

*Keynote address on LAP 10 Tokyo*

# **Telecommunications Policy in Japan**

***Overview, Recent Telecom Market,  
Privacy Protection on Smartphones  
and Combat spam***

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# 1. Overview

# Trends of Telecommunication Business Policy in Japan

## Target

- Promotion of free-competition by various entities
- Solution for negative aspects of the market economy mechanism
  - ⇒ Protection of users, Prevention of accidents, Dispute Resolution etc.
- Development of ICT infrastructures

## Entry Regulations

- Privatization of NTT ('85)
- Abolition of supply-demand adjustment provision ('98)
- Abolition of foreign investment regulations in principle ('98)
- Abolition of permission system ('04)

## Asymmetric Regulations

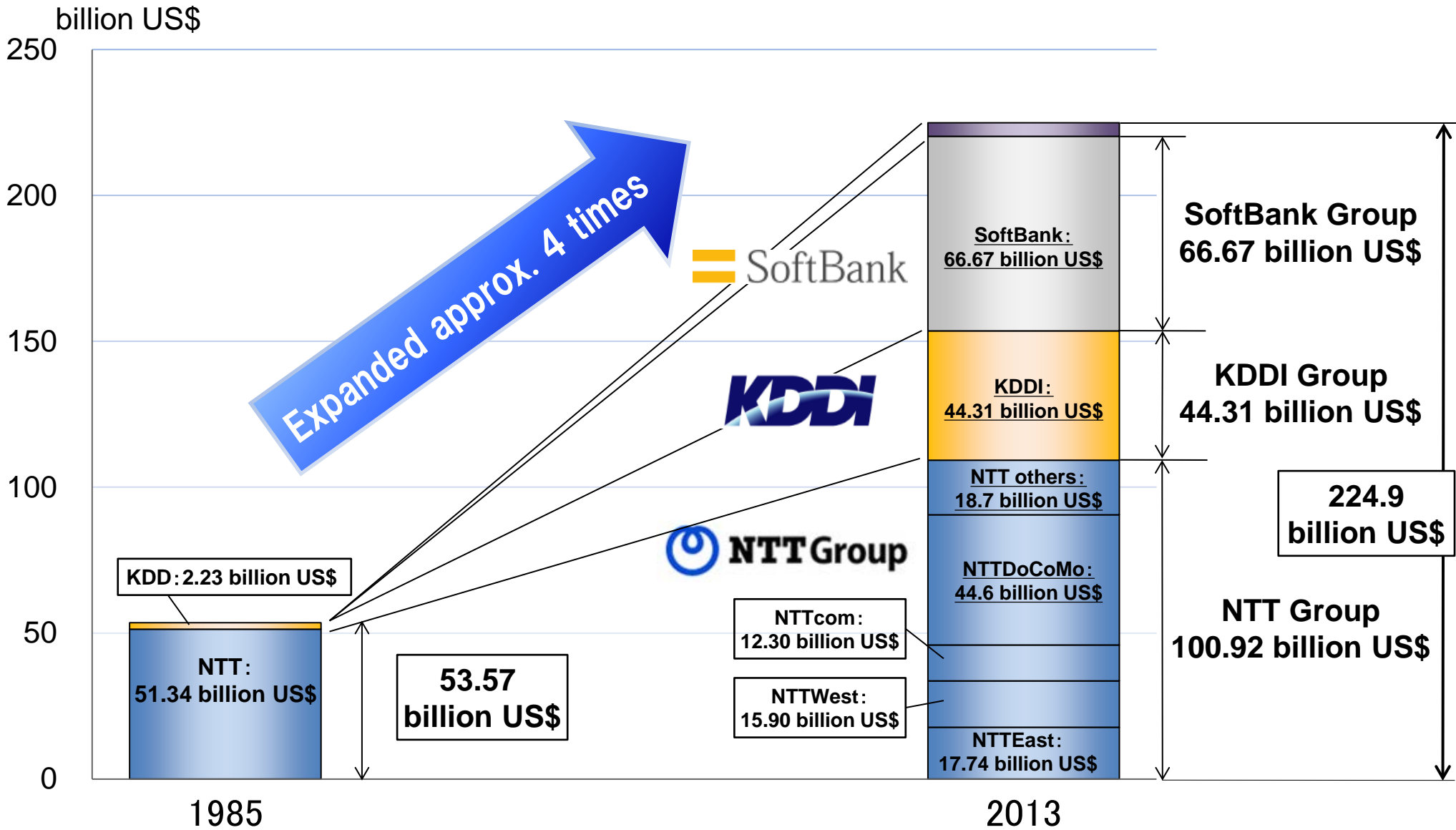
- Unbundling regulation on NTT East and West ('97)
- Legislation of prohibited activity for SMPs ('01)
- Interconnection regulation on MNOs ('01)
- Functional separation of NTT East and West ('11)

## Protection of Users

- Technical Standards ('85)
- Consumer Protection (2004)
  - Obligation to explain important matters, etc.

