

# Intellectual Property Strategic Program 2021

—A strategy for strengthening the protection of intangible assets  
to ensure success in digital and green competition in the post-  
COVID-19 age—

July 13, 2021

Intellectual Property Strategy Headquarters

## Intellectual Property Strategic Program 2021

### Contents

I.	Introduction —Digital and green competition amid the post-COVID-19 new normal—	4
II.	Basic Understanding —Japan’s IP strategy at a crossroads—	6
	1. Japan’s innovation activities and the decline in its global status	6
	2. Accelerating digitalization	9
	3. IP and the need to achieve a green society	11
	4. The international situation concerning standards and IP	12
	5. The need to radically strengthen IP strategy activities	14
III.	The Seven Priority Policies of the IP Strategy	17
	1. Strengthening the functions of capital and financial markets to encourage investment in and use of IP as a source of competitiveness	17
	(1) Building mechanisms for encouraging IP investment and use	17
	(2) Promoting the widespread adoption and practice of value design management	26
	2. Promoting the strategic use of standards aimed at expanding markets where Japan has an advantage	30
	(1) Combined efforts by the public and private sectors to promote the focused use of standards	30
	(2) Strategic acquisition and use of standard-essential patents	39
	(3) Enhancing the infrastructure for open-source use	43
	3. Environmental improvements aimed at encouraging the use of data, which is the 21st century’s most important form of IP	45
	4. A content strategy suited to the digital age	59
	(1) Content strategy for the digital age and reform of the copyright system and related policies	60
	(2) Initiatives to support the content creation ecosystem	69
	5. Bolstering the use of IP among startups and SMEs, and in agriculture	77
	(1) Ensuring appropriate IP transactions among startups and SMEs	77
	(2) Supporting the use of IP by startups and SMEs	79
	(3) Enhancing the IP usage environment in agriculture, forestry and fisheries	81
	6. Enhancing institutional, operational, and human resources infrastructure to support the use of IP	84
	(1) Using soft law in the IP field	84
	(2) Putting in place infrastructure aimed at resolving IP disputes	85
	(3) Strengthening the infrastructure for examinations related to IP rights	88
	(4) Promoting the use of IP in academic-industrial collaboration	89
	(5) Cultivating the personnel who create IP	91
	7. Restructuring the Cool Japan Strategy	94
	(1) Ensuring the survival of CJ-related fields	95
	(2) Impact of COVID-19	98
	(3) Approach to restructuring the CJ Strategy	99

8. Work Schedule.....118



## **I. Introduction —Digital and green competition amid the post-COVID-19 new normal—**

The Vision Committee established under the Intellectual Property Strategy Headquarters met eight times from July 2020, undertaking intensive discussions aimed at the formulation of a new intellectual property (IP) strategy. In conjunction with this, the Content Subcommittee established within the Vision Committee and the Value Design Management Working Group, the Create Japan Working Group, and the Task Force Examining Approaches to the Copyright System and Related Policies in the Digital Age, which were established under the Vision Committee, also engaged in diligent deliberations.

The Intellectual Property Strategic Program 2021 summarizes the outcomes of these discussions.

Approved in May 2020 by the Intellectual Property Strategy Headquarters, the Intellectual Property Strategic Program 2020 pointed out that global spread of the novel coronavirus (COVID-19) is causing major and irreversible changes in approaches to social and economic systems, and that what was considered common sense in many aspects of our economy and society pre-COVID-19 will be replaced by a “new normal.” As the shift from the real world to online accelerated thereafter, the adoption of teleworking, web conferencing, and other modes of remote working progressed, as did the use of online shopping, food delivery services, and remote and online teaching in educational settings. In the real world, too, social distancing is becoming a standard protocol in everyday social life. The transition to the new normal is progressing steadily.

However, it would still be hard to say that Japan has put in place adequate digital infrastructure to support a smooth transition to this new normal. Although the use of data is increasingly important in a digital society, Japan has failed to make progress with the effective use of data and the investment required to achieve this. Besides developed countries, there are even emerging economies where the use of digital technology surpasses anything seen in Japan. The COVID-19 pandemic has laid bare the reality that Japan truly has lost the digital battle.

In light of this harsh fact, the first thing Japan needs to do is to step up the pace of digitalization to prepare for the new normal. This means speeding up the pace of changes aimed at realizing Society 5.0, which was already positioned as the vision for society that Japan should aim to achieve. In that sense, the COVID-19 pandemic can be regarded as a golden opportunity for bringing this vision to fruition.

The trend toward digitalization has, in fact, been considerably accelerated by the impacts of COVID-19. The importance of addressing climate change and other issues on the

global agenda is also mounting. Amid these environmental changes, the EU, for example, has put together the EU Digital Strategy and the European Green Deal, which position digitalization and green policies as pillars of a new growth strategy and the cornerstone of recovery measures to support an economy hit hard by COVID-19. Similar policies are being promoted in the U.S., China, and South Korea, as well. In this context, Japan, too, hopes to tap into green and digital factors to create the impetus for its next round of growth. With efforts to take on the challenges posed by these two issues serving as a catalyst, the world has plunged into a bout of fierce competition. Japan must leverage and demonstrate its innovation capabilities to the fullest in order to survive this race.

Although Japanese companies have conventionally been regarded as possessing outstanding technology and ideas, the social implementation of these has not been able to keep up with the pace at which times have changed. It is necessary to leverage our nation's technology and ideas to create a society equipped with the right green and digital approaches, abandoning a product-oriented perspective.

Taking seriously the situation in which Japan finds itself, which the COVID-19 pandemic has highlighted, the Intellectual Property Strategic Program 2021 sets out the direction that our nation should take to overcome these issues.

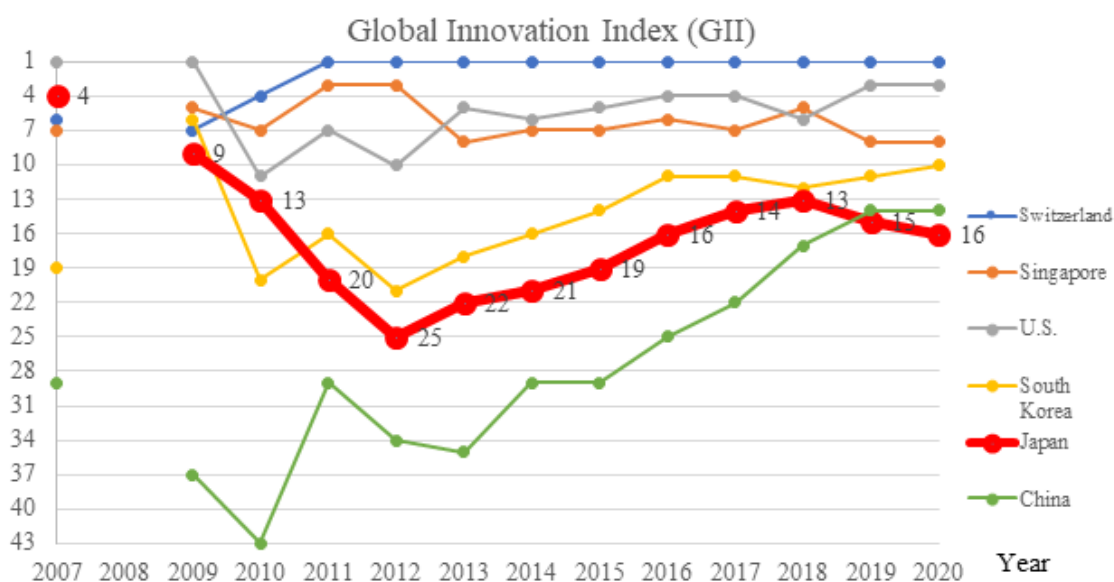
After first summarizing our current understanding of the situation surrounding IP, this program sets out the following seven priority policies for Japan's future IP strategy: (1) strengthening the functions of capital and financial markets to encourage investment in and use of IP as a source of competitiveness; (2) promoting the strategic use of standards aimed at expanding markets where Japan has an advantage; (3) environmental improvements aimed at encouraging the use of data, which is the 21st century's most important form of IP; (4) a content strategy suited to the digital age; (5) bolstering the use of IP among startups and small and medium-sized enterprises (SMEs), and in agriculture; (6) enhancing institutional, operational, and human resources infrastructure to support the use of IP; and (7) restructuring the Cool Japan Strategy.

Japan needs to swiftly put into practice the actions indicated in this program to ensure success in global competition through innovation creation aimed at achieving the society it ought to create, built on green and digital foundations.

## II. Basic Understanding —Japan’s IP strategy at a crossroads—

### 1. Japan’s innovation activities and the decline in its global status

As stated at the outset, the world has plunged into a race for economic and social transformation based on the cornerstone of digitalization and green policies, putting each nation’s innovation capabilities to the test. However, Japan’s innovation ecosystem cannot be said to be functioning adequately. For example, Japan is languishing in 16th place in the 2020 edition of the Global Innovation Index (GII), published annually by the World Intellectual Property Organization (WIPO). While Japan was in fourth place in 2007, it slumped to 25th in 2012 and has failed to achieve a resurgence thereafter. Playing second fiddle to Singapore and South Korea since 2012, Japan has long ranked outside the pack of major countries included in the analysis and was overtaken by China in 2019 (Figure 1).

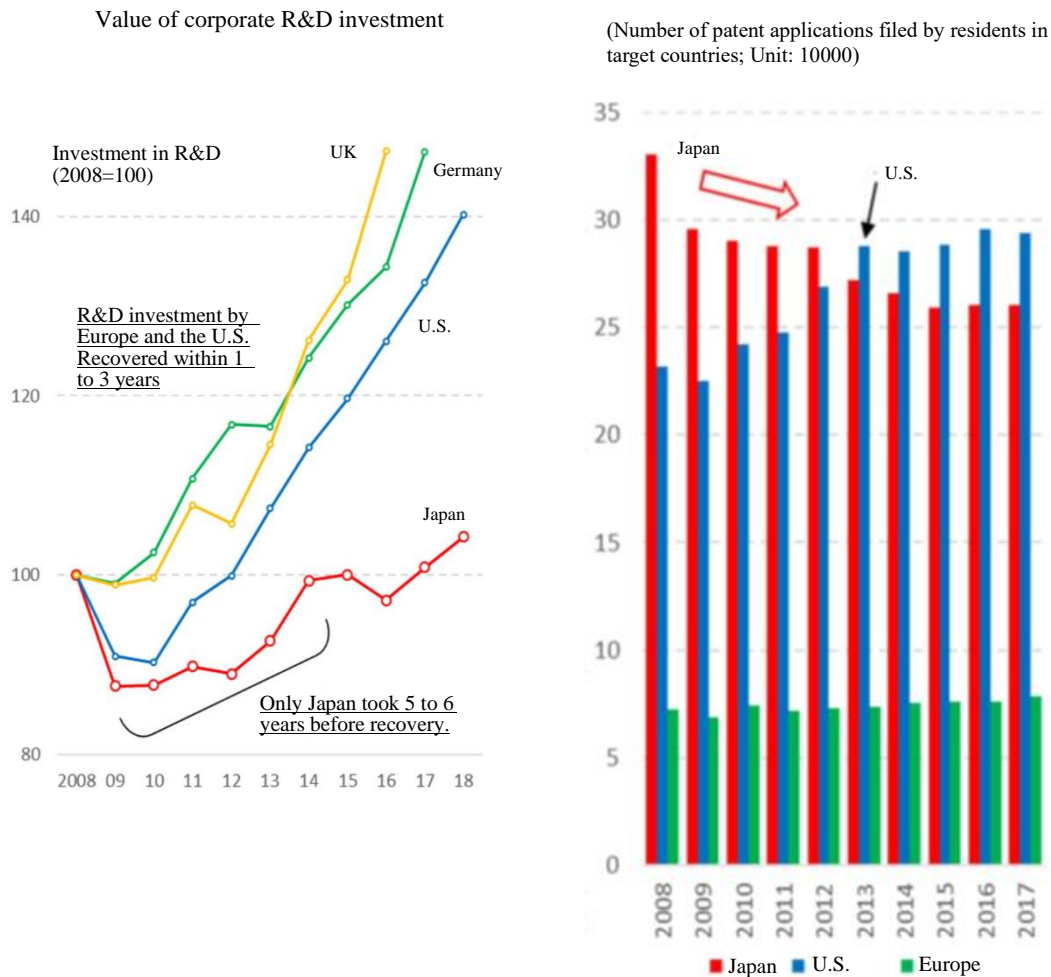


**Figure 1: Year-on-year changes in international rankings of the Global Innovation Index**

It has been said for some time that, given the difficulty Japan faces in securing victory when competing on cost in the field of commodity products, our nation needs to differentiate itself on the basis of innovation, securing an advantage with an open-close strategy backed by IP. However, Japan’s IP strategy and innovation activities are not at an adequate level, nor does the nation make sufficient strategic use of design and branding, which are essential to innovation.

Sluggish investment in research and development (R&D) is a leading factor contributing to the failure of Japan’s innovation activities to reach an adequate standard.

R&D investment by Japanese companies as a proportion of both company scale and net sales lags well behind international tech giants, namely Google, Amazon, Facebook, and Apple (GAFA). R&D investment efficiency in the industrial sector is also stagnant. Looking at the drop in the value of corporate R&D investment after the 2008 Global Financial Crisis, investment by companies in other countries recovered in a relatively short time to reach considerably higher levels than seen even before the crisis. In Japan, however, it took a long while for R&D investment to reach pre-crisis levels and such investment remains sluggish even now compared with other countries. Turning to the number of patent applications by Japanese companies, while figures have returned to pre-crisis levels in other countries, they have yet to do so in Japan (Figure 2).

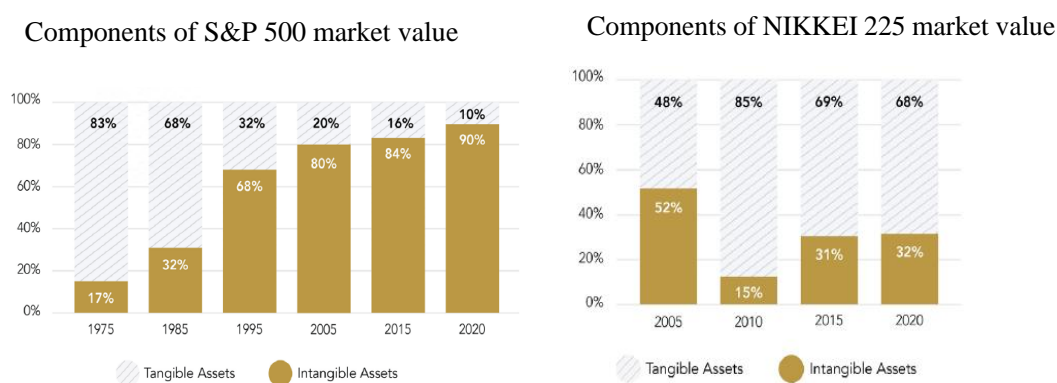


Source: Materials submitted by expert lawmakers of the Council on Economic and Fiscal Policy dated April 27, 2020

**Figure 2: Value of corporate R&D investment and the number of patent applications after the 2008 Global Financial Crisis**



We have reached an age in which R&D output not only can be produced and supplied as goods, but can also, via online networks and data analysis, be supplied as intangible services tailored to individual needs. Intangible assets centered on IP have therefore become even important than tangible ones as a source of competitiveness. As a result, intangible assets underpin the value of U.S. companies, accounting for the majority of their corporate value. However, the value of Japanese companies is still mainly tied up in tangible assets and our nation’s companies lag far behind those of other developed countries in the competition for intangible assets (Figure 3).



