



TMI Associates

A decorative light trail on the left side of the slide, consisting of a bright blue-white light source at the top that curves downwards and then back up, creating a glowing arc.

Data Protection in Japan

ARQIS Foreign Law Office
Foreign Law Joint Enterprise with TMI Associates

DÜSSELDORF – MÜNCHEN – TOKIO

Which law applies to the protection of personal information in Japan?



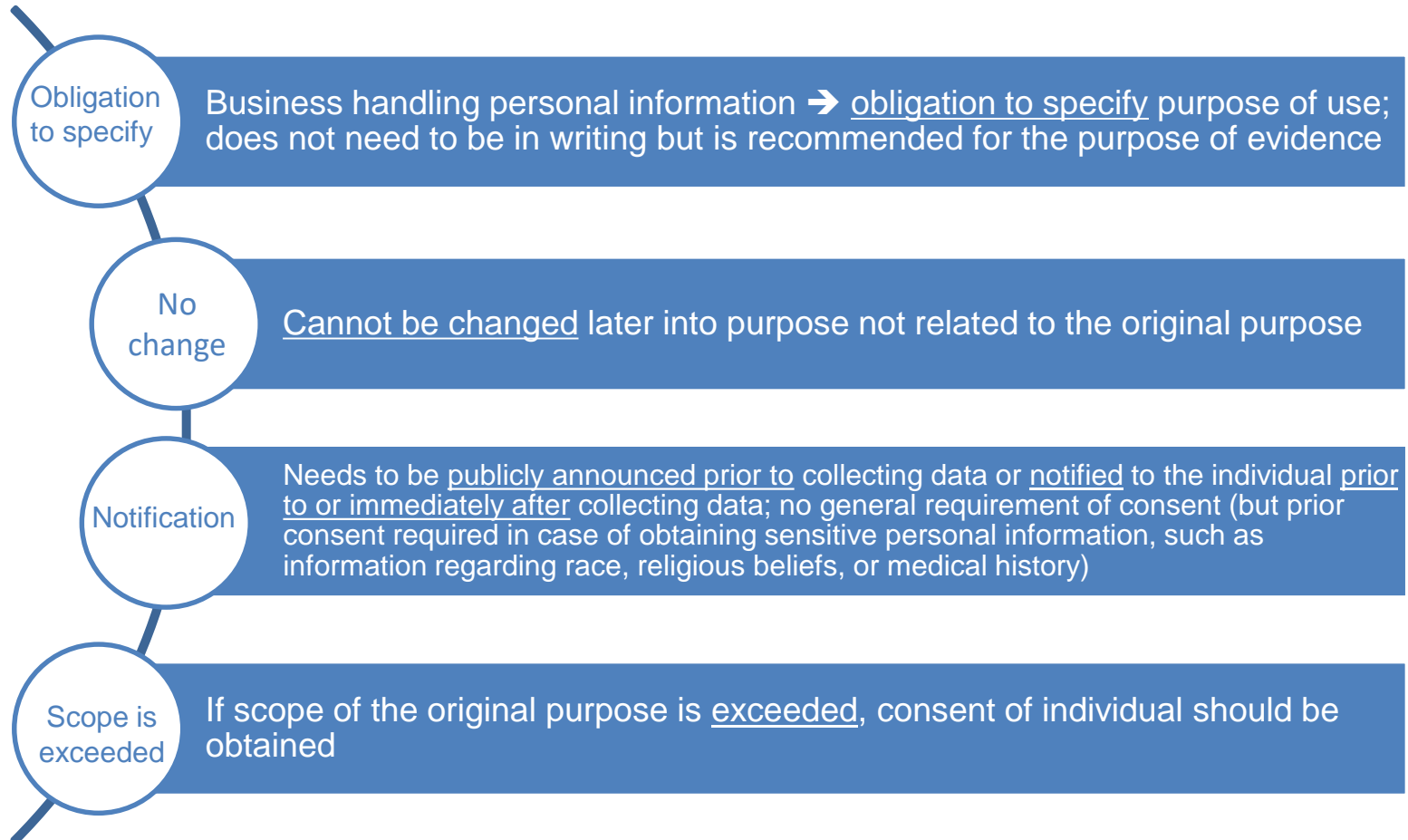
- The Act on the Protection of Personal Information (APPI) (to be updated as of 1 April 2022) applies to business operators **in Japan** and to business operators **located outside of Japan** which provide goods or services to individuals and entities in Japan and which process their personal information

Application – Data Definition

What data are personal information? Any information that may identify an individual.

Type of Information	In principle constitutes Personal Information
Name	✓
Postal address	✓
E-Mail address	✓
IP address	✓
GPS location information	✓
Image	✓
Fingerprint	✓
DNA	✓