## **2. Recent Telecom Market in Japan**

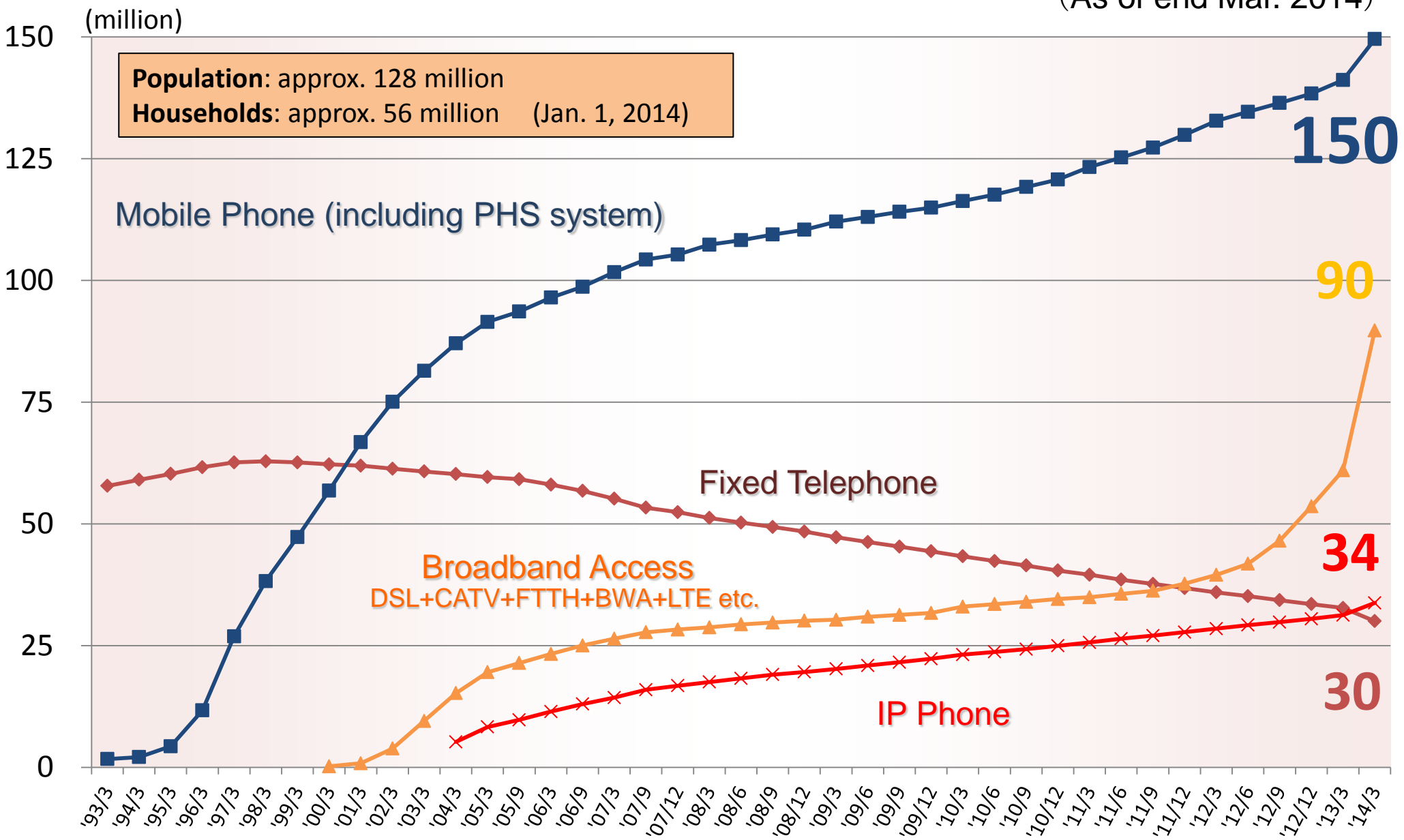
# Growth in Japan's Telecom Market



※ Based on account settlement materials of each company.