Source: “Intangible Asset Market Value Study,” Ocean Tomo, LLC .

**Figure 3: Japan-US comparison of percentages of intangible assets in market value**

Now that speed has become the biggest factor in competitiveness, it is essential to acquire the necessary IP quickly and reliably through M&A, the appointment of external personnel, and open innovation. One thing that remains unchanged is the fact that the competition to secure the funds required for this determines the outcome of the race for innovation.

However, in Japan, it is hard to say that mechanisms for competing to acquire financing for innovation are functioning adequately and few companies actively highlight their IP and intangible asset acquisition and use strategies in their efforts to secure finance. Neither can investors and financial institutions be said to actively channel capital toward innovative corporate activities, fulfilling their responsibilities as shareholders or appropriate financial functions on the basis of analyses and evaluations that adopt a positive outlook on strategies for investing in and using companies’ intangible assets. The provision of the funding required by startups to support innovation is also inadequate.

In light of this situation, it would be no exaggeration to say that Japan is now an innovation backwater. To ensure that Japan’s industry and economy can win this struggle

for survival, it is necessary to galvanize IP creation and use activities in Japan, taking into account the direction of policies aimed at driving innovation creation incorporated into the 6th Science, Technology, and Innovation Basic Plan.

## **2. Accelerating digitalization**

### **<DX and structural change in the industrial sector>**

The march of digitalization is radically transforming industrial structures and driving a major game change in corporate and industrial activities. While the industrial structure to date has been composed of discrete pyramid-type value chain systems for each product and service, company, and business type, the advance of digitalization in recent years has turned it into a network system connected by common layers that cut across products and services. In these layers, it has become possible to provide new means of solving cross-cutting issues by using AI-based software to process large volumes of data and create new business domains unconstrained by conventional business categories, enabling companies to influence a bigger, wider-ranging customer base and business partners. As a result, competition between companies is starting to hinge on how a company defends the service function layer on which its competitive advantage depends, generates effects outside its network through links to numerous business partners, and fences in the data required to provide its services. Thus, as digital transformation (DX) progresses, the strategic use of standards and the acquisition of data capital are becoming the key factors of unparalleled importance to a company's competitiveness.

Although these radical changes in the industrial structure have been underway for the last 10 years, few companies have actively pursued game-changing approaches in response to this transformation.

Amid this situation, companies need to formulate sophisticated IP strategies focused on achieving success in the battle to build open networks encompassing the strategic use of standards and the acquisition of data capital, and also to secure and conceal the core elements that are the source of their competitiveness while using them to generate earnings for the company.

In the age of DX, design is of growing importance from the perspective of embodying user experience (UX) and determining how to shape the user interface (UI), which forms the point of contact with the customer. Companies need to make strategic use of UX and UI design, as it functions as a means of clearly promoting the value of an experience to the customer, making it an important factor in differentiating products and services from those of other companies in the IoT age.

### **<Environmental changes surrounding the content industry>**

The digitalization trend is dramatically transforming the environment surrounding the media content industry. Content distribution via the internet is expanding, with global mega-platform operators a growing presence as cross-border global content distribution increases. As a single piece of IP develops to span multiple fields, its value multiplies. Moreover, the boundary between professionals and amateurs in the arena of content creation is becoming increasingly ambiguous, while the line between creation and use is growing ever fainter.

Technological innovation means that anyone can create high value-added content. In addition to the stand-alone value of such content as a recreational consumer good, it is acquiring value as a major intermediate good in the digital economy as its positioning changes, becoming material for a communication medium connected to social media or other interactive media, for example. And this mass content distribution will generate data capital that is valuable in terms of divining people's preferences, becoming a wellspring of data-driven economic vitality. It is envisaged that such changes will escalate in the new normal. Digital multi-sided platform operators are already pursuing a game change, incorporating content layers into their ecosystems in an effort to accelerate those changes. Existing media content companies need to respond appropriately to such changes. This destructive innovation brought about by innovations in digital technology is both a risk and an opportunity. Whether or not companies can leverage this opportunity to dramatically expand the volume of content created and distributed to enable both creators and users to enjoy positive-sum benefits will be determined by their ability to feed back appropriate remuneration, while reducing copyright and other rights management costs. The Copyright Act and other existing systems need to be swiftly reformed into systems adapted to the changes that have taken place in the content environment as a result of digitalization. In other words, reform of the copyright system is no longer merely a question of coordinating the interests of traditional copyright holders and users, but rather a key national economic challenge that could affect the speed at which the digital economy develops. At the same time, accelerating progress toward a digital archive society that enables various information assets from the past to be collected, stored, and reused is a pressing issue in both cultural and economic terms.

### **<Impact on Cool Japan>**

Cool Japan (CJ) initiatives have been thrown into crisis by the COVID-19 pandemic. As the source of Japan's rich culture and appeal, fields that are important from a CJ perspective, such as food service, tourism, culture and the arts, events and entertainment

(hereinafter “CJ-related fields”) are one of the pillars supporting the growth of the culture and tourism sector and indeed, the Japanese economy as a whole. The COVID-19 pandemic has inflicted immense economic damage on CJ-related fields, threatening the very survival of some and creating a crisis that has significantly compromised the survival and development of Japanese culture and the arts, not to mention undermining the foundations of Japanese economic development.

The need for restrictions on travel and gatherings due to COVID-19 has been a major blow to initiatives predicated on the movement of people in the real world, such as inbound tourism and events. Given also substantial impacts on social modalities and on people’s values and behavior, the assumptions on which the Cool Japan Strategy (approved by the Intellectual Property Strategy Headquarters in September 2019) was based are changing.

### **3. IP and the need to achieve a green society**

In tandem with digitalization, the achievement of a green society is another factor that will underpin future corporate activities. In October 2020, the government declared its commitment to becoming carbon-neutral by 2050, and, the following December, formulated the Green Growth Strategy Through Achieving Carbon Neutrality in 2050, which regards efforts to address global warming as an opportunity for growth and sets out strategies for creating a virtuous cycle of economic growth and environmental protection.

Rather than being a constraint on the economy, environmental measures hold the key to achieving innovative change in society and the economy, encouraging investment, improving productivity, and driving major structural change in the industrial sector to generate powerful growth. Turning such environmental measures into an advantage was a realm in which Japanese companies with a good track record in the field of energy conservation technology used to excel. The prospects for Japanese companies to demonstrate their potential in supporting the creation of a green society look increasingly promising.

While there are analyses suggesting that Japanese companies have many technologies capable of contributing to a zero carbon future, they will start to lag behind without the requisite investment in such carbon-neutral technology development. This will result in the loss of possibilities for Japanese companies to play an active role in the new growth markets that will emerge as a result of carbon-neutral technologies.

Many investors within Japan and overseas are clearly placing greater emphasis nowadays on the Sustainable Development Goals (SDGs) and environmental, social, and

governance factors (ESG) in their investment decisions. Today, unless companies, too, attach greater importance to the SDGs and ESG in their business strategy, they are not rated as highly by investors, affecting their corporate value.

ESG-focused investment involves a number of evaluation criteria centered on the eco-friendliness of corporate activities, so progress in this area at present takes the form of companies striving to satisfy these criteria, with those that succeed in doing so attracting investment. At the same time, there should also be a focus on creating a process in which the creation of a green society is encouraged by supporting efforts to ensure that ESG finance flows to companies that both generate earnings and open the way to a future green society by contributing to and playing an active role in such fields, while also ensuring that investors can enjoy the benefits of the growth of such companies. Thinking about the original functions of capital and financial markets, the primary objective should be to proactively provide the requisite finance, selecting investment targets on the basis of analysis and evaluation from the perspective of technology solutions that contribute to the creation of a carbon-neutral society and ability to achieve their social implementation. The basis for such funding decisions will be a company's IP and intangible assets contributing to the creation of a carbon-neutral society and its strategy for leveraging them.

Thus, given the need to achieve a green society, companies must establish IP strategies based on a medium- to long-term perspective.

#### **4. The international situation concerning standards and IP**

##### **<Increasingly rigorous competition around standards and IP>**

With awareness growing in recent years that IP strategies encompassing standards are an increasingly important factor influencing corporate and industrial development, moves by global companies and developments in the industrial policy of various countries relating to supremacy in this area have been intensifying.

Standards not only contribute to speeding up the social implementation of advanced technologies for resolving social issues, but also are a crucial means of promoting the overseas business expansion of Japanese companies amid international competition, enabling them to capture markets abroad. Accordingly, major countries are moving forward with public and private sector initiatives focused on the use of standards, aiming to promote standardization that gives their country an advantage, and are also seeking to strategically acquire major posts in international standardization bodies.

Japan, too, has repeatedly focused closely on the need to leverage standards, but awareness within Japan of the importance of making use of standards remains sparse.

At the same time, with global awareness of the importance of IP as a source of innovation growing, the U.S. and China are engaged in fierce conflict and competition over IP. In this context, it should be noted that IP strategies encompassing standards are positioned as a crucial topic from a national security perspective. Turning away from the anti-patent stance it once espoused, the U.S. is now clearly attaching importance to IP protection. China, too, is widely publicizing its emphasis on IP protection to audiences at home and abroad, including with the October 2020 amendment to its Patent Law that introduced stronger crackdowns on infringements of patent rights and enhanced redress through raising the sums that can be awarded in damages. Meanwhile, in November 2020, the European Commission published its Action Plan on Intellectual Property, incorporating improved IP protection—most notably the modernization of design protection—and also measures to encourage IP use by SMEs. Governments and judicial authorities in other countries are also highly interested in disputes involving what are referred to as standard-essential patents and have made remarks indicating a desire to shape rules around these.

Japan needs to maintain a strong awareness of how it can secure global power in the arena of IP strategy encompassing standards, including not only perspectives focused on sustainable economic growth, but also those centered on economic security.

### **<Data has taken the starring role in 21st century IP>**

The battle for control over rule-making concerning the use of data is also heating up. Advancing digitalization is making data increasingly important in our economy and society. One only has to look at the example of mega-platform operators such as GAF— which are using vast quantities of virtual data to build business models that cement their dominance—to see that data is an important form of IP that serves as a source of competitiveness, and a shared global awareness has emerged that the question of how to leverage this data is one element that will determine the outcome of international competition.

Fierce competition to seize the initiative regarding the use of data can be seen across the globe. Since 2016 or thereabouts, in response to the U.S.'s seizing of data hegemony via mega-platform operators, Europe has stepped up efforts to make rules on data handling and shape the infrastructure for data sharing. In the area of rules governing personal data, rights such as the right of access and right to data portability are legally recognized under the General Data Protection Regulation (GDPR), enabling individuals to control the handling of their personal data in order to protect their privacy. When it comes to non-personal data, on the other hand, concerns that granting legal rights might

actually impede the use of data have driven a phased approach based first on the formulation of voluntary restraints and other forms of soft law, with codes of conduct being introduced if deemed necessary. The distinguishing features of Europe's data strategy could be said to be an abundance of examples in which responsibility for making rules governing the handling of data is imposed on the operators of data distribution platforms, such as cloud operators and data sharing service providers, and also the fact that perspectives based on competition law have been incorporated throughout, demonstrating an awareness of U.S. and Chinese mega-platform operators. Europe has also begun putting these rules in place in its Gaia-X cloud and data infrastructure project and is trying to promote the distribution of data while imposing access controls compliant with data disclosure provisos by using IDS connectors provided by the International Data Spaces Alliance (IDSA).

Japan, meanwhile, is lagging behind in its development of digital data and has not put in place adequate mechanisms to enable data to create new value. It is necessary to further accelerate international rule-making that conforms with the concept of Data Free Flow with Trust (DFFT) under the Osaka Track launched by Japan at the G20 Osaka Summit in 2019.

## **5. The need to radically strengthen IP strategy activities**

### **<An IP strategy that contributes to innovation>**

Given the awareness of issues outlined above, it is clear that there is an imminent need to radically strengthen Japan's IP strategy activities.

In the Intellectual Property Strategy Vision (approved in June 2018 by the Intellectual Property Strategy Headquarters), the Intellectual Property Strategy Headquarters set out the "value design society" as a vision for the society that Japan should aim to achieve. While the overall direction remains unchanged, Japan's IP strategy activities need to be fundamentally bolstered to accelerate innovation creation in order to bring this vision for society to fruition. Enhancing IP strategy activities will not only boost companies' competitiveness, but also help to solve a variety of social issues.

Strategies for the use of standards also need to be reviewed to advance the social implementation of outstanding technologies. As has already been pointed out, changes in the industrial structure arising from digitalization in recent years have decisively increased the importance of leveraging standards in the context of corporate competitiveness. However, it is likely that one factor behind Japanese companies' failure to achieve rapid social implementation of digital technology during the COVID-19 pandemic was the lack of a strategy for using standards. By strengthening IP strategy

activities encompassing standards, Japanese companies will be able to use their outstanding technologies to capture global markets and generate profits as a result.

If Japan can identify the changes taking place in the surrounding environment and turn them to its advantage, our nation could achieve further leaps forward as a result. Japan should be keenly aware that it faces a turning point of this kind. Unless the various entities fundamentally reformulate their IP strategies and support the construction of Japan's innovation ecosystem, Japan has no hope of achieving sustainable future growth and maintaining its status as a leader in the global economy.

It is also necessary to change corporate attitudes to IP strategy. The West is home to companies that proactively invest in IP and leverage it to deploy various business models.

Rather than being bound by IP strategies predicated on conventional business models, Japanese companies need to proactively invest in and leverage IP with a view to deploying a diverse array of business models. The Corporate Governance Code revised in June 2021 noted the importance of investing in IP and this will hopefully be the catalyst for changing ways of thinking, including among the senior management of Japanese companies. It is necessary to examine anew whether Japanese companies are being managed in a way that taps into their IP—including not only technology, but also data, know-how, and customer networks—and whether they are successfully positioning IP strategy as part of their business model.

#### **<The strategic use of content>**

The Content Strategy also needs to be restructured, to take account of environmental changes resulting from progress in digitalization. Unless Japan's existing content industry can respond accurately to such changes, it could find itself in a tough situation when faced with the need to compete with overseas platform operators. It could be difficult to maintain an ecosystem that enables Japanese creators to continue creating good content and receive appropriate remuneration for its use. Stakeholders in the public and private sectors alike should share a deep concern about the negative impact this would have not only on matters relating to the content industry, but on the wider economy and culture of Japan, and should therefore move forward with discussions aimed at radically revising the Content Strategy.

#### **<Restructuring the CJ Strategy>**

When it comes to CJ, ensuring the survival of CJ-related fields and securing the employment of the people who work in them is of paramount importance, so the requisite measures must be steadily implemented to ensure that we keep the flame of Japanese arts



and culture alight and enable them to flourish further. In addition, it is necessary to restructure the CJ Strategy into a form suitable for the age of the new normal, taking into account changes in social modalities and people's values brought about by the impact of COVID-19. It is vital for relevant ministries and agencies, related organizations, and other stakeholders in CJ across the public and private sectors to work together to promote CJ initiatives based on the restructured CJ Strategy set out in this Intellectual Property Strategic Program, thereby bolstering Japan's soft power.

