFID tags shall, notwithstanding the amount of personal information recorded in said RFID tags to be dealt with by the said companies, where collecting or using personal information, make efforts to meet the following items:

1. To keep personal information accurate and to reflect the latest status, in light of the purposes and details of the use of personal information recorded in said RFID tags
2. In response to consumers, to disclose information recorded in RFID tags relating to the said consumers and personal information of the said consumers linked from ID information recorded in RFID tags; and in response to requests from said consumers, to correct errors contained in said information
3. To prevent lose, damage, alteration and leakage of personal data recorded in RFID tags

Article 9. (Establishment of Information Administrator)

Companies concerned shall, in order to ensure adequate management of information pertaining to privacy protection concerning RFID tags and to make appropriate and swift response to complaints, establish an information administrator in charge of such matters and disclose methods to contact the said information administrator.

Article 10. (Explanation and Information Offerings to Consumers)

Stakeholders, including companies, industry organizations and public entities, shall make efforts to encourage consumers to understand RFID tags through information provision, so that consumers can obtain correct knowledge on the purposes of the use of RFID tags, characteristics thereof, merits and demerits thereof.