# Telecommunications Service Subscribers in Japan

(As of end Mar. 2014)



# Current Status of Broadband Spread in Japan

(As of end Mar. 2014)

## Area Coverage

**Ultra High-Speed  
Broadband \*1**

**99.9%** ( 98.7%)

**Broadband \*2**

**100.0%** ( 99.9%)

Inside ( ) : only fixed broadband

## Rate of Subscription

**Fixed  
Broadband \*3**

**65.2%**

**Mobile  
Ultra High-Speed  
Broadband \*5**

**42.6%**

**Fixed  
Ultra-High-Speed  
Broadband \*4**

**48.5%**

\*1 FTTH, CATV Internet, FWA, BWA (only services whose download speeds are over 30Mbps, other than FTTH)

\*2 FTTH, DSL, CATV Internet, FWA, Satellite Broadband, BWA, 3.5G Mobile Broadband

\*3 FTTH, DSL, CATV Internet, FWA, BWA (only Local WiMAX)

\*4 FTTH, CATV Internet (only services whose download speeds are over 30Mbps)

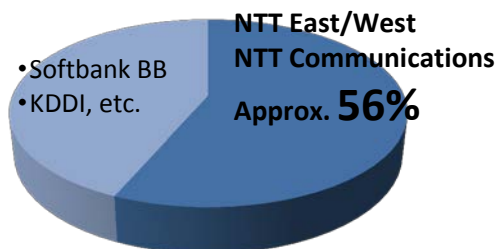
\*5 3.9G Mobile Broadband, BWA (other than Local WiMAX)

# Market Share of Telecommunications Service in Japan

(As of the end of Mar. 2014)

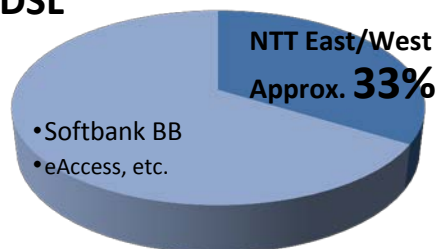
## Share by Number of Subscribers

### IP Telephone

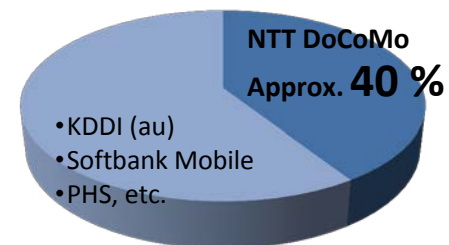


### Broadband

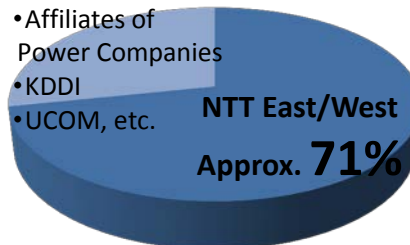
#### ADSL



### Mobile

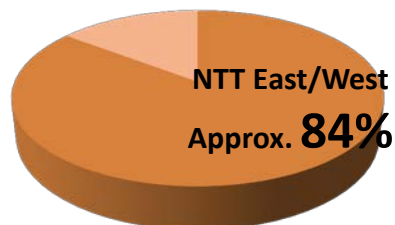


#### FTTH

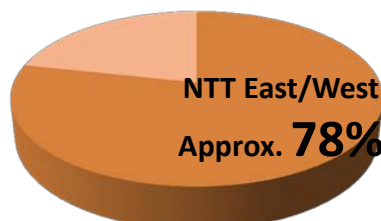


## Share by Infrastructure

\*Share of main telecom carriers



All cables



Optical fiber



# Trends of Telecommunication Business Policy in Japan

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**Revision of Telecommunication Policy for 2020 (2015~)**