### **III. The Seven Priority Policies of the IP Strategy**

#### **1. Strengthening the functions of capital and financial markets to encourage investment in and use of IP as a source of competitiveness**

##### **(1) Building mechanisms for encouraging IP investment and use**

###### **(Current Situation and Challenges)**

Compared with other countries, investment in Japan is still weighted more toward tangible than intangible assets and intangible assets make up a much smaller proportion of corporate value in Japan than in the West. Even looking at R&D, the scale of investment by large Japanese corporations pales in comparison to that of GAFA, while R&D investment efficiency in Japan's industrial sector remains low.

Thus, investment in and use of IP and other intangible assets by Japanese companies could hardly be described as adequate and it will be essential to encourage IP investment and use by Japanese companies if they are to succeed amid fierce global competition. Accordingly, along with building a dynamic blueprint that raises Japanese companies' awareness of the importance of IP investment and use, and encourages them to actively invest in and use IP and other intangible assets, mechanisms for supplying the requisite funding to companies actively seeking to invest in and use IP will need to be created.

To achieve this, it will be vital to build mechanisms that promote greater visualization of what kind of IP investment and use strategies companies have formulated and ensure that such companies' strategies are appropriately evaluated by investors via the stock market, leading to an increase in the value of companies that have formulated outstanding IP investment and use strategies, thereby enabling them to secure funding for further investment in IP.

As such, it will first be necessary to put in place an environment in which companies can proactively disclose and share their IP investment and use strategies, so that these can be evaluated and analyzed by investors and financial institutions. The Corporate Governance Code revised in June 2021 incorporates provisions stipulating that listed companies should disclose and provide information on investments in IP in an understandable and specific manner, while being conscious of consistency with their own management strategies and issues, and that, in light of the importance of investments in IP, boards of directors should effectively supervise the allocation of management resources and the implementation of business portfolio strategies to ensure that they contribute to the sustainable growth of the company.

It is hoped that the recent revision of the Corporate Governance Code will not only drive progress in the visualization of companies' IP investment and use strategies, but

also serve as a catalyst for raising awareness of the importance of IP investment and use strategies within corporate management strategies. Although the importance of positioning IP strategy within corporate management strategies has been pointed out in the past, the reality is that awareness of this fact still has not permeated though most companies. It is hoped that the recent revision of the Corporate Governance Code will also transform attitudes among the senior management of companies.

The important thing here will be to demonstrate strategic thinking; what should be disclosed and shared is not merely a list of IP held by the company, but rather an indication of what kind of social value the company is trying to create, what kind of IP it is using for this purpose, and what kind of business model it is employing in an effort to deliver value and monetize its IP. The information disclosed and shared must evoke impressions of future cash flow. In addition, it is vital to clarify the purposes to which the company's existing IP will be put and how it will acquire the IP it lacks.

An effective means of encouraging the disclosure and sharing of companies' IP investment and use strategies will be to provide companies with an understandable indication of the form in which they should disclose and share their IP investment and use strategies in order to ensure appropriate evaluation by investors and financial institutions. While the Ministry of Economy, Trade and Industry's Guidance for Collaborative Value Creation states that investment in intangible assets should be positioned as part of a company's value creation story, it is necessary to set out more in-depth guidelines concerning approaches to disclosing and sharing IP investment and use strategies in particular, in a form that accords with this.

In light of the recent tendency for ESG investors to emphasize IP in their investment decisions, it is appropriate for such guidelines to encourage the disclosure and sharing of companies' IP investment and use strategies from a medium- to long-term perspective.

It is not appropriate to demand a uniform approach to disclosure and sharing, so the guidelines should permit a diverse range of disclosure and sharing methods. On the other hand, some have called for the establishment of indicators to enable investors to objectively compare companies' IP investment and use strategies. Accordingly, in formulating the guidelines, consideration should also be given to the identification of indicators to denote the extent of a company's efforts to invest in and use IP. It would seem useful for the guidelines to introduce examples of success in building business models in which IP investment and use strategies have enhanced competitiveness.

The use of existing media such as integrated reports and investor relations (IR) materials for disclosure and sharing is envisaged. The techniques described in the Management Design Sheet are useful in undertaking disclosure and sharing based on the

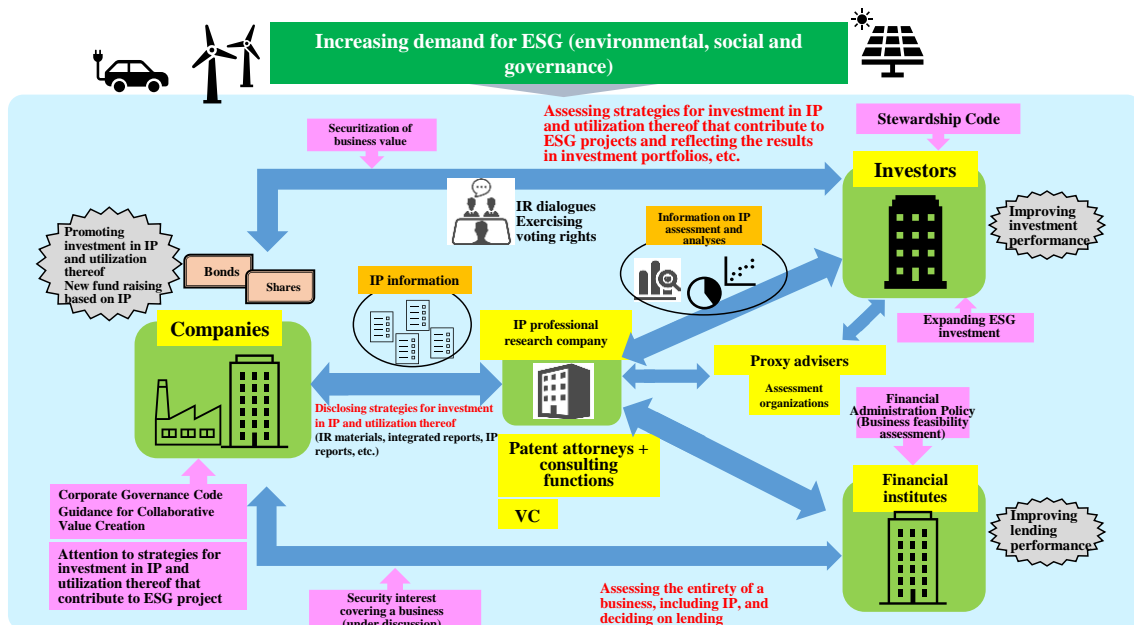
storification of management strategies and visions.

It is important to note that, in disclosing and sharing their IP investment and use strategies, companies should not go so far as to disclose and share sensitive information that should be concealed in order to maintain competitiveness.

At the same time, investors need to accurately grasp the IP investment and use strategies disclosed and shared by companies and to make use of these in IR dialogue with companies and when exercising their voting rights. Investors then need to clearly indicate their stance on selecting and actively investing in companies that can be rated as effectively promoting their IP investment and use strategies, and then invest in accordance with this stance. To facilitate such effective use by investors, it would be helpful to employ the services of a professional research company to evaluate and analyze companies' IP investment and use strategies, and to assist in communicating them to investors and proxy advisers in an understandable way. Companies offering evaluation and analysis services focused on IP and intangible asset usage, including AI-based big data analysis, are now starting to emerge in Japan, as well. Demand for evaluation and analysis services has emerged, boosted by the rise in ESG-focused investment and the recent revision of the Corporate Governance Code, so it is hoped that clusters of such professional research companies will develop as a result.

In addition, it is hoped that institutional investors and financial institutions will take such specific investment and lending actions as establishing reasonably extensive investment management frameworks and investment facilities focused on objective indicators allowing cross-cutting comparison of the aforementioned corporate IP investment and use strategies.

Through such initiatives, Japan should aim to build an ecosystem (Figure 4) driven by a dynamic in which more in-depth communication around approaches to IP investment and use takes place between companies, investors, and financial institutions, with the result that corporate IP investment and use activities escalate, and investors and financial institutions actively finance them.



**Figure 4: Conceptual picture of a mechanism promoting IP investment and use**

As a result of the partial amendment of the Order for Enforcement of the National University Corporation Act, which entered into force in June 2020, requirements for long-term borrowing and bond issuance (so-called “university bonds”) were relaxed, giving rise to expectations that university management will be reformed through financing by investors. Amid this situation, it is hoped that universities will increasingly disclose and share their IP investment and use strategies.

#### **<Increasing ESG demand and IP investment and use>**

With investors facing increasing demands to focus on ESG in their investment decisions, the importance of IP investment and use that contributes to enhancing ESG is further growing. Amid this situation, examples can be seen of investors regarding information about IP investment as key data for making decisions when evaluating companies’ future corporate value. For instance, the Government Pension Investment Fund (GPIF) analyzes data concerning patents held by the companies in which they invest and award scores for patents with a low-carbon element that will lead to the reduction of carbon dioxide emissions.

Until now, investors have sought to encourage companies to avoid business activities with a high environmental burden via negative actions, focusing on negative elements in the form of conducting risk assessments based on companies’ environmental constraints

and excluding companies with a poor evaluation from investment. However, it would also be possible to implement valuations that offer pluses in the long-term via positive actions, namely analyzing the IP investment and use strategies of companies pursuing the social implementation of technology solutions contributing to a carbon-neutral society, using this information as the basis for dialogue with companies and investment decisions, and supporting the implementation of these strategies through the provision of finance. This will result not only in capital markets performing their functions via the creation of green growth markets, but also in the fulfillment of fiduciary duty.

ESG-focused investment could also benefit startups, where most of the management resources are composed of intangible assets. It is hoped that actively sharing and engaging in dialogue around IP investment and use strategies tailored to ESG demand will increase startups' ratings among investors and financial institutions.

Thus, it is anticipated that encouraging companies to share and engage in dialogue around their IP investment and use strategies will lead to investors stepping up their ESG-focused investment as a growth area.

#### **<Business valuation and financing based on the IP strategies, etc. of startups, venture companies and SMEs>**

In seeking to use technology to solve social issues in the area of digitalization and building a greener society and economy, startups, venture companies and SMEs are becoming an increasingly important presence as leaders of destructive innovation that are swiftly building business models.

To ensure that startups, venture companies and SMEs receive the finance required for IP investment, it is vital to liberate them from the status quo, in which tangible fixed assets are effectively the principal form of collateral asset, and to put in place an environment in which the value of the business as a whole—including IP and other intangible assets and methods of using them—is properly evaluated, thereby making it easier for investors and financial institutions to provide such entities with funds.

Financial institutions already assess a company's feasibility when providing loans and main-business support, but an effective means of providing further backing for such initiatives would be for financial institutions to create a collateral system focused on the business as a whole, based on appropriately assessing the entire business, including IP and other intangible assets, along with measures for using them.

In its FY2020 Financial Administration Policy, the Financial Services Agency (FSA) stipulated that it would consider desirable approaches to financing and business turnaround to support business continuity. After considering collateral systems that would

provide financial institutions with appropriate motivation to support business continuity and development, the Research Group on Approaches to Financing and Turnaround to Support Businesses advocated a Business Growth Security Interest (tentative name) in its summary of discussion points published in December 2020. A similar recommendation has been made by the Trade Law Research Group of the Small and Medium Enterprise Agency (SMEA). The Collateral Law Subcommittee of the Ministry of Justice's Legislative Council will conduct discussions regarding the revision of the collateral system, including the potential for a collateral system focused on businesses as a whole. Both the FSA and the SMEA need to continue to pursue in-depth deliberations concerning a collateral system focused on businesses as a whole.

Establishing a security interest covering the entirety of a business might also facilitate the procurement of finance by startups and venture companies with few tangible assets. Recently, examples have emerged of startups and venture companies not only obtaining finance through investment by venture capitalists and the like, but also using schemes that securitize loans based on the value of the business including its IP, enabling those companies to procure large sums, while securing freedom of management. It is hoped that establishing security interests that cover the entire business will lead to an expansion in loan-based financing options for such startups and venture companies.

The Japan Patent Office (JPO) has been implementing a project to encourage the provision of IP finance for regional financial institutions and other entities by supporting them in the preparation of IP-related Business Proposals, which offer solutions based on the use of IP to address the challenges faced by SMEs in their business operations. Its aim in doing so is to put in place an environment in which the business of startups, venture companies and SMEs can be visualized, with financial institutions easily able to undertake appropriate assessments of business value that include both the IP belonging to such companies and their IP usage measures. It is hoped that financial institutions will use such support measures in providing startups, venture companies and SMEs with the finance required to invest in IP.

#### **<Tapping into the innovation functions of startups>**

Ensuring that outstanding IP, human resources, and other management resources belonging to companies are allocated to the business settings that truly need them in an optimal way is essential to enable Japan to demonstrate its innovative capabilities to the full. Extracting part of a major corporation's business and enabling a startup to use those management resources via a carve-out or spin-off is a highly meaningful way of revitalizing innovation throughout society.

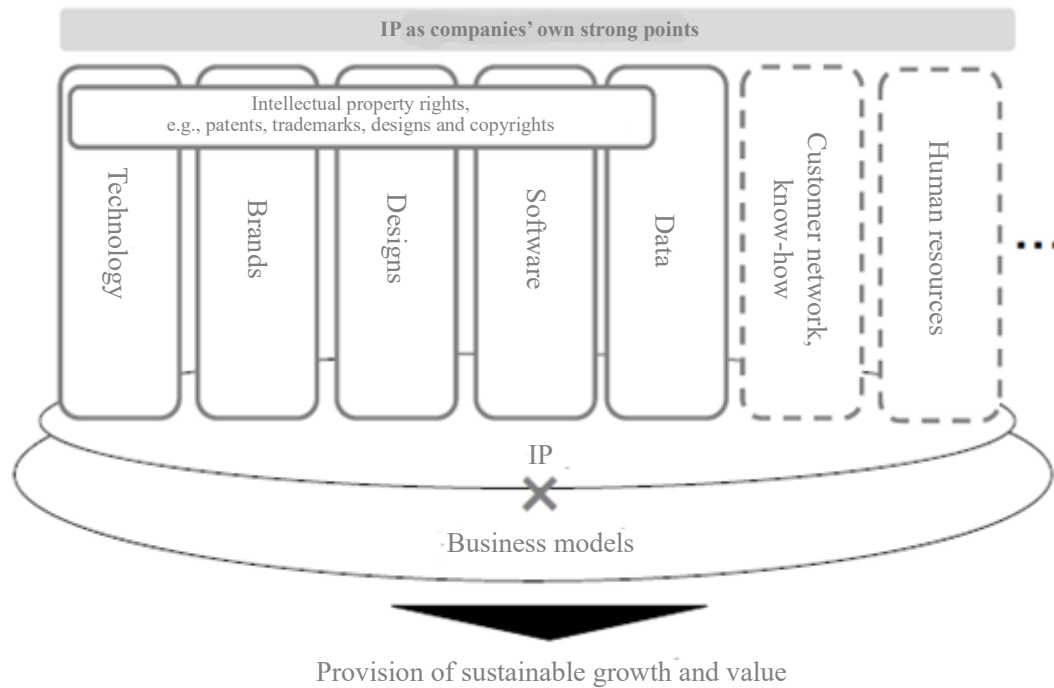
However, such carve-outs and spin-offs from large corporations are less common in Japan than in the West, and it seems likely that galvanizing efforts in this area will drive progress in innovation throughout society.