Data Processing Basis – Purpose of Use



Data Processing – Purpose of Use

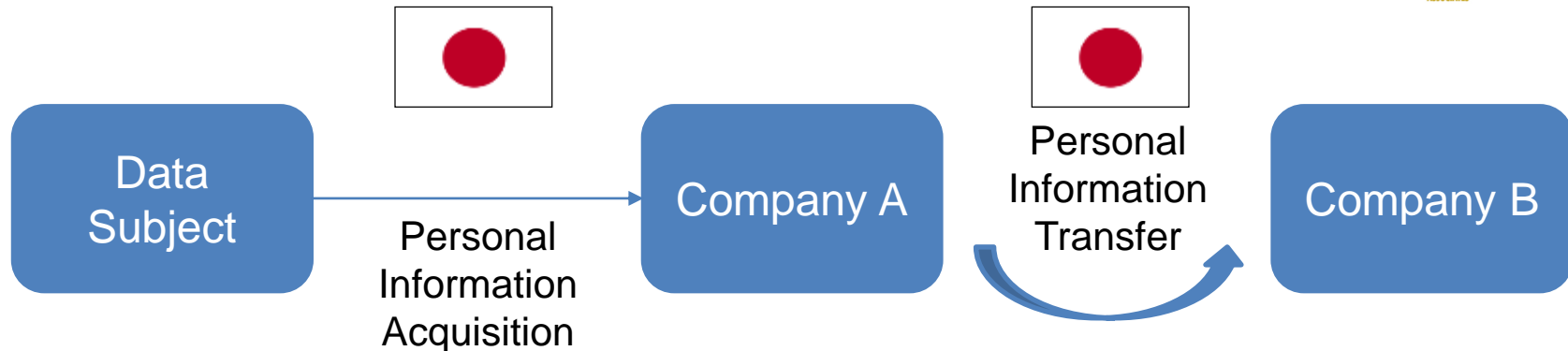
Sample: Purpose of collecting personal information

“ANA utilizes personal information obtained from its customers for the following purposes. However, even within the intended scope, it will not use customers’ personal information in a way that may encourage or induce illegal or improper conduct.

- (1) Reservations, ticket sales, check-in, airport services, and in-flight services with regard to air transport services
 - (2) Reservations, ticket sales, check-in, and airport services for interline transportation, joint acceptance of carriage, codeshare, successive carriage and consigned carriage
 - (3) Service provisions for ANA Mileage Club members
 - (4) Guidance, provision, and management of other services and products offered by ANA
 - (5) All operations incidental or related to purposes (1) through (4) above
 - (6) Implementation of questionnaires concerning service and products, etc., offered by ANA
 - (7) Development of new services and products
 - (8) Guidance, operation, management and information provision for various events and campaigns
 - (9) Notification of services and products offered by ANA
 - (10) Guidance, operation, management and notification of services, products, events and campaigns of ANA Group companies and partner companies
 - (11) Response to inquiries and requests
- * In addition to the above-mentioned purposes, personal information will be utilized for the purposes described in Chapter 1 Article 7 (Data sharing) below.”

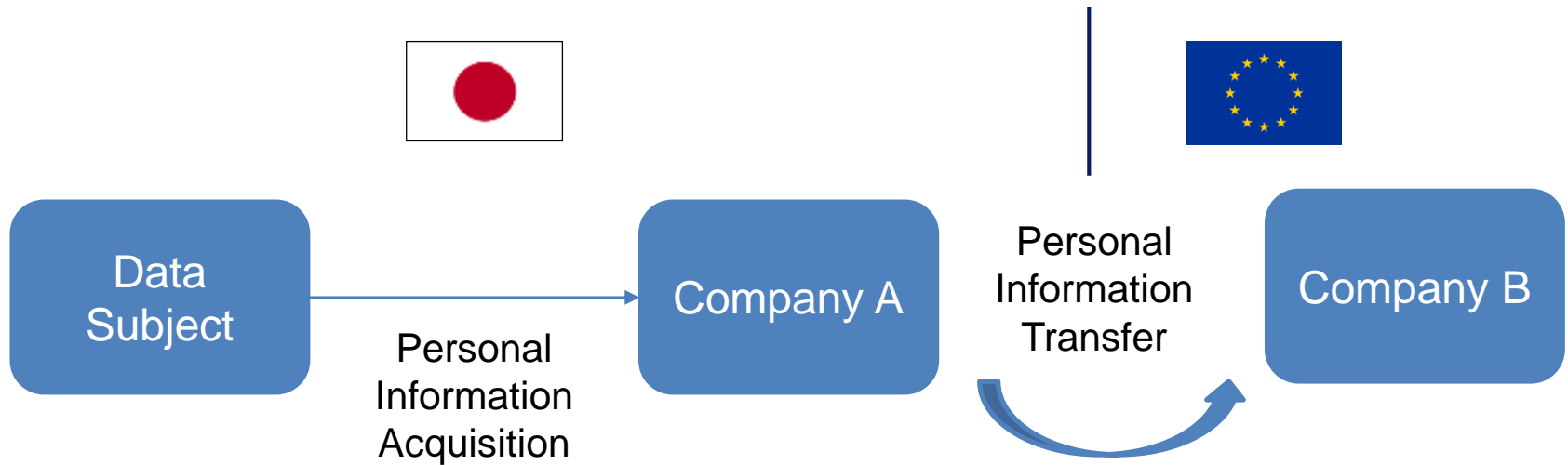
Source: www.ana.co.jp/www/japan/e/local/common/aboutana/legal

Data Processing – Data Transfer



- Any transfer of personal information to third parties requires in principle the consent of the data subject unless an exception applies
 - No specification in the APPI regarding means of consent, but recommended to obtain in writing or as online confirmation (“check the box”)
 - Exceptions e.g. if transfer is required for life or safety of an individual or required by laws or ordinances or transfer of anonymously processed information
 - The following Parties are not Third Parties:
 - ✓ Outsourced Service Providers, Succeeding Legal Entities, Joint Users

Data Processing – International Transfer



Transfer requires consent of the data subject or a governmental adequacy together with a joint use

Legal Consequences in Case of Violation

- Data Protection Law Penal Provisions
 - Administrative order to submit report („*hōkoku*“)
 - Administrative advice (“*shido*” and „*jogen*“)
 - Administrative recommendation („*kankoku*“)
 - Administrative order („*meirei*“)

 - Direct enforcement by Commission: Imprisonment for up to 1 year or a fine of up to JPY 100 million for data theft or for providing the data for illicit gain (wrongful)

- Damage claims pursuant to civil law

- Practical consequences regarding loss of credibility and reputation

Contact

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Main Areas of Practice

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