**Revision of Competition Policy**

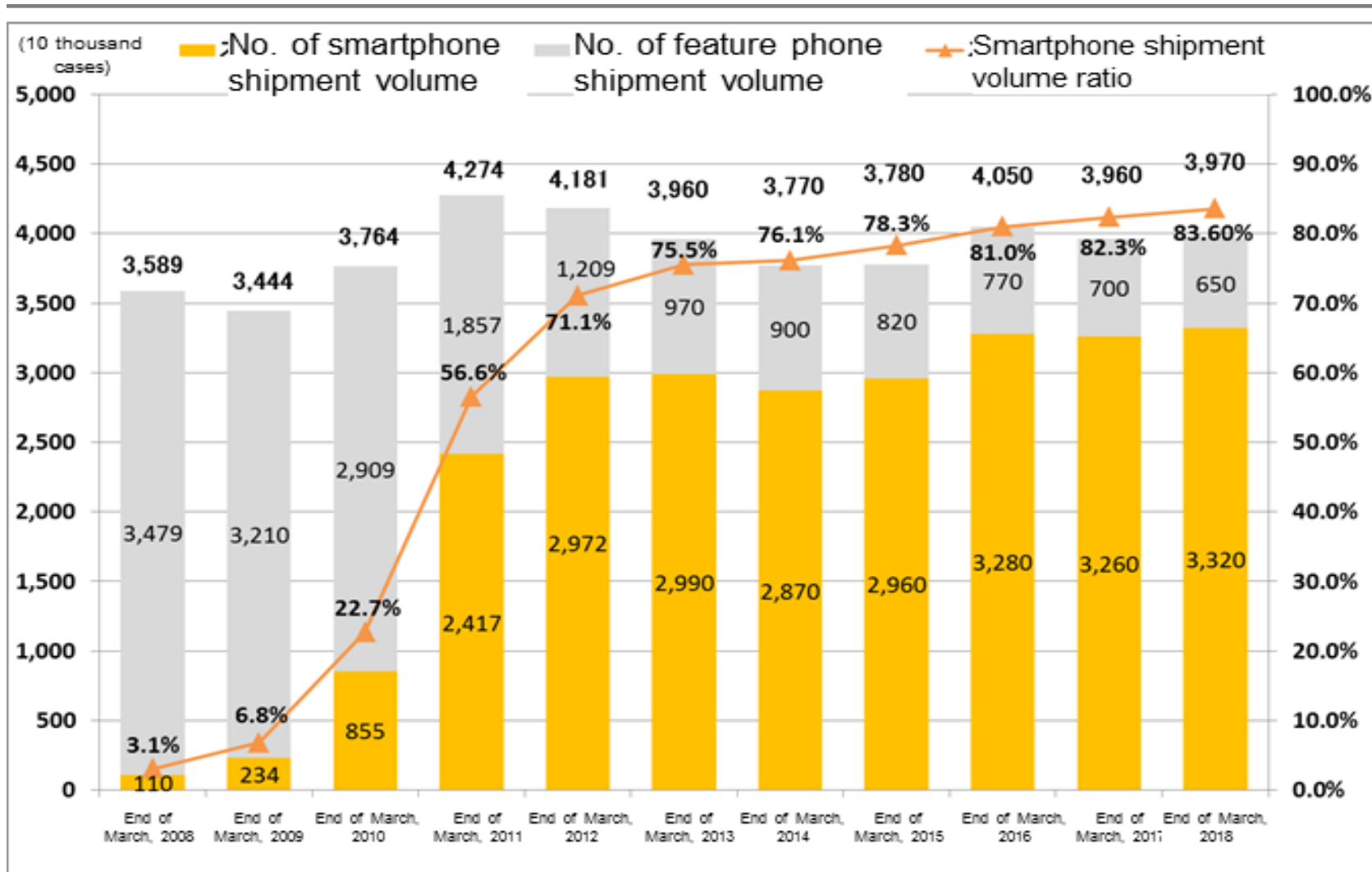
**Revision of Consumer Policy**

**Additional measures for accident prevention (2014)**

# 3. Privacy Protection on Smartphones

# Change in and Forecast of the Number of Domestic Smartphone Shipments

Smartphones are continuing to make up a rapidly growing percentage of the mobile phones shipped in Japan, and are expected to reach about 80% in FY 2013.



\* Survey conducted by MM Laboratories (values from FY 2013 onwards are estimated). (“Recorded and projected numbers of smartphones shipped annually (as of March 2012)” (9th March 2013).

# Japanese personal information protection rules

Measures about personal information and privacy by MIC

○ Consumer-centric principles about lifelog-monitoring services (May 2010)

1. Publicity, promotion, and education activities
2. Assurance of transparency
3. Assurance of opportunities for consumer participation
4. Assurance of data collection by appropriate means
5. Assurance of adequate security controls
6. Assurance of frameworks to address complaints and inquiries

○ SMARTPHONE PRIVACY INITIATIVE (SPI) (August 2012)

Guideline for Handling Smartphone User Information

○ SMARTPHONE PRIVACY INITIATIVE II (SPI II) (September 2013)  
Promoting Applications Privacy Policy and third-party verification

○ Location Data Privacy Report (Proposal)

Study on proper handling of location data obtained by telecommunication operators

Measures for challenges, etc. facing businesses using lifelog and smartphone applications

(Special law)



Law on use, etc. of numbers to identify the specific individuals in administrative procedure

## Act on the Protection of Personal Information (fully entered into force in April 2005)

Basic principle, Responsibilities and Measures of the state and local governments, Establishment of basic policy, etc. (Chapter 1-3)



Regulations on the protection of personal information formulated by local governments

Act on the Protection of Personal Information Held by Independent Administrative Agencies, etc.