It is vital to ensure that IP generated by startups is properly evaluated by investors and linked to the acquisition of startup funding via IPOs and the like. It is also important to ensure that large corporations use M&A to acquire IP produced by startups and tap into their various resources to undertake the social implementation of the IP they have acquired. To ensure the success of such partnership and collaboration involving large corporations' resources and startups' IP, large corporations will need to be prepared to actively equip their management with the ability to make full use of the IP produced by startups and incorporate startups' innovation functions, in order to boldly leverage them in internal structural reforms. As such, it will be vital to encourage large corporations to disclose how they go about evaluating startups' innovation functions and proactively tapping into them, in accordance with the revised Corporate Governance Code, in order to ensure effective governance from the perspective of investors.

**<Disclosure and sharing of comprehensive IP strategies encompassing data, know-how, customer network, design, and brand use strategies>**

In building IP investment and use strategies, companies should focus on what kind of business model they will use to monetize their IP, including not only IP rights in the form of patent rights, trademark rights, design rights, and copyright, but also a wide range of other forms of IP, including data, know-how (trade secrets), and customer networks (Figure 5). Most Japanese companies have, until now, formulated business strategies that emphasize technical capabilities and product performance features. However, recent years have seen investment and use strategies focused on data acquisition infrastructure and processing into high added value data, undisclosed know-how for delivering differentiated services, and customer networks to support the expansion of growth in service markets take on increasing importance as service delivery strategies for securing an advantage.





**Figure 5: Conceptual picture of IP as targets of strategies for IP investment and use**

Amid the growing commodification of products and services arising from the advance of digitalization, it will be essential to ensure differentiation in product and service markets and use this to achieve high earning power by generating external effects through networking predicated on an open-close strategy and creating an environment in which autonomous market scale expansion mechanisms come into play, as well as ensuring advantageous positioning in that environment. In addition to disclosed technology assets backed up by IP rights, investment in data-related assets, undisclosed know-how, and customer networks as management resources for achieving this is extremely important, as is their use. Furthermore, when thinking about networking and scaling up, securing competitive service delivery platforms is also crucial. However, although Japanese companies have great technical capabilities, it would be fair to say that they have not necessarily adequately established business models that use them to generate earning power.

Moreover, not only technical strength, but also design and brand use strategies are important to realization of innovation. The question of how to create customer experience value that meets user needs will be the major key to achieving the widespread uptake of innovative technologies. Only when such value is added will innovative technologies

generate innovation. Above all, in an age in which the IoT has permeated society to the extent that all devices are connected to the internet, UI and UX have an increasing role to play in delivering customer experience value and ensuring differentiation from other companies. Corporate management strategies and IP strategies have hitherto demonstrated little recognition of the importance of strategically using design and branding in this way. However, we have repeatedly seen how most of the tech giants that have taken the world by storm have designers among their co-founders, and have seen mammoth growth in the scale of their business after successfully establishing their brand by incorporating design concepts into the very basis of the business from the time when they were first shaping their business models. The concept of value design—making full use of design and branding to drive social implementation and secure earnings—will be crucial going forward.

In formulating, disclosing, and sharing IP investment and use strategies, it will be vital to be willing to strategically invest in and actively use not only technical capabilities, but also a wide range of such IP from a long-term perspective. Additionally, setting out specific calls to action will be important.

#### **(Direction of Measures)**

- Based on the revised Corporate Governance Code and Guidance for Collaborative Value Creation, consider what kind of formats for disclosing and sharing IP investment and use strategies would be useful in establishing an environment in which companies' IP investment and use strategies can be visualized and readily used by investors, etc. In addition, before the end of 2021, formulate and publish guidelines setting out approaches to the disclosure and sharing of IP investment and use strategies.

(Short-term) (Cabinet Office; Ministry of Economy, Trade and Industry)

- With reference to systems and practices overseas, consider a new collateral system focused on the entirety of a business, including such intangible assets as goodwill and IP, while also taking into account ways of ensuring convenience and the protection of other creditors, in order to put in place an environment in which even operators of startups and other businesses without real estate or other tangible assets can secure finance without relying on personal guarantees from the proprietor, and in which financial institutions can support companies' business continuity and development, while focusing their efforts on supporting management improvements.

(Short-term, Medium-term) (Financial Services Agency; Ministry of Justice;  
Ministry of Economy, Trade and Industry; Cabinet Office)

- Organize various seminars and promote partnership and collaboration with private sector organizations, with the aim of ensuring the widespread propagation and consolidation of an IP landscape in which the use of IP information contributes to business management and operations.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry; Cabinet Office)

- Have regional financial institutions support the preparation of IP-related Business Proposals to promote the use of IP by SMEs through feasibility assessments from an IP perspective.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- Analyze the Reports on Assessments of IP-related Businesses used to date and compile a list of items surveyed that assist in assessments of IP-related businesses. In addition, consider a template to support private sector survey companies in preparing Reports on Assessments of IP-related Businesses.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- Based on the results of the Survey and Analysis for Establishing the STI for SDGs Platform initiative that ran until FY2020, undertake deliberations, investigations, and analyses of specific processes that will assist in building SDG-based business models and share the outcomes with relevant organizations.

(Short-term, Medium-term) (Cabinet Office)

## **(2) Promoting the widespread adoption and practice of value design management**

### **(Current Situation and Challenges)**

Value design management involves companies identifying their intrinsic values and *raison d'être*, defining the value they want to provide to society and the vision for their future and that of others that will enable them to co-create and share this value, and then comparing their future vision with their current situation to formulate a strategy for the present. The Management Design Sheet<sup>1</sup> is a useful tool for the practice of value design management. As the Management Design Sheet visualizes the value creation mechanism, it is also useful to companies when formulating, disclosing, and sharing the IP investment and use strategies described above, and can be used as a tool for the inventory of IP and other intangible assets, as well.

Value design management and the Management Design Sheet are already used by a wide range of organizations, including large corporations, startups, SMEs, universities,

---

<sup>1</sup> The Management Design Sheet is a tool intended as an aid to thinking when companies devise mechanisms for creating value capable of appealing to needs and wants with a view to the future (value creation mechanisms).

and local governments. To promote further use of these tools, the Value Design Management Working Group established within the Intellectual Property Strategy Headquarters formulated the Basic Guidelines for Promoting Wider Use of Value Design Management in April 2021.

These basic guidelines advocate promoting the widespread practice of value design management by creating an ecosystem (Figure 6) composed of corporate executives and other value design management practitioners, along with professionals supporting them in the form of consulting firms, lawyers, patent attorneys, certified administrative procedures legal specialists, and SME management consultants, as well as those providing practical support and encouragement, such as financial institutions and business groups. In other words, ensuring widespread awareness of the utility of value design management and the Management Design Sheet among financial institutions and business groups in contact with the corporate executives who are the actual practitioners could lead to more corporate executives practicing value design management and using the Management Design Sheet.

For example, one conceivable example of their use by a financial institution could be as a means of supporting evaluations of feasibility, with the Management Design Sheet being used to clarify the borrower's management strategy and to facilitate dialogue with the corporate executives based on this.

It is anticipated that such initiatives will lead to more widespread use of value design management and the Management Design Sheet, but the crucial point is practicing value design management, not formal use of the Management Design Sheet.

Combining the Management Design Sheet with local benchmarks and various other support tools offered by the government, e.g., by encouraging their use in a way that taps into the distinctive features of both local benchmarks and the Management Design Sheet, has proven effective and their use in this way is becoming more widespread in practice. The strengthening of collaboration with such tools is also vital.



and formulate strategies that look toward the future.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry; Cabinet  
Office)

## **2. Promoting the strategic use of standards aimed at expanding markets where Japan has an advantage**

### **(1) Combined efforts by the public and private sectors to promote the focused use of standards**

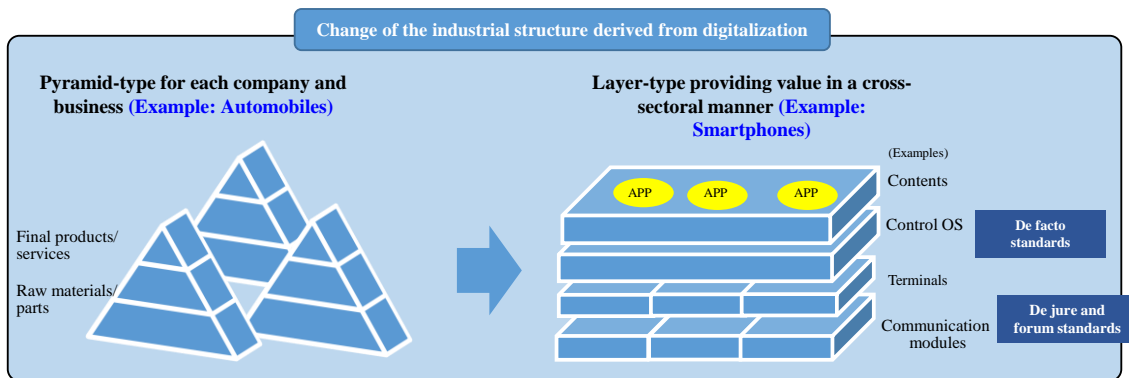
#### **(Current Situation and Challenges)**

##### **<Architecture design and layering>**

In recent years, the social implementation of scientific and technological innovation to bring to fruition Society 5.0, DX, next generation social infrastructure development, and a carbon-neutral society has become a pressing issue, as has the strategic use of standards as the backbone of corporate management to capture international markets amid global competition. In particular, with the COVID-19 pandemic suddenly accelerating social and economic transformation via digitalization, standards strategies will be essential to rapidly convert Japan into an economy and society compatible with the new normal.

As digital technology advances, the delivery of new value by connecting everything to networks and linking these to an even greater range of devices and services is taking center stage in economic activities. Against this background, companies are increasingly pursuing initiatives focused on shaping ecosystems. Specifically, in pursuing the social implementation of an innovation, a company seeks to realize service value across its entire model by firstly developing and building consensus on the architecture (i.e. the blueprint for constructing the service model), defining the functional services into which the service model for delivering value services that resolve social issues will be broken down, and identifying how those functional services will be integrated and linked to each other to create value. Then, based on this, it standardizes the conditions for connecting the functionally decomposed services to each other and their mutual requirements, and other companies participating in the service model predicated on this standardization provide the services in which the initial company has an advantage by complying with the standards set by that initial company.

Furthermore, the advance of digitalization is bringing about a shift away from the conventional discrete pyramid-type value chain systems for each product and service, company, and business type, reorganizing the component functions for delivering products and services into cross-cutting functional layers that transcend existing concepts. And the freedom to link these layers as one pleases is transforming the industrial structure into a networked system that successfully delivers value.



**Figure 7: Change of the industrial structure derived from digitalization**

One factor behind the incredible speed at which the growth of advanced U.S. and Chinese corporate behemoths has outstripped that of their competitors is their establishment of business models with a strong awareness of network building. The perspective of network building is of paramount importance if Japanese companies are to avoid being left behind in terms of the speed of their growth.

It is vital for companies to take the initiative in activities aimed at building architecture in order to ensure that networks develop in ways that benefit them and demand proliferates in the realms in which they generate earnings. To this end, companies need to clearly identify the realms they can monetize with differentiating elements backed up with IP, under an open-close strategy, and then to position functional layers to which those realms belong within the architecture.

A key feature of this new service model for the 21st century is the emergence of network externality, in that benefits increase as the number of solutions connected to the network and the number of users thereof grow. Once a particular network ecosystem dominates the market, it becomes difficult to make up lost ground other than by means of bringing about another transformation via a fresh innovation that destroys that model's value. Consequently, building a business model that links multiple solutions and customers from the outset before scaling up is a requirement in order to survive in competition based on the speed of growth, and a standards strategy is a prerequisite for achieving this. In realms where existing profit structure models predominate, a standards strategy will be essential in order to enter markets and create new ones by bringing about a game change through innovation.

Conversely, if the shoe is on the other foot, other players' standards strategies could make life difficult if they are put in place under disadvantageous networks and layer structures.

Thus, when companies are competing with each other, it will be their ability to create



a situation in which they have the upper hand by positioning themselves advantageously in a layer in which they excel that will determine whether they force a game change themselves or are forced into it. If, when a company's existing earnings model is exposed to a game change, there is a possibility that the company will be placed at a competitive disadvantage, it will be forced to decide on shifting to a new model ahead of other players, rather than persisting with the existing model, even if it is running smoothly.

Accordingly, standards strategies are the basis of business decisions and are a key item on the agenda for executives worldwide. Senior executives and business division managers from some of the foremost European and Chinese companies are already playing a leading role in international standardization activities, acquiring key posts within international standardization bodies.

These changes in the industrial structure have been progressing for the last decade. Since the mid-2010s, they have been further accelerated by the growing influence of digital platforms, advances in the use of big data, the emergence of deep learning, and the creation of cyber-physical systems. Amid this situation, one could not say that there have been many examples of Japanese companies conquering global markets after proactively changing the game worldwide based on these changes.

There will also be a need to ensure that specifications for government procurement conform to international standards, while exports of agricultural produce and infrastructure systems, among others, will inevitably have to meet safety standards. Accordingly, companies will need to scrutinize trends in international standardization activities and actively work on rule-making, in order to ensure that they are not placed at a disadvantage and can, in fact, design rules for the game that benefit them.

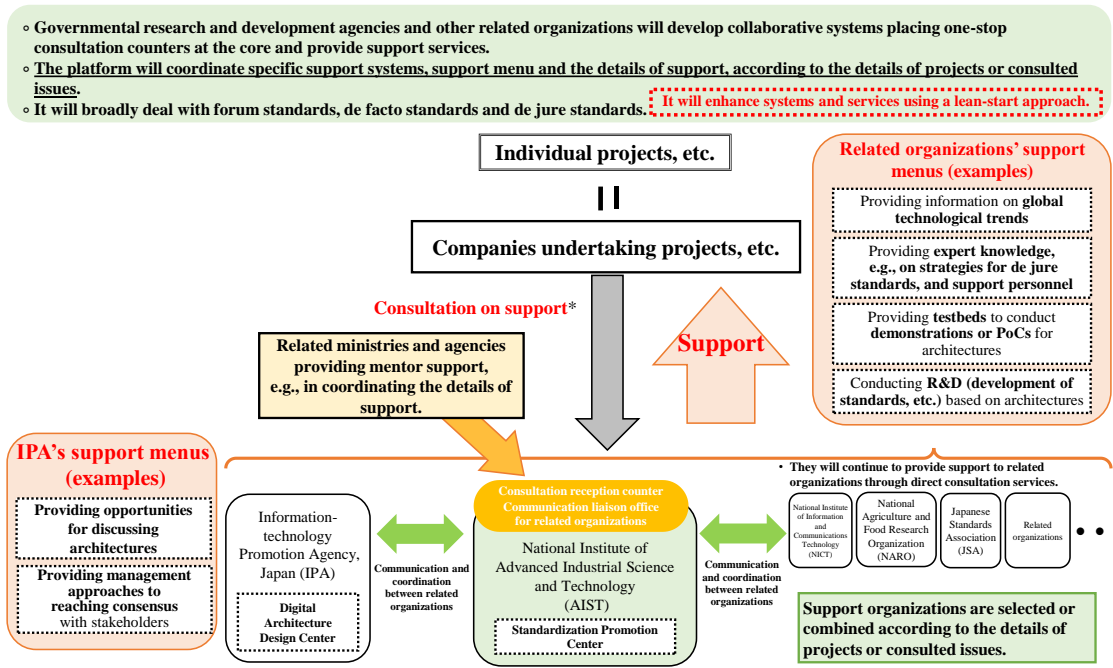
In making use of standards, it will be essential in certain fields to build strategic alliances that transcend corporate or national boundaries. After carefully identifying their competitive and cooperation realms, companies should demonstrate their strengths in competitive realms, while pursuing collaboration across corporate and national boundaries in the strategic use of standards in cooperation realms.