Act on the Protection of Personal Information Held by Administrative Organs

Public sector

## Duties of Entities Handling Personal Information, etc. (Chapter 4-6)

Competent ministers take measures in each field of business.  
40 guidelines related to 27 fields of business are formulated as of March 2012.

Guideline for Protecting Personal Information of the Broadcasting Receiver

Guideline on Protection of Personal Information in Telecommunications Business

Private sector

- **SPI** aims for a long and medium term development of the smartphone market by promoting the **proper handling of user information** and enhancing relevant literacy.
- **SPI** puts forward the following comprehensive countermeasures for privacy protection on smartphones in order for users to be able to use the service in a safe and secure environment:
  - i) Proposing the **“Guideline for Handling Smartphone User Information”** to a wide range of business actors including apps providers, data collection module providers, application distribution market operators, OS providers, and mobile carriers;
  - ii) Proposing measures for effective implementation of the Guideline, which includes building a mechanism for **verifying apps by a third party institution**;
  - iii) Sharing information and **raising public awareness** in order to improve user literacy
  - iv) Promoting international cooperation

# “Smartphone Privacy Initiative”

## Structure of the Guideline for Handling Smartphone User Information

- Anxiety of users regarding user information should be eliminated voluntarily by responsible business actors.

### Fundamental Principles

- |   |   |
|---|---|
| 1. Ensuring Transparency                          | 4. Ensuring Proper management of User Information       |
| 2. Securing the Opportunity of User Participation | 5. Properly Handling Complaints and Requests for Advice |
| 3. Ensuring Data Collection through Proper Means  | 6. Privacy by Design                                    |

### Measures Undertaken by User Information Acquirers

(e.g., Apps provider, information collection modules providers, Advertisement delivery service providers)

#### 1. Making Application Privacy Policy

- ☞ A privacy policy including the following items should be created for each app and each information collecting module. Such privacy policy should be easily understandable and a simplified version or short notice should also be made available.

- |  |   |
|--|---|
| i) Name of the apps provider who acquires personal information;  | vi) Whether or not the acquired information is to be transmitted to the third party; whether or not it is transmitted to information collecting module providers; |
| ii) Details of the personal information to be acquired;  | vii) Contact point for queries; and   |
| iii) How to acquire such personal information;   | viii) Procedure for changing privacy policy   |
| iv) Specifying and explicitly explaining the purpose of acquiring personal information                             |   |
| v) How to notify and disclose privacy policy, and acquire user consent, and how the user participates are ensured; |   |

2. Proper Management of User Information
3. Special Instructions regarding Information Collection Module Providers and Advertisement Delivery Service providers

### Measures taken by other relevant business operators

#### 1. Mobile Network Operators and Mobile Terminal Providers

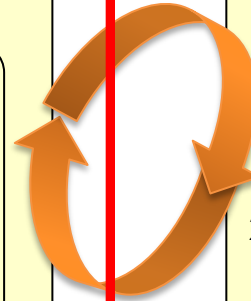
- ☞ when selling smartphone services, etc.
- ☞ Application distribution portals operated by mobile telecommunication carriers

#### 2. Application Distribution Portal Operators, and OS Providers

- ☞ Application distribution portals

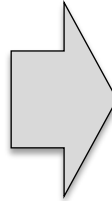
#### 3. Other relevant business operators

- ☞ Reviews on applications, etc.



# Smartphone Privacy Initiative II (SPI II) (September, 2013)

- Smartphone users' anxieties over privacy protection are expanding, because there are applications that collect a variety of user information through smartphones (e.g., information on each user's phonebook, location, and application usage history) and provide such information to third parties with no sufficient explanation to the users.



- **Application providers should prepare and announce privacy policies** (describing the kinds of information collected, the purposes of collecting the information, and whether the collected information is provided to third parties).
- Promoting the description of the privacy policies and the development of a system enabling **third parties to verify the actual usage situations of applications** in order to bring a stronger sense of security to users.

Establishing **a third-party verification system** in cooperation with the private sector\*.

※Venders for security, Operator for verification of application, Telecommunications carrier etc.