#### **<Public-private collaboration in standards strategies>**

Advanced public-private collaboration initiatives in the area of standards strategies have been underway for some time in other countries. For example, in the U.S., the National Institute of Standards and Technology (NIST) has been involved in formulating standards in domestic standardization organizations and consensus-based standards forums, providing technical knowledge and assessment results, and supporting coordination between private sector stakeholders. In addition, under instructions from the

government, it is examining draft standards in such key fields as smart grids and cyber security, with the involvement of figures from the private sector. NIST's working groups are also important forums for sharing awareness and building consensus on the future direction of the technical fields with which they deal and play an extremely significant role in the global rollout of innovations therein. Similar initiatives are also taking place in China (China National Institute of Standardization and China Academy of Engineering) and Germany (Fraunhofer-Gesellschaft). In Japan, too, it would be desirable to have a public institution modeled on NIST that would play similar functional and support roles, with a platform capable of supporting private sector standards strategy activities and of providing agile support for forums in which stakeholders could discuss specific innovation strategies in key technical fields.

Accordingly, the government has put in place the Service Platform to Support the Use of Standards as a collaborative framework providing a one-stop support service that brings together into a single network relevant organizations including the National Institute of Advanced Industrial Science and Technology (AIST), the Information-technology Promotion Agency (IPA), the National Institute of Information and Communications Technology (NICT), the National Agriculture and Food Research Organization (NARO), and the Japanese Standards Association (JSA). The government's aim in doing so is to facilitate comprehensive coordination of service delivery, including support for design and consensus-building involving the architecture held by National Research and Development Agencies and the like, the provision of knowledge concerning prospects for future trends involving relevant advanced technology, and the provision of testbeds.



**Figure 8: Service Platform to Support the Use of Standards**

Going forward, after reviewing and analyzing the knowledge and user needs identified through the use of this platform, it will be necessary to consider a mechanism akin to a “Japanese version of NIST” that will, in future, take charge of the aforementioned key functional and support roles played by NIST, such as running forums bringing together stakeholders from the worlds of industry, government, and academia, and cultivating and pooling talent with skills in the area of standards strategy, given the difficulty individual companies face in undertaking such human resource development themselves.

In addition, to change ways of thinking at the executive level and raise the overall standard of activities throughout industry, it will be necessary to share awareness of the need to promote the use of standards as a key issue in management strategy by such means as sharing examples of success and failure. The enhancement of personnel and construction of frameworks for public-private collaboration in this area will also be required.

While Japan does have some positive examples, there should be a shared sense of concern about the fact that our nation is lagging behind others overall in the strategic use of standardization activities. For instance, the number of lobbyists and the sums spent by Japanese companies on lobbying are much lower than in Western companies. Furthermore, some Japanese companies have commented that it is becoming difficult to prioritize the allocation of resources to standardization activities, as a realm with a high level of externalities. Due in part to this situation, in not a few cases, experts from universities,

National Research and Development Agencies and other national research institutes participate in standardization activities within international standardization bodies on Japan's behalf, providing representation for the views of industry in doing so. In light of this current situation, it is necessary for industry, government, and academia to pool all the resources they can dedicate, including human resources, and work together organically based on a division of roles to bolster the framework for undertaking international standardization activities, in order to facilitate a strategic national response to the intensification of international standardization activities.

In conjunction with this, strategic responses will need to be strengthened in such areas as enhancing Japan's talent in the field of international standards strategies, improving status and influence through the clarification of career paths, and securing key posts in international standardization bodies and key international forums, as well as chairing technical committees.

#### **<Development of a cross-cutting promotion framework involving all ministries and agencies>**

While standards are a crucial means of boosting competition in international business and accelerating the social implementation of advanced technologies, this is not their actual purpose. It is vital to promote the use of standards as an integrated part of science, technology, and innovation policy, policies aimed at creating a digital society, and associated industrial policies. In line with trends in international competition, it is necessary to expand the scope of the response to encompass not only de jure standards, but also forum standards and de facto standards.

Based on this recognition, during FY2020, the government established control tower functions within the government focused on strategy for the use of standards and enhanced the implementation structure, in accordance with the Intellectual Property Strategic Program 2020, the Integrated Innovation Strategy 2020, and the Basic Policy 2020. The government established the Task Force for Promoting the Use of Standards under the Integrated Innovation Strategy Promotion Council, to serve as the governmental control tower for promoting the strategic use of standards in a way that cuts across ministries and agencies. In doing so, the government has put in place a framework for sharing and implementing unified policy initiatives, policies on developing budgets and other policy resources, policies on strengthening measures to support private sector standards strategies, identification of key strategic fields, and policies on the identification and promotion of priority fields requiring cross-cutting ministerial and agency collaboration.

Moreover, to provide ministries and agencies with support for accelerating key measures, the government has put in place the framework required for implementing the Support Program for Accelerating the Use of Standards, which taps into the budget and management scheme of the Cabinet Office's Public/Private R&D Investment Strategic Expansion Program (PRISM). In addition, it has put in place a system for allocating additional resources to the budget programs of relevant ministries and agencies in an agile manner.

#### **<Selection and support of priority fields>**

Furthermore, having selected Smart Cities and Beyond 5G as priority fields, the government is making preparations to create special teams for each field composed of stakeholders from industry, academia, and government, including representatives of relevant ministries and agencies. These special teams will be established under the Task Force for Promoting the Use of Standards. The Smart Cities team will work with the Smart City Task Force set up under the Innovation Policy Enhancement Promotion Team, which was established at the decision of the Integrated Innovation Strategy Promotion Council. The Beyond 5G team will promote the necessary initiatives in partnership with relevant bodies and organizations, such as the Beyond 5G New Business Strategy Center (secretariat: National Institute of Information and Communications Technology), which was established to work on strategic IP acquisition and standardization, with the involvement of key players from industry, academia, and government.

As well as Smart Cities and Beyond 5G, green growth (hydrogen and ammonia fuel) and smart agriculture and smart food chains have also been selected as priority fields.

In addition, the government is moving forward with preparations for adding international distribution channels and logistics to the list of priority fields.

It will also be necessary to promote the strategic use of standards in individual fields, in parallel with cross-cutting ministry and agency responses such as these.

#### **(Direction of Measures)**

- As a whole-of-government response to promote the strategic international use of standards in Japan, promote public-private efforts focused on priority and specific individual areas involving the strategic international use of standards essential to resolving social issues and capturing international markets, with the Task Force for Promoting the Use of Standards established within the Integrated Innovation Strategy Promotion Council framework playing the core role.

(Short-term, Medium-term) (Cabinet Office; Ministry of Internal Affairs and

Communications; Ministry of Agriculture, Forestry and Fisheries; Ministry of Economy, Trade and Industry; Ministry of Land, Infrastructure Transport and Tourism; relevant ministries and agencies)

- In fields that should be addressed as a priority through efforts that cut across ministries and agencies, provide support to promote the strategic use of standards and accelerate the development of standards and verification of technology, as well as supporting activities required to shape international standards, such as conducting surveys and analysis, and dispatching experts.

(Short-term, Medium-term) (Cabinet Office; Ministry of Internal Affairs and Communications; Ministry of Agriculture, Forestry and Fisheries; Ministry of Economy, Trade and Industry; Ministry of Land, Infrastructure Transport and Tourism; relevant ministries and agencies)

- In light of the policy issues, consider adding international distribution channels and logistics to the list of fields selected as those requiring cross-cutting ministerial and agency efforts as a priority, namely Smart Cities, Beyond 5G, green growth (hydrogen and ammonia fuel), and smart agriculture and smart food chains.

(Short-term, Medium-term) (Cabinet Office; Ministry of Agriculture, Forestry and Fisheries; Ministry of Economy, Trade and Industry; Ministry of Land, Infrastructure Transport and Tourism; relevant ministries and agencies)

- Starting in FY2021, begin dispatching experts and providing testbeds for verification purposes via the Service Platform to Support the Use of Standards, which brings National Research and Development Agencies and other relevant organizations together into a single network, in order to support private sector standards strategy activities.

(Short-term, Medium-term) (Cabinet Office; Ministry of Internal Affairs and Communications; Ministry of Agriculture, Forestry and Fisheries; Ministry of Economy, Trade and Industry; relevant ministries and agencies)

- In FY2021, hold a conference organized as a main body to promote public-private collaboration, to share awareness among the public and private sector of issues relating to national strategy and management strategies for the strategic use of standards, and also to flesh out measures to enhance responses.

(Short-term, Medium-term) (Cabinet Office; relevant ministries and agencies)

- In government research and development projects, ensure strategic initiatives

focused on standards by such means as considering the use of an open-close strategy in project management from the initial stage and conducting ex-post checks of the status of the strategic use of standards.

(Short-term, Medium-term) (Cabinet Office; Ministry of Internal Affairs and Communications; Ministry of Economy, Trade and Industry; relevant ministries and agencies)

- Provide backing for private sector international standards activities and promote the cultivation of outstanding specialist personnel by such means as providing support for training in the knowledge and skills required for international negotiations around international standardization, and for the dispatch of young personnel to committee meetings of international standardization bodies.

(Short-term, Medium-term) (Cabinet Office; Ministry of Internal Affairs and Communications; Ministry of Agriculture, Forestry and Fisheries; Ministry of Economy, Trade and Industry; relevant ministries and agencies)

- Promote the systematic implementation and widespread adoption of the Smart Cities approach in Japan, by such means as building them in regions with open, standardized systems, with reference to the Smart City Reference Architecture and Security Guideline, and considering using Smart Cities as the basis for assessment indicators regarding the shaping of diverse and sustainable cities and regions.

(Short-term, Medium-term) (Cabinet Office; relevant ministries and agencies)

- In partnership with experts in Japanese and overseas standards, promote prioritized and specific individual efforts to use and propose international standards concerning Smart Cities in fields important from the perspective of resolving social issues and capturing international markets, taking into account trends in the use of IP and standards in other countries in the realm of Smart Cities and policy initiatives relating to their strategic international use. In addition, promote their rollout overseas, making use of such initiatives as Smart City supported by Japan ASEAN Mutual Partnership (Smart JAMP), which is a collaborative measure involving relevant ministries and agencies.

(Short-term, Medium-term) (Cabinet Office; Ministry of Land, Infrastructure Transport and Tourism; relevant ministries and agencies)

- Strategically promote initiatives aimed at IP acquisition and international standardization, with the Beyond 5G New Business Strategy Center playing a core role through its function as a center that brings together key players from the worlds of industry, academia, and government. In addition, implement international collaborative research with research institutes in countries and regions that are

strategic partners, to promote international standardization activities from the initial phase of research and development.

(Short-term, Medium-term) (Ministry of Internal Affairs and Communications)

- Ensure that relevant ministries and agencies undertake partnership and cooperation aimed at the strategic use of standards in the fields of agriculture, forestry, fisheries, and food, and promote standardization activities in partnership with relevant incorporated administrative agencies, etc. Moreover, to ensure that standardization needs in each region are met appropriately, build systems for communication, information sharing, and consultation that extend across both horizontal links between relevant organizations at the regional level and vertical links within organizations, such as the headquarters and branches of relevant incorporated administrative agencies.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries; Ministry of Economy, Trade and Industry; relevant ministries and agencies)

## **(2) Strategic acquisition and use of standard-essential patents**

### **(Current Situation and Challenges)**

#### **<Public-private collaboration in the acquisition and use of standard-essential patents>**

With the growing prevalence of IoT technology, which links all kinds of items via communications technology, standard-essential patents (patents essential in implementing communications and other standards) are growing in importance. In order for Japanese companies to capture global markets while leveraging their outstanding technologies, it will be vital to strategically acquire and use standard-essential patents. Although the use of standards can expand markets, there is a risk that the use of standards in the absence of a strategy for how profits will be secured by means of patents and the like could ultimately fail to generate profits or enhance competitiveness for Japanese companies. Accordingly, in moving forward with the use of standards, it is essential to build a strategy that also takes into account the acquisition and use of standard-essential patents to secure profits.

However, Japanese companies are currently not adequately engaging in the strategic acquisition and use of standard-essential patents. For example, they have lagged behind in the competition to obtain standard-essential patents for 5G technology. If this situation continues in next-generation technical fields, not only will Japanese companies progressively lose their earning power and see their competitiveness decline, but Japan



itself will be unable to fully participate in rule-making around standard-essential patents.

Accordingly, it is essential both for Japanese companies to bolster their own competitiveness by strengthening their position as holders of standard-essential patents and for Japan to provide leadership and make its voice heard on the global stage through involvement in rule-making around standard-essential patents. Above all, in the context of Beyond 5G, the public and private sectors will need to come together to work strategically to ensure that Japanese companies proactively acquire standard-essential patents.

#### **<Facilitating licensing negotiations regarding standard-essential patents>**

On the other hand, the permeation of IoT technology through society has exposed inter-industry disputes around standard-essential patents. In particular, the resolution of disputes in inter-industry licensing negotiations tends to be more difficult than when such negotiations involve parties within a single industry. In some cases, it has proven impossible to reach an agreement with the rights holder over which level in the supply chain should be the main party in the licensing negotiations.

In a fair competitive environment, standard-essential patents are a tool for creating an innovation ecosystem that accelerates the social implementation of outstanding technologies, while securing an appropriate return on technology development. There are concerns that the social implementation of outstanding technologies could be delayed, with adverse impacts on investment in further technology development in cases where the failure of licensing negotiations over standard-essential patents between parties in different industries to progress smoothly is due to structural factors. In light of both this and the possibility that those implementing a patented technology might be exposed to the risk of an injunction, the government must seek to improve the situation, to facilitate negotiations between parties.

Rules aimed at the resolution of such disputes over standard-essential patents are currently being formed, with a particular focus on judicial precedents in other countries over the interpretation of FRAND,<sup>2</sup> which is prescribed in the IPR policies of international standardization bodies. As such, the governments of other countries are also among those actively making their voices heard on the subject of approaches to standard-essential patents.<sup>3</sup>

Although few judicial precedents have been amassed as yet in Japan, in June 2018, the JPO published the Guide to Licensing Negotiations Involving Standard Essential Patents. Its objective in doing so was to increase transparency and predictability in standard-essential patent licensing negotiations, to facilitate negotiations between rights holders and those wishing to implement them, and to prevent disputes from arising or ensure that any disputes that do arise are resolved promptly. In light of the importance of IP and standards policies relating to standard-essential patents, Japan should make its voice heard across the globe, becoming more actively involved in rule-making aimed at resolving disputes around standard-essential patents and should also revise the Guide to Licensing Negotiations Involving Standard Essential Patents. In doing so, Japan should take account of recent judicial precedents and trends in other countries, based on a neutral standpoint that gives consideration to a good balance of views from both rights holders and those who implement them. Soliciting views from across the globe as part of the revision process and holding international symposiums are among the approaches likely to be effective in making Japan's voice heard worldwide.

Moreover, to ensure that licensing negotiations around standard-essential patents proceed smoothly, it would be desirable for those involved in the supply chain to discuss and address the burden of remuneration for licenses.<sup>4</sup>

Furthermore, with business models diversifying, deliberations that also take into account approaches to the burden on the part of service providers who use products will likely be required in the future.