## Current situation of the market of application

## Verification for applications by third party

- At least 35 organizations, including the Telecommunications Carriers Association and Japan Smartphone Security Association, participated and established a liaison council on smartphone user information.
- Industry organizations' preparation of guidelines is making progress (e.g., the Telecommunications Carriers Association is establishing standards for applications, such as the creation and announcement of privacy policies).
- The preparation and posting of privacy policies on applications are not making sufficient progress.

Places	Japan (Best 40 applications)		US (Best 36 applications)	
	Number of applications	ratio	Number of applications	ratio
Inside the applications	14	35.0%	17	47.2%
Google Play Introductory page	10	25.0%	19	52.8%
Homepage of developers	32	80.0%	25	69.4%

### Verification for Privacy Policy

- Whether the privacy policies and relevant matters have been prepared and announced.
- Whether the contents of the privacy policies are appropriate.
- Whether information of a highly private nature on users is acquired or provided to third parties with the consent of the users.

### Technical Verification of Application

Verifying applications from a technical point of view and checking the presence or absence of the external transmission of user information.

Actually operating applications and inspecting the operation of the applications.  
(Dynamical Analysis)

Analyzing the configuration files of applications and checking the possibility of the external transmission of user information. (Static Analysis)

Comparison between the contents of privacy policy and implementation of applications.

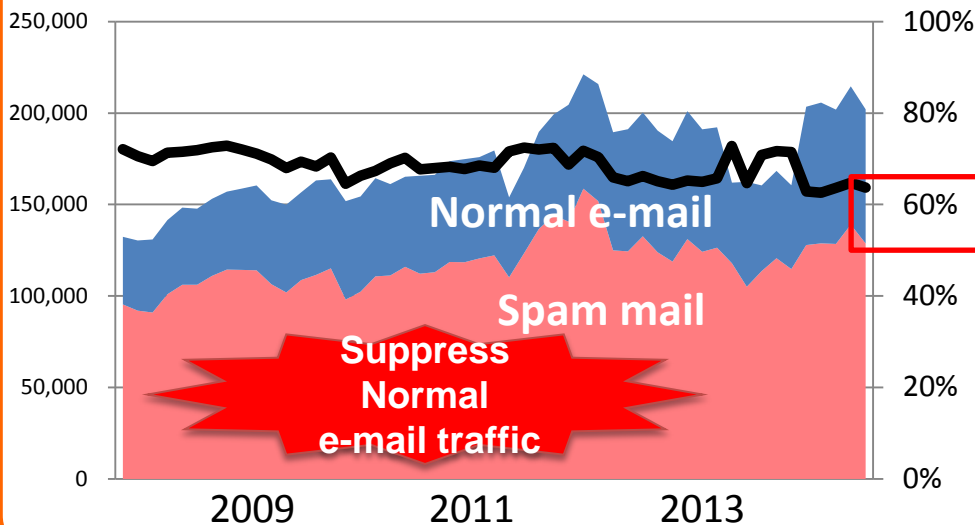
## 6. Combat spam



# Combat Spam

- Spam mail is now more than 60% of all e-mail traffic in Japan.
- Spam mail is circulating across the border  
(In Japan, more than 90% of spam comes from overseas.)
- So, international collaboration is important in taking action against spam.

Percentage of spam circulating in Japan



Information sharing with foreign countries

## Bilateral collaboration

- Japan is sharing information on spam mail senders such as IP addresses with foreign countries such as Korea, Brazil, China, Hong Kong, Taiwan and Vietnam.