---

<sup>2</sup> The policy that licenses for standard-essential patents must be fair, reasonable, and non-discriminatory (FRAND).

<sup>3</sup> Published by the European Commission in November 2020, "Making the most of the EU's innovative potential – An intellectual property action plan to support the EU's recovery and resilience" proposed ways of improving transparency and predictability in standard-essential patent licensing. Subsequently, in February 2021, an expert group put together by the European Commission published a report summarizing a wide range of discussion points relating to standard-essential patents. In addition, in March 2018, the U.S. Department of Justice announced the "New Madison" approach, emphasizing that there is nothing to impede injunctive relief based on standard-essential patents.

<sup>4</sup> Bearing in mind that steps should be taken to ensure that this does not influence the parties' assertions regarding approaches to those with whom they engage in licensing negotiations.

In addition, the following points should be considered in light of global trends, to ensure that licensing negotiations around standard-essential patents can proceed smoothly. Japan should then take the requisite measures and spread the word about them globally.

- Clarifying what constitutes good faith in negotiations

Judicial precedents and the like in other countries have established rules that enable the party wishing to implement a technology to avoid an injunction and make it easier for the rights holder to receive remuneration if negotiations around standard-essential patents are conducted in good faith. Deliberations aimed at further clarification of what kind of responses by negotiating parties may be assessed as a good-faith approach to licensing negotiations should be carried out, to put in place an environment that makes it easier for those wishing to implement a standard technology to use it with peace of mind and for rights holders to receive appropriate remuneration for licensing standard-essential patents.<sup>5</sup>

- Improving transparency around essentiality

As standard-essential patents are registered with international standards bodies via declarations by rights holders, some are regarded as being open to question as to whether they truly are standard-essential patents. In April 2018, the JPO became the first patent office in the world to launch an advisory opinion system for essentiality checks, aimed at increasing transparency in determining the essentiality of standard-essential patents. Deliberations should be undertaken to facilitate the effective use of this system.

- Ensuring transparency in determining remuneration for licensing

While the use by rights holders of a licensing organization offering a one-stop service for the licensing of standard-essential patents both increases the efficiency of negotiations for both parties and can avoid royalty-stacking,<sup>6</sup> those seeking to implement technologies have expressed concerns that such one-stop licensing organizations adopt a unilateral approach to setting remuneration levels for licensing. Accordingly, deliberations should

---

<sup>5</sup> Litigation concerning standard-essential patents in other countries centers on the interpretation of FRAND and whether it means that the holder of a standard-essential patent must license it to everyone wishing to obtain a license (license to all), or whether those wishing to use a standard technology should be guaranteed the ability to access a standard technology (access for all). Ultimately, this is a question that should be left to the judiciary to determine. Approaches to reasonable licensing fees and other license conditions should also be left up to negotiations between the parties or judicial rulings.

<sup>6</sup> It has been pointed out that when multiple patent holders demand royalties individually, these fees mount up and can make the cost of implementing a standard excessively expensive.

be undertaken, aimed at ensuring transparency in remuneration for licensing.

**(Direction of Measures)**

- Undertake deliberations and take steps to enhance the Guide to Licensing Negotiations Involving Standard Essential Patents, taking into account judicial precedents and governmental moves in other countries in regard to such matters as clarifying what constitutes good faith in negotiations, to facilitate licensing negotiations around standard-essential patents. In addition, consider other points of contention around standard-essential patents, taking into account global trends as well, if necessary.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- Promote widespread awareness of the JPO's advisory opinion system to determine standard essentiality to ensure its effective use, in order to improve transparency around the essentiality of standard-essential patents.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

**(3) Enhancing the infrastructure for open-source use**

**(Current Situation and Challenges)**

The use of open source software (OSS) in developing software that becomes a source of added value for a company has become commonplace in recent years. With the IoT becoming prevalent, a growing number of companies in a wide range of fields outside IT are also using OSS when developing new products and services. Furthermore, with data taking on increasing value as a source of competitiveness, OSS is being strategically used as a data-gathering platform.

At the same time, with an ever-broadening base of OSS users, including the use of OSS by companies in fields that hitherto had little connection to IT, there is a need to focus on not only the advantages of OSS, but also its risks, such as security and IP risks. It is crucial to use OSS strategically, based on an awareness of these various risks.

**(Direction of Measures)**

- Work on increasing awareness of the use of OSS by such means as deliberations concerning frameworks for the selection and use of OSS, to facilitate the safe use of OSS.

(Short-term) (Ministry of Economy, Trade and Industry)

- To encourage understanding of the importance of OSS in management (value and

risks), tap into the results summarized in the Study of IP Risks Relating to Open Source Software in the Age of Digitalization and the IoT (April 2020, JPO) to promote greater awareness of OSS among companies.

(Short-term, Medium-term) (Cabinet Office)

### **3. Environmental improvements aimed at encouraging the use of data, which is the 21st century's most important form of IP**

#### **(Current Situation and Challenges)**

#### **<Integrated promotion of data strategy and information asset policy as an IP strategy>**

The digitalization of society has made data a source of knowledge, value, and competitiveness. Recognizing that data is the very foundation of a country's wealth and international competitiveness in a digital society, countries such as the U.S. and the EU have formulated new data strategies and are boldly promoting them.

On the other hand, even while other countries are using digital technologies in their responses to the COVID-19 pandemic, Japan has failed to adequately leverage them, with the result that its response has been neither swift nor accurate.

Data—the most important form of IP in the 21st century—only demonstrates its value as an information asset and increases asset values when it is distributed and used. As such, under these circumstances, one of the most pressing issues for Japan in terms of IP strategy is to put in place an environment conducive to the promotion of data distribution and use.

The requisite environmental enhancements include the development of the platforms required to facilitate data distribution and handling in the first place and of a market for transactions that assign value to data; data handling rules for data distribution and trading; data standards and quality assurance to establish conditions for data trading; and trust infrastructure.

The Intellectual Property Strategic Program 2020 advocated the promotion of such measures as the development of data governance rules.

Positioning digital policy as one of Japan's most important policy issues, the government established the Data Strategy Task Force under the Digital Government Ministers' Meeting in October 2020 and formulated the Comprehensive Data Strategy in June 2021. This strategy states that the government will work on developing the trust infrastructure for ensuring data authenticity and integrity, developing data platforms for creating value through the widespread use of diverse data, and promoting the social implementation of data trading markets and information banks to encourage further data distribution. It also states that, in building data platforms, the government will work on putting in place frameworks for the standardization of data exchange models and data quality control, as well as implementing data handling rules.

The second phase of the Cross-ministerial Strategic Innovation Promotion Program

(SIP) has seen progress in the development of technology for cross-sectional data federation (Connector) with data catalogue search, data exchange, and data sharing agreement functions. The Data Society Alliance (DSA) has been established as a private sector body responsible for its ongoing provision, maintenance, and management. As well as promoting cross-sectional data sharing when it begins operating the portal site through which Connector will be provided sometime in FY2021, the DSA will seek to expand its functions and also serve as a hub for interoperation with international data platforms such as GAIA-X. Data handling rules to encourage data distribution will also be needed in cross-sectional data sharing of this kind.

In demonstrating data's value as an information asset, it is also vital to ensure the free cross-border distribution of data. As the data distribution systems in other countries vary according to their history, national character, industrial competitiveness, political systems, and various other factors, it will be necessary to participate in international rule-making and debate on data distribution in order to flesh out ways of implementing DFFT in such a way as to encourage DFFT. In doing so, international collaboration in the area of data handling rules as key infrastructure for enhancing the environment for data distribution and use will be an extremely important issue.

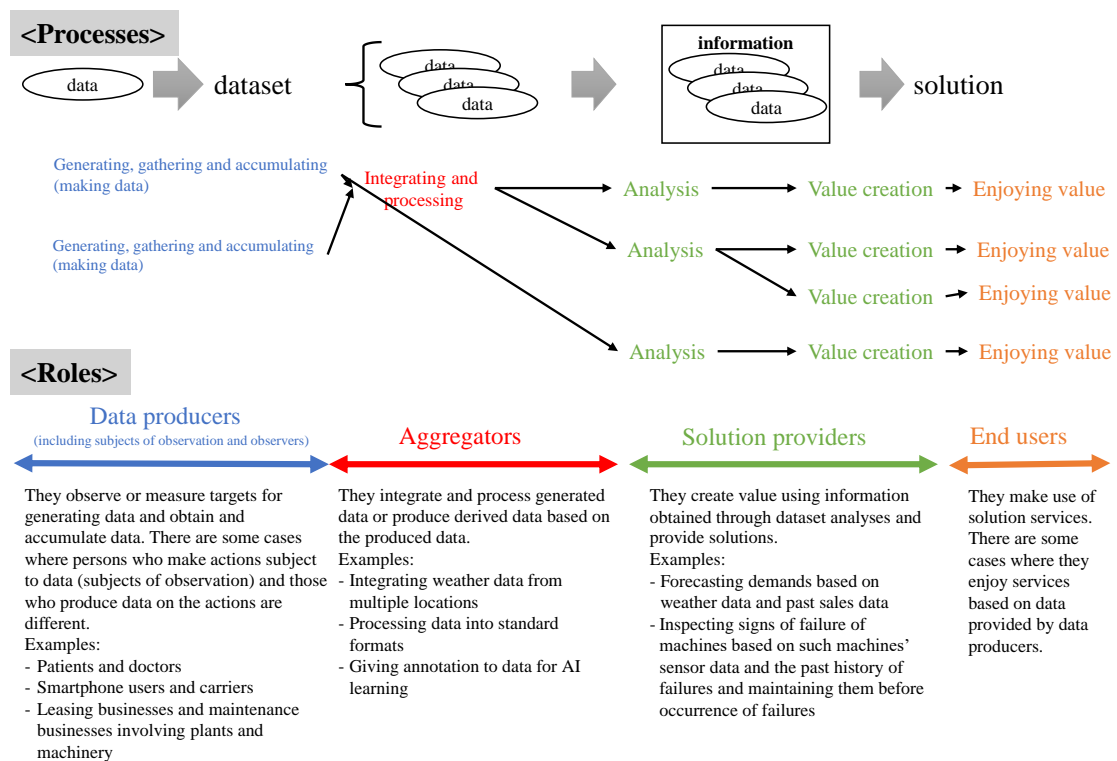
These policy issues are common challenges relating to data strategy as part of the policy for shaping a digital society and will therefore need to be promoted in an integrated manner. It is vital to ensure that investment aimed at the formation of data with value as IP (in other words, information assets) is triggered by the enhancement of the environment for encouraging data distribution and use, so that data capital serving as IP capable of generating new value and earnings is accumulated. Through this, the government will aim to ensure that Japan secures a position in the global vanguard of efforts to amass data capital with value as IP and form the infrastructure and rules for this, particularly in the field of real data.

#### **<Rules for promoting data distribution>**

The development of data governance rules was highlighted as the subject of measures in the Intellectual Property Strategic Program 2020. The First Summary of the Data Strategy Task Force approved by the Digital Government Ministers' Meeting in December 2020 also highlighted the issue as a common topic that should be considered in building platforms and as a subject for deliberations in the context of approaches to the use of data held by the private sector. In FY2020, the Intellectual Property Strategy Promotion Bureau of the Cabinet Office and the IT Strategic Headquarters of the Cabinet Secretariat jointly undertook the following deliberations.

### (a) The need for data handling rules

As numerous people with different roles are involved in the process of creating solutions (value) from data, the varying motivations of these participants make data distribution more complex (Figure 9). More specifically, data providers and data users harbor concerns and anxieties of the kind listed below, which constitute an impediment to data distribution.



**Figure 9: Processes before creating value from data and roles that people involved should play**

1. Use for other purposes by the party to which it is provided (appropriation)
  - Concerns about the possibility that the party to which the data is provided might appropriate technical know-how, details of management status, and management strategies inferred through data analysis
2. Horizontal dissemination of knowledge among competitors
  - Concerns about the possibility that datasets (e.g. parameters for a learned model) or information reflecting manufacturing know-how or management strategy generated from the provided data might be disseminated to competitors.
3. Anxiety over the appropriate handling of personal data



- Anxiety about whether there is sufficient protection for individual rights and interests
  - Anxiety about social media flaming risk resulting from the provision of personal data to third parties
4. Lack of clarity around the interests of stakeholders in regard to the data provided
    - Anxiety about whether the relationships of stakeholder interests have been properly laid out in regard to the data provided
  5. Difficulty of securing inclusion in opportunities to gain remuneration
    - Difficulty in ensuring that data providers properly share in the benefits, as the level of contribution made by the data to the value created is often determined after the event
  6. Anxiety about data governance by the counterpart in the transaction
    - Anxiety that the party to which the data is provided might be deficient in such areas as the handling of personal data (compliance with the Act on the Protection of Personal Information and consideration for privacy), information security measures, and respect for the IP (know-how and copyright works) of others
    - Anxiety about the adequacy of compliance systems put in place by the party to which the data is provided relating to such contract provisions as restrictions on the purpose of use and the prohibition of data provision to third parties
  7. Lack of a fair trading market
    - Lack of a market in which fair transactions are guaranteed by a third party
  8. Adverse impacts due to hoarding of one's own data
    - Concerns that the party to which the data has been provided might restrict one's own access to the data supplied or limit the ability to give consent for access by a third party
    - Concerns that one's own data might be locked in by the party to which the data has been provided

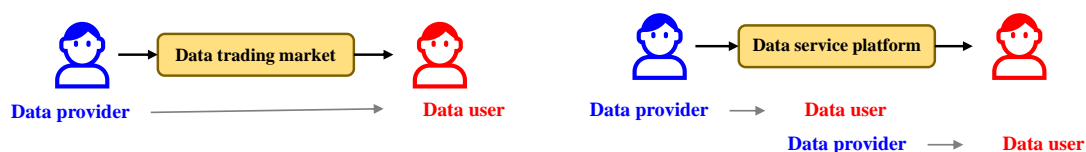
Initiatives implemented to date include the introduction of protection for limited provided data under the 2018 amendment of the Unfair Competition Prevention Act and the formulation of guidelines for the accreditation of the information trust functions required of information banks, as well as the formulation of the Contract Guidelines on Utilization of AI and Data in December 2019 and the 2020 amendment of the Act on the Protection of Personal Information. As data platforms for data distribution and use are put in place, it will be necessary to promote data distribution and ensure it leads to the creation of new value by considering data handling rules that will serve as operational rules for these platforms in order to eradicate impediments, taking into account initiatives to date such as those described above.

### (b) Rules on data handling on data platforms

Although haste is being made to build cross-sectional and field-specific data platforms under the Comprehensive Data Strategy, rules on data handling will be required to encourage data distribution on those platforms.

There are two types of platform involved (Figure 10). The first type are data trading markets serving as intermediaries in data transactions between data providers and data users. These data trading markets will not be a party in transactions and are therefore not part of the value creation process shown in Figure 9. The second type are data service platforms, which gather, accumulate, integrate, process, analyze, and create value from data obtained from others or generated themselves, and then supply it to others (sometimes the party from which the data was originally obtained, sometimes a different party). Data service platforms fulfill one or more of the roles in the value creation process shown in Figure 9, serving as data users from the perspective of the parties from which they obtain data and as data providers from the standpoint of the parties to which they provide it. In other words, data service platforms are parties to data transactions.