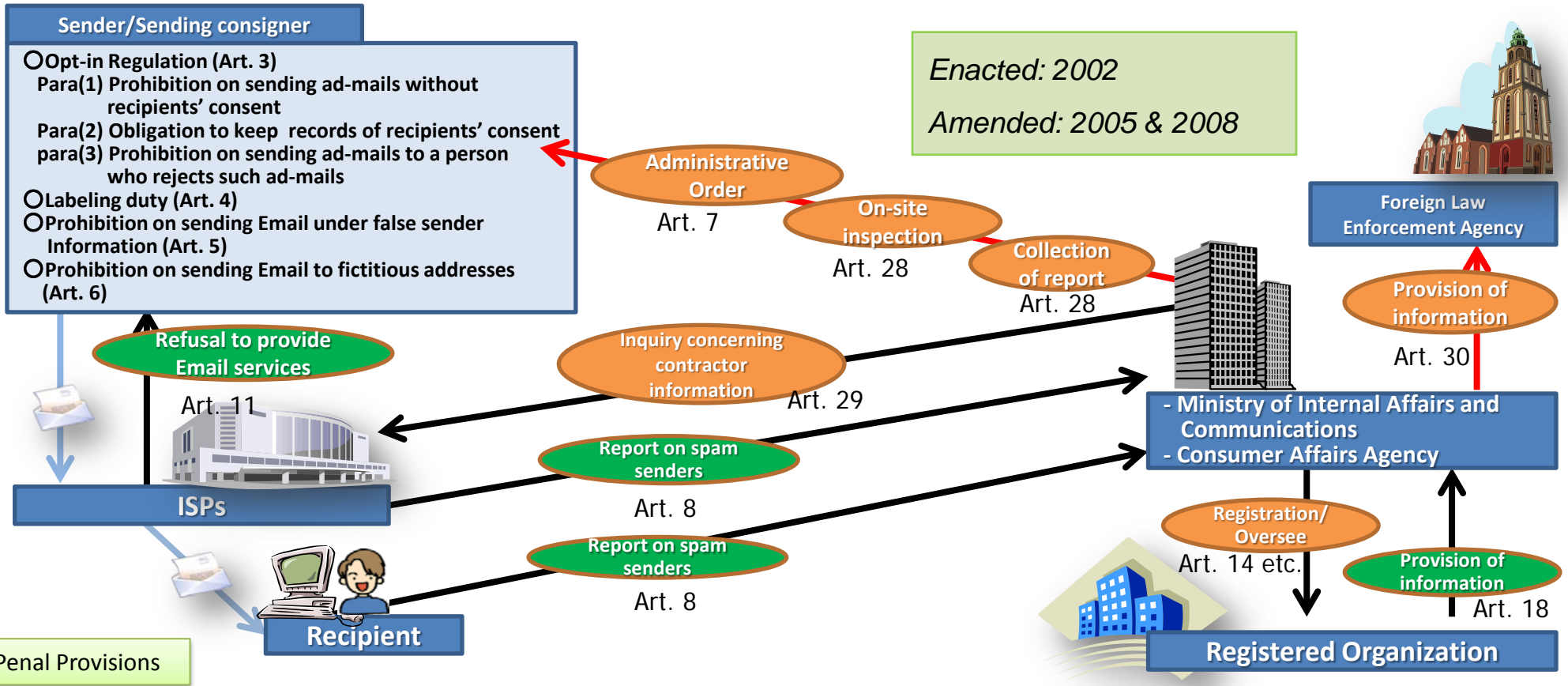
## Multilateral relationship

- London Action Plan (LAP) has regular meetings to exchange information on anti-spam activities and to promote international spam enforcement cooperation.

*Utilizing the framework of London Action Plan, we MIC, Japan is promoting international spam enforcement cooperation.*

# Overview of Japanese Anti-Spam Law

- In Japan, the Anti-Spam Law was enacted in 2002. The opt-out regulation was amended to the opt-in regulation in 2008. If senders do not have recipients' consent, they can not send ad-mail.
- Senders are required to keep records of recipients' consent and to label the records.