In order to dispel concerns and anxieties among parties to data transactions, it is necessary to promote data distribution on platforms by putting in place sets of data handling rules with which data providers, data users, and data trading markets must respectively abide, which will serve as conditions for operating and participating in platforms. To this end, it is imperative that the government first provide support for putting in place data handling rules on the platforms whose development is being undertaken under the SIP, along with other platforms under development.



**Figure 10: Two types of platforms**

### (c) Principles of data handling rules

Although the data handling rules put in place on platforms must be specifically and individually tailored to the nature of the data transactions concerned, the following five principles should serve as common guidelines for data handling rules that will be needed in any data transaction (Figure 11). These form the set of rules required to eradicate the impediments to data distribution mentioned above.

Principles of data handling rules		Targets of rules			Corresponding relationships with the impediments to data distribution (*1)
		Data providers	Data users	Data trading markets	
a	Indication of the interests of stakeholders regarding the data provided	レ			4, 6
b	Introduction of mechanisms to prevent unintended data distribution and use		レ		1, 2, 3, 5, 6,
c	Establishment of data governance	レ	レ	レ	1-8
d	Guarantee of fair data transactions			レ	7
e	Introduction of mechanisms to prevent data lock-in		レ (data service platforms)		8

\*1) Impediments to data distribution

- |  |   |
|--|---|
| 1. Use for other purposes by the party to which it is provided (appropriation)         | 5. Difficulty of securing inclusion in opportunities to gain remuneration |
| 2. Horizontal dissemination of knowledge among competitors                             | 6. Anxiety about data governance by the counterpart in the transaction    |
| 3. Anxiety over the appropriate handling of personal data                              | 7. Lack of a fair trading market  |
| 4. Lack of clarity around the interests of stakeholders in regard to the data provided | 8. Adverse impacts due to hoarding of one's own data                      |

**Figure 11: Principles of data handling rules to eradicate the impediments to data distribution**

a. Indication of the interests of stakeholders regarding the data provided

This is a rule imposed on data providers. This means indicating the history of the data provided, including the interests of the parties involved in the generation of the data in question (including not only the data providers themselves, but also those involved in the generation of data throughout all processes until the data in question reaches the data provider), and how and to what extent those interests have been addressed. Doing so will enable data users to ascertain what kind of considerations are required in the handling of the data they receive.

b. Introduction of mechanisms to prevent unintended data distribution and use

This is a rule imposed on data users. The purpose of this rule is to prevent data distribution and use in ways not intended by the data provider, by such means as obtaining consent after setting out clearly understandable conditions regarding the purposes and ways in which one's own data may be used by any further parties to which it is provided, taking into account the stakeholder interests indicated on the basis of the aforementioned rule a. Data service platforms will need to formulate similar measures regarding not only data received from data providers, but also information about activity by data providers compiled and recorded by the operator of the data service

platform.

c. Establishment of data governance

Establishing proper governance among organizations involved in data transactions is crucial to trust-based data distribution. Consequently, this is a rule imposed on all parties, data providers, data users, and data trading markets alike. Data governance covers a diverse range of matters, including information security, the protection of personal information, privacy safeguards, and respect for the IP of others (e.g. trade secrets and copyright works), so the governance required will vary according to the data that is traded, the nature of the data transaction, and the roles played by the business operators concerned. Accordingly, the purpose of this rule is to encourage the requisite data governance by introducing a requirement to state what kind of governance has been established, as a condition of operating and participating in platforms.

d. Guarantee of fair data transactions

This is a rule imposed on data trading markets. Operators of data trading markets must take the requisite measures to guarantee fair trading from a neutral standpoint, such as guaranteeing that stakeholder interests regarding the data provided have been laid out, clarifying and standardizing contract provisions, and guaranteeing the legitimacy of the trading process.

e. Introduction of mechanisms to prevent data lock-in

This is a rule imposed on the operators of data service platforms. There is concern that, when data service platforms generate a lock-in effect, options for consumers might be limited and the freedom to operate of business operators restricted, with adverse effects on innovation. Data providers are highly concerned that the power relationship in transactions might result in data being hoarded by data service platforms. Accordingly, data service platforms will need to formulate measures to prevent data lock-in, such as developing APIs accessible to the data providers themselves regarding not only data received from them, but also information about activity by data providers compiled and recorded by the operator of the data service platform.

When data trading markets and data service platforms actually put in place data handling rules, they will need to flesh out this set of rules according to the type of data transactions involved. Data transactions can be classified into three types, according to the scope of data provision to third parties: open, shared, and closed (Figure 12).

Types of data transactions	A: Open	B: Shared	C: Closed
Providing personal data to third parties	Providing such data to unspecified other parties is allowed.	Providing such data within the scope of the purpose of use to which the data provider consented is allowed.	No provision is allowed in principle.
Data providers' interests	Broad distribution of this type will lead to advantage for providers, and such provision will cause little disadvantage to them.	Risks potentially caused by data provision are acceptable, and the advantage outweighs the disadvantage if limiting the parties to which it may be provided and the purpose of its use	This type of data is confidential in principle. Data provision is limited to the predetermined scope based on guarantees of adequate control under non-disclosure agreements.
Stakeholders' interests	Stakeholders' interests are considered to have been dealt with.	By limiting the parties to which data may be provided and the purpose of its use, the risk of social media flaming risk via provision to third parties can be controlled.	Due to the difficulty of dealing with such interests, data provision is limited to a limited scope.
Examples of data	Data made available free of charge (e.g., weather data), commercial data (e.g., statistical information based on mobile-phone location information)	Information on the operation of construction machinery and information on transactions via electronic payment	Recipes of chemical manufacturers and design drawings of machine manufacturers
Examples of data distribution platforms /data sharing schemes	Government websites for open data catalogs and Creative Commons licenses	Smart construction platforms, electronic payment platforms and information banks	Factory IoT platforms

**Figure 12: Types of data transactions**

Open data transactions are those in which the data received from a data provider may be provided to unspecified other parties and include not only exchanges of data made available free of charge, but also commercial data provided for a fee.

Shared data transactions are those in which data received from a data provider may be provided within the scope of the purpose of use and parties to which the data provider consented. This could be described as a data transaction that, by limiting the parties to which it may be provided and the purpose of its use, controls the risk of social media flaming risk via provision to third parties.

Closed data transactions are those in which data received from a data provider may not, in principle, be provided to any other parties. This includes situations involving limited disclosure of data classified in principle as strictly confidential, such as technical know-how and confidential matters concerning business management. For example, this includes situations in which the disclosure is based on guarantees of adequate control over the data by the data provider under non-disclosure agreements, as the data must be shared for the purpose of transactions within the supply chain.

The provision of data is less likely to proceed in the absence of adequate control over the data by the data provider in shared data transactions than in open ones, and is also less likely to proceed in closed data transactions than in shared ones. Consequently, for example, looking at the rules described above, rules “a. Indication of the interests of stakeholders regarding the data provided” and “b. Introduction of mechanisms to prevent

unintended data distribution and use” in particular will need to be more rigorous in shared data transactions than in open ones, and more rigorous again in closed data transactions than in shared ones.

### **<Rules for the use of data with a highly public nature>**

While hopes are growing regarding the use of data to contribute to the public good, promoting the use of data with a highly public nature brings with it such challenges as protecting privacy, protecting IP, and securing a return on the investment required for collecting, processing, and accumulating data. This is partly because approaches to common data handling rules for the use of data with a highly public nature have not been clarified. In terms of IP strategy, it is particularly important to consider approaches to data handling rules that promote the use of data with a highly public nature by private sector companies, research institutions, and public services.

The following features can be seen in real-life examples where the use of data in the public interest is being encouraged.

- a. Clarification of social significance (public benefit)  
Ongoing explanations are provided concerning the kind of public benefit anticipated and progress toward achieving this.
- b. Protection of privacy and IP  
The institutional, contractual, and technical measures required to protect the privacy and IP of the data providers and individuals involved in generating the data provided have been put in place.
- c. Prevention of unintended data distribution and use  
The institutional, contractual, and technical measures required to prevent data distribution and use not intended by the data provider have been put in place.
- d. Minimum reasonable data access for the purpose of use  
Data is used to the minimum extent necessary for the public benefit (minimum necessary data, period, and target group).
- e. Reasonableness of the cost burden  
The cost burden takes into account the investment required in generating and providing data, and does not impose an unreasonable cost burden on the data provider.
- f. Establishment of data governance  
The data governance required to make measures a. to e. above effective (including designation of an individual with responsibility, construction of a system, formulation of a data handling policy, formulation and implementation of a human resource

development plan, and appropriate management and supervision of the institutions and contractors overseen) has been established.

g. Understandable and acceptable explanation of data handling methods

Understandable and acceptable explanations of data handling methods and the status of data handling are provided in respect of measures b: to f: above on an ongoing basis to data providers and individuals involved in generating the data.

When actually using data in the public interest, data handling rules tailored to the purpose of the data use are required. The existence of a rule-making framework would facilitate swifter formulation of rules than if data handling rules were drawn up individually from scratch. Consequently, it is important to consider approaches to data handling rules where the data being used is of a highly public nature, taking into account the aforementioned features identified from real-life examples.

**<Creation of data trading markets and triggering of investment in the creation of data worth distributing>**

It would be desirable to ensure a certain degree of predictability regarding the valuation of data, in order to ensure the accumulation of data as an important form of IP that will lead the way for the economy and society of the 21st century. In many cases, data is often generated in a specific format for the specific purposes of a specific entity. However, investing in such areas as coordinating specifications for data observation and the ways in which attribute data will be obtained to facilitate secondary use that meets the needs of other entities, and processing data so that it meets the standard data description format will turn data into a form of IP worth distributing; that is to say, it will become an information asset. To encourage such data investment, it is necessary to ensure there is a prospect of securing a return on this investment. As such, the existence of market functions that clearly indicate the volume of demand and market price would be desirable.

As data does not depreciate as it is shared and used, but rather gains in value, it is more appropriate to think in terms of access rights to which conditions of use are attached to dispel the aforementioned concerns, rather than considering it through the prism of exclusive ownership rights. As such, it is hoped that deliberations and trials aimed at the implementation of a market for trading these access rights will be undertaken.

When it comes to transactions in the interim, it is necessary to consider requirements for market participants from the perspective of developing mature market value formation functions that accurately reflect actual demand. For example, consideration should be given to whether or not participants in these markets should be limited to the parties in

such transactions.

Moreover, to dispel concerns of stakeholders in the data value creation process described in item (a) of <Rules for promoting data distribution> above, this trading market must be equipped with functions for confirming whether the trading market has, in compliance with the principles for rules described in items (b) and (c) above, made preparations and arrangements that accord with the data handling rules that serve as conditions of participation in the market. Also required will be functions for checking usage conditions and concluding agreements between data providers and data users acquiring data access rights in these trading markets, regarding the matters described in the principles of data handling rules set out in Figure 11, such as a. and b. It is envisaged that the aforementioned Connector technology will make it simple to handle such contractual matters electronically.

**(Direction of Measures)**

- Summarize the issues in the priority fields identified in the Comprehensive Data Strategy (health, medical care, and nursing care; education; disaster prevention; agriculture; infrastructure; and Smart Cities) and aim to implement platforms by 2025. In doing so, endeavor to flesh out data handling rules that take into account the mechanisms for guaranteeing the authenticity of data-providing entities and the data itself, data exchange models for ensuring interoperability, mechanisms for guaranteeing the quality of data, and the principles of data handling rules aimed at dispelling the concerns and anxieties of parties in data trading. The Priority Plan for Creating a Digital Society (approved by Cabinet in June 2021. Hereinafter, the “Priority Plan”) designated mobility and ports as quasi-public fields, and electronic invoicing, contracts, and payments as interconnected fields where information system interconnection across industry types is crucial. With regard to these fields as well, endeavor to flesh out data handling rules that take into account the mechanisms for guaranteeing the authenticity of data-providing entities and the data itself, data exchange models for ensuring interoperability, mechanisms for guaranteeing the quality of data, and the principles of data handling rules aimed at dispelling the concerns and anxieties of parties in data trading. Provide encouragement to ensure that similar deliberations take place when building other platforms for data use in private sector fields.  
(Short-term, Medium-term) (Cabinet Secretariat; Cabinet Office; relevant ministries and agencies)
- When examining whether to designate international distribution channels and



logistics as an interconnected field, consider at the same time the challenges to be addressed in building a platform for this field.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry; Cabinet Secretariat; Cabinet Office, Ministry of Agriculture Forestry and Fisheries; Ministry of Land, Infrastructure Transport and Tourism)

- With regard to the aforementioned priority fields and those designated in the Priority Plan as quasi-public and interconnected fields, consider using the end-to-end support programs whose establishment is to be considered under Part 2 2. (8) of the Priority Plan, focused on initiatives in such areas as (i) setting up services to identify and address social issues; (ii) formulating the requisite data standards and putting in place a system of data handling rules; and (iii) designating managers responsible for operations and fleshing out business models.

(Short-term, Medium-term) (Cabinet Secretariat; relevant ministries and agencies)

- When building platforms aimed at cross-sectional data sharing, implement specific data handling rules that take into account mechanisms for guaranteeing the authenticity of data-providing entities and the data itself, data exchange models for ensuring interoperability, mechanisms for guaranteeing the quality of data, and the principles of data handling rules aimed at dispelling the concerns and anxieties of parties in data trading.

(Short-term, Medium-term) (Cabinet Secretariat; Cabinet Office)

- With regard to the matters required to flesh out and implement the mechanisms for guaranteeing the authenticity of data-providing entities and the data itself, data exchange models for ensuring interoperability, mechanisms for guaranteeing the quality of data, and the principles of data handling rules aimed at dispelling the concerns and anxieties of parties in data trading, consider measures that will reflect these matters in policies for putting in place information systems relating to quasi-public fields and for putting in place standards in interconnected fields, as per Part 2 2. (8) of the Priority Plan.

(Short-term, Medium-term) (Cabinet Secretariat; relevant ministries and agencies)

- Prepare Guidance for Developing Data Handling Rules (tentative name) before the end of 2021, to serve as a reference when implementing data handling rules on cross-sectional and field-specific platforms.

(Short-term, Medium-term) (Cabinet Secretariat; Cabinet Office)

- Undertake development efforts to ensure that all functions of the technology for cross-sectional data federation (Connector) with data catalogue search, data

exchange, and data sharing agreement functions become fully operational before the end of 2023 and promote cross-sectional data federation using Connector.

(Short-term, Medium-term) (Cabinet Office)

- Undertake deliberations aimed at the implementation in the early 2020s of a trust accreditation scheme that guarantees the authenticity and integrity of data, while also taking mutual international recognition into account.

(Short-term, Medium-term) (Cabinet Secretariat; relevant ministries and agencies)

- Move forward with the implementation of data trading markets by conducting empirical studies for the purpose of undertaking a needs analysis aimed at creating data trading markets in which the right to access data is traded, considering approaches to setting and disclosing the conditions of data use, standardizing data description formats, and developing contract support functions.

(Short-term, Medium-term) (Cabinet Secretariat; Cabinet Office; Ministry of Internal Affairs and Communications; Ministry of Economy, Trade and Industry; relevant ministries and agencies)

- To promote the social implementation of personal data stores (PDSs) and information banks, undertake trials and deliberations in which the Digital Agency works with relevant ministries and agencies, with the aim of bringing data portability to fruition to encourage the transfer and use of personal data initiated by the individual, taking into account data sharing with local governments and other bodies in quasi-public fields and the amendment of the Act on the Protection of Personal Information. If necessary, also consider the use of information banks in the support programs associated with quasi-public and interconnected fields provided for in Part 2 2. (8) of the Priority Plan.