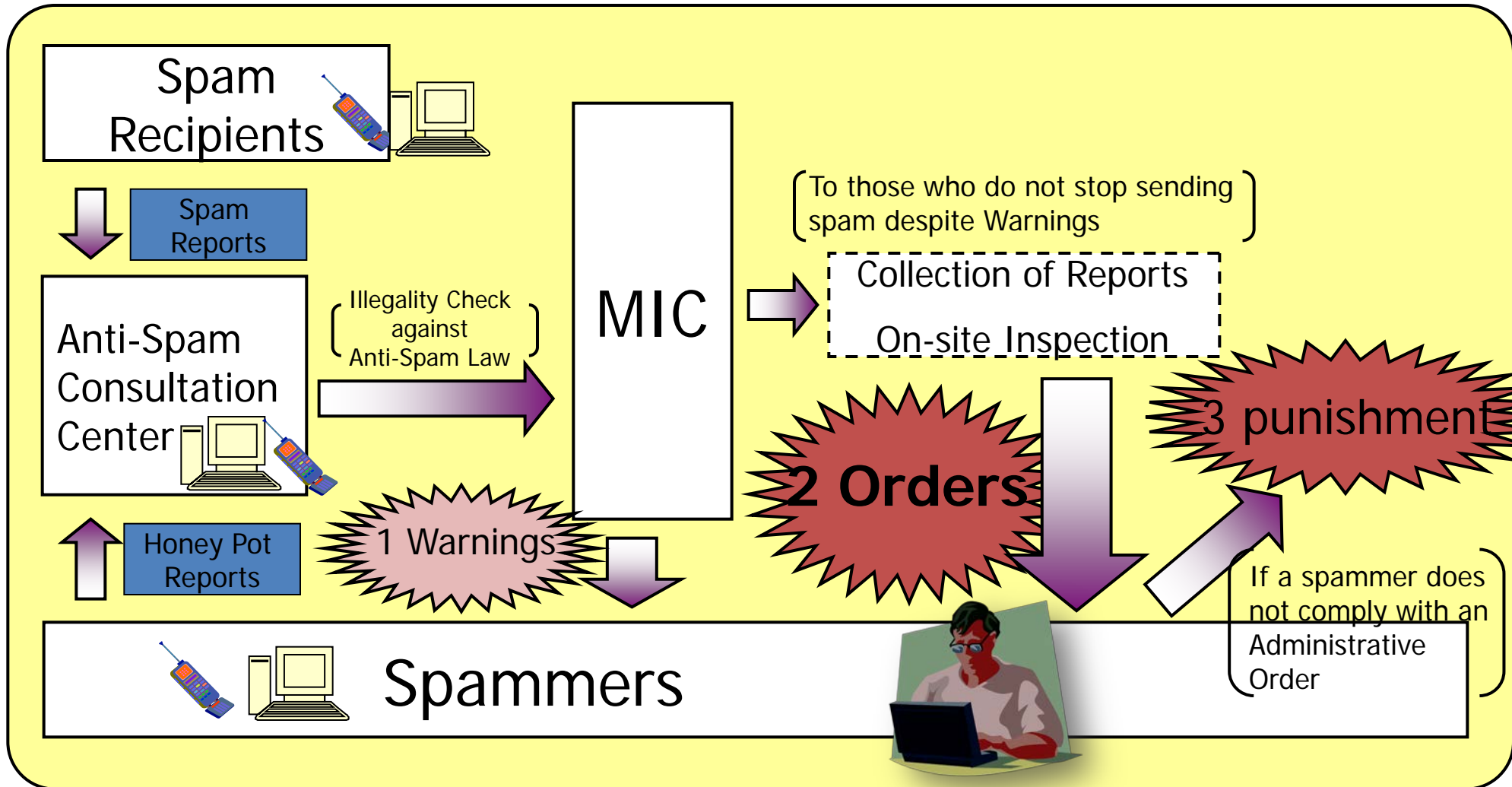
**Penal Provisions**

- (Art. 34)
- If he or she has violated the provisions of Art. 5,
  - If he or she has violated an order in accordance with the provisions of Art. 7 (excluding those pertaining to the maintenance of records pursuant to the provisions of Art 3. para (2)),
- (Art. 35)
- If he or she has violated an order in accordance with the provisions of Art. 7 (restricted to those pertaining to the maintenance of records pursuant to the provisions of Art. 3 para (2)),

- ➡ He or she shall be punished by imprisonment with labor for a term not exceeding one year or by a fine not exceeding one million yen. Also if he or she is a staff of a juridical person, the juridical person shall be punished by a fine not exceeding thirty million yen.
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# Warnings/Orders process

- 1 MIC sends a Warning mail to a spammer first.
- 2 If a spammer does not observe a warning, then MIC issues an Administrative Order.
- 3 If a spammer does not comply with an Administrative Order, the spammer may be subject to punishment.



# Outcomes

- Under the opt-out regulation, there were only 6 administrative orders in six years, but under the opt-in regulation, 38 administrative orders in six years.
- Under the opt-out regulation, it was difficult to prove the fact of violation. However, under opt-in regulation, it has become comparatively easy by utilizing the honeypots to prove positively the fact of violation.
- MIC has strengthened law enforcement.

Fiscal Year	E-mail Warnings	Administrative Orders
2002~2007	—	6
2008	1,147	0
2009	5,987	6
2010	6,191	7
2011	5,025	10
2012	5,495	8
2013	4,060	7
2008~2013 Total	27,905	38

Dec. 2008



**Introduction  
of the opt-in  
regulation**

## Violation of Prohibition of Transmission under False Sender Information

Year	The numbers of punishments
2006	2
2007	1
2008	1
2011	1
2013	1

## Violation of Administrative Order

Year	The number of punishment
2014	1

September, 2014.

This is the first case that a spammer was punished for a violation of an administrative order after the enactment of the Japanese Anti-Spam Law.

**Thank you for your attention.**

***For further information,  
Please visit our exhibition  
in the next room.***