(Short-term, Medium-term) (Cabinet Secretariat; Cabinet Office; Ministry of Internal Affairs and Communications; Ministry of Economy, Trade and Industry; relevant ministries and agencies)

- Consider approaches to the data handling rules required to promote the use of data with a highly public nature by private sector companies, research institutions, and public services, and reach a conclusion before the end of FY2021.

(Short-term, Medium-term) (Cabinet Secretariat; Cabinet Office)

- To promote cross-border data distribution, consider methods of international collaboration in such areas as trust accreditation schemes for guaranteeing the authenticity and integrity of data required to translate DFFT into reality, frameworks for data exchange standards and quality, and data handling rules.

(Short-term, Medium-term) (Cabinet Secretariat; Cabinet Office; Ministry of

Internal Affairs and Communications; Ministry of Foreign Affairs; Ministry of Economy, Trade and Industry)

- With the aim of encouraging the use of data by Japanese companies both within Japan and overseas, undertake seminars and other activities to raise awareness of the Contract Guidelines on Utilization of AI and Data.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- Taking into account the Guidelines for the Development of Open APIs for Agriculture formulated in FY2020 to facilitate collaboration in the area of agricultural machinery across manufacturer and system boundaries, encourage action by agricultural machinery manufacturers to ensure that the open API for sharing the positional information of tractors and combines is put in place before the end of FY2021.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries)

- Steadily implement initiatives relating to data-based health management reform measures aimed at ensuring that the three action plans published in June 2020 as the Intensive Data Health Reform Plan Tailored to New Daily Lives—(1) Expanding the mechanism enabling medical information to be verified nationwide; (2) Building an electronic prescription mechanism; and (3) Expanding the mechanism enabling individuals to use their own health and medical information—begin operating before the end of FY2022.

(Short-term, Medium-term) (Ministry of Health, Labour and Welfare)

- To position the NII Research Data Cloud as the core platform for research data obtained with public funding following its full-scale launch in FY2020 and to ensure that it is widely used by industry, academia, and government alike, build a system that allows information concerning research data (metadata) to be searched. To this end, promote the formulation of data policies at universities, Inter-University Research Institute Corporations, National Research and Development Agencies, and other institutions conducting research and development, and also promote the recording of their research data in institutional repositories. In addition, introduce data management plans (DMPs) for all new applications for public research funding, along with a mechanism for assigning metadata linked to these DMPs.

(Short-term, Medium-term) (Cabinet Office; Ministry of Education, Culture, Sports, Science and Technology; relevant ministries and agencies)

#### **4. A content strategy suited to the digital age**

Within the field of content, events and entertainment continue to suffer particularly severe impacts as a result of the COVID-19 pandemic. A full range of ongoing support measures is required to enable stakeholders in events and entertainment to continue their activities once COVID-19 has been brought under control. On the other hand, it is a fact that the pandemic has brought about a major expansion in demand for games, electronic books, and video streaming services driven by stay-at-home consumption. The question of whether this becomes the catalyst for DX in the content field is likely to be key to future growth in this field. As stated in (1), digitalization and network building are inevitable, irreversible currents that have been global trends since before the pandemic began. It would be fair to say that the COVID-19 pandemic is an historic turning point in the sense that it has accelerated this tendency.

Worldwide, existing media and content business operators are seeking to pivot their businesses toward a greater emphasis on streaming, with the objective of vying with global platforms. On the other hand, Japanese content producers are forging closer ties with global platforms.

While it is anticipated that content will play a part in supporting the Japanese economy as a whole as an intermediate good in the digital economy, in addition to its value in its own right, some have pointed out that the content industry faces some major challenges. Quite a few of the industries in Japan's content production environment are based on a subcontracting structure and many of the creators involved in making content are freelancers not affiliated to individual companies. Some have pointed out that profits arising from the success of a piece of content are not necessarily reflected on the ground, due in part to problems with business practices in this kind of setting, such as vagueness in the attribution of copyright and other rights, resulting from the fact that purchase orders and contracts are not exchanged. Concern has also been expressed about an exodus of talent from the content industry, due to its overall failure to improve productivity and competitiveness. Among the issues cited as factors behind this are low productivity and long working hours due to delays in the digitalization of the production environment, and a lack of opportunities for human resource development. While global content markets are growing significantly, Japan's presence is declining in relative terms, apart from in certain fields. Amid this situation, some have noted the need for Japan to break away from its business model predicated on the domestic market and embark on further expansion into global markets.

The establishment of a content creation ecosystem that includes structural reforms of

the content industry is a pressing issue, if Japan is to ensure that the nation's content industry continues to produce high-quality content beloved worldwide, thereby bolstering Japan's soft power. After rethinking the positioning and importance of the content industry, it will be vital to steadily implement the requisite measures, taking into consideration a vision for how the industry should look 10 or 20 years hence. If nothing else, the term "DX" has gained a certain degree of currency in Japanese society. Today, industry transformation predicated on DX (hereinafter "IX") is actually getting underway in almost all industries. With IX also bearing down on the content industry, the question is how the industry will ride it out and turn it into an opportunity to win. It is necessary to reconfirm Japan's standpoint and formulate a prudent strategy, while also keeping the global map in mind.

## **(1) Content strategy for the digital age and reform of the copyright system and related policies**

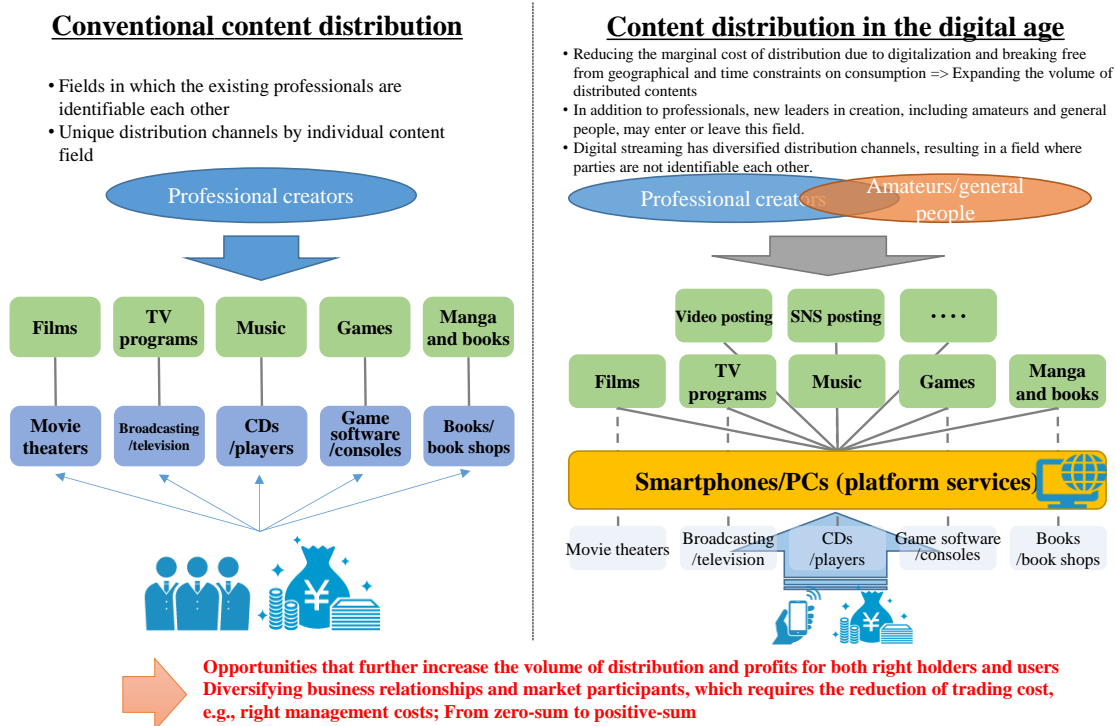
### **(Current Situation and Challenges)**

The Intellectual Property Strategic Program 2020 states that, with the aim of encouraging the distribution and use of content in the digital age, relevant policy approaches will be considered, including tailoring the copyright system to reality, particularly approaches to new business creation and the management of rights and distribution of profits in respect of copyright works, along with efforts to facilitate access to content not available in the market. The Task Force Examining Approaches to the Copyright System and Related Policies in the Digital Age established under the Intellectual Property Strategy Headquarters considered these matters and set out the following awareness of the issues and direction of policy deliberations in an interim summary published in March 2021.

Due to advances in digitalization and network building, the environment around the content industry has changed significantly. Among the relevant developments are the prevalence of smartphones, widespread adoption of content production solutions arising from technological innovation, the resultant expansion in participation in content production markets by consumers and the general public, an increase in the volume of data that can be transmitted, and the emergence of platform services. The spread of COVID-19 is shifting the realm of people's activities from physical to digital spaces, while factors such as the expansion of business models predicated on the internet is further accelerating such changes.

Looking at distribution, while content such as anime, manga, film, and music have

conventionally been distributed via discrete channels, distribution via the internet is becoming the mainstream today. In a growing number of cases, a single piece of original IP, such as a manga, is used in a multiplicity of ways, with spinoffs in the form of screen productions, games, and live events, among others. Furthermore, the use of fingerprints, AI, blockchain, and other new technologies is facilitating more precise understanding and management of the reality of content distribution.



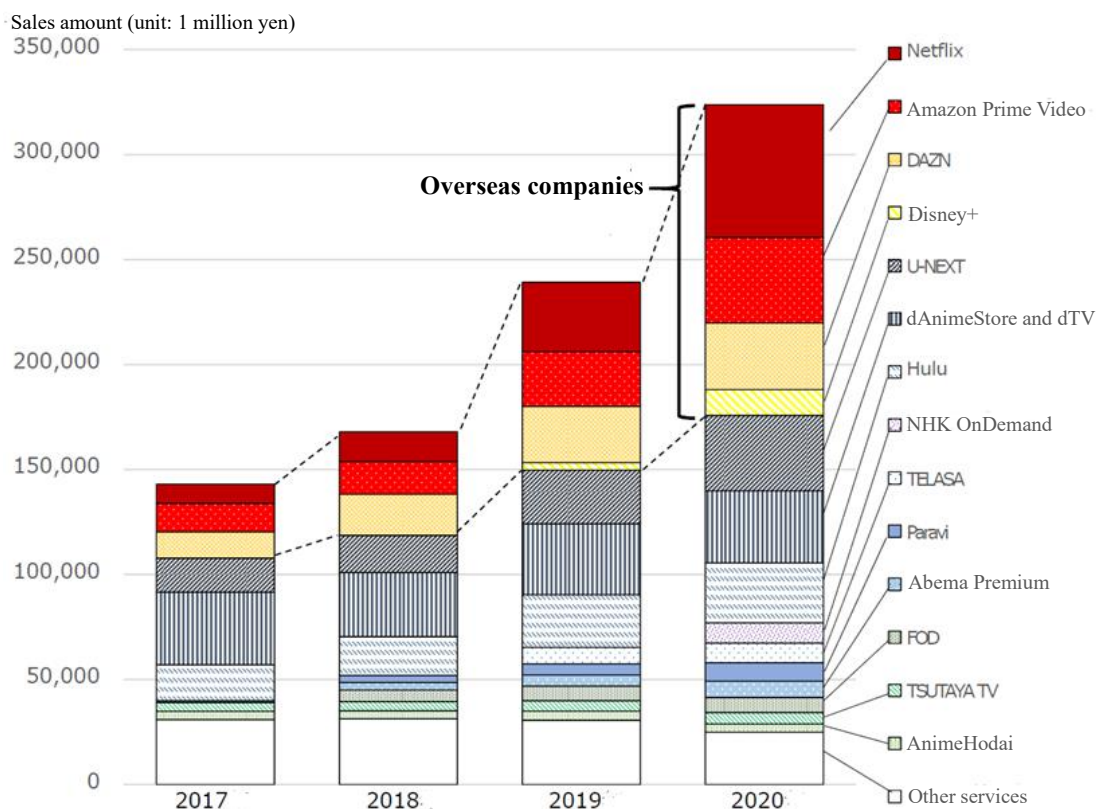
**Figure 13: Changes in distribution markets derived from digitalization**

In conjunction with this, the mode of content consumption, too, is shifting to online viewing/listening/reading from the purchase of physical books and DVDs and the viewing of terrestrial TV. In the case of video posting services allowing two-way communication, the creation of content is becoming a tool for self-expression and a medium for communication via such posts.

Furthermore, the reduction in the marginal cost of creation and transmission resulting from technological progress is bringing about explosive growth in the volume of content distributed. Moreover, with the widespread adoption of content creation and editing solutions expanding opportunities for amateur creators to create and disseminate their work, developments being seen include amateur creators turning professional, the commercial use of user-generated content (UGC), and an increase in derivative works.

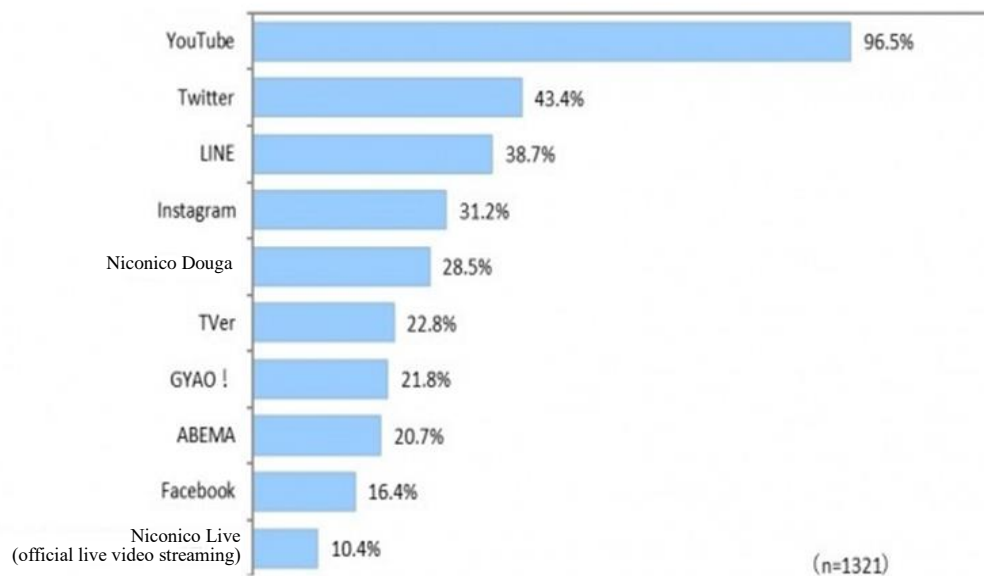
In addition, global streaming platform services have caused expansion in content

distribution markets on a global scale. Platform operators are also entering the content production field, armed with powerful weapons in the form of an unparalleled capital base due to customer retention and data on consumer preferences. Existing approaches to the media content industry are beginning to be called into question, including the need for innovative change in the industrial structure in response to these moves.



Source: "Report on the 5-year Forecast of Video On Demand (VOD) Market," GEM Partners

**Figure 14: Changes in market sales of subscription video-streaming services**



Source: “Top-10 Free Video Platforms Frequently Accessed,” an excerpt from the “Internet Video Research Report 2020” (July 2020), Impress Corporation.

**Figure 15: Current situations of free video service users**

Along with the emergence of global platform services, changes in the distribution environment, consumption trends, and the creation environment driven by these advances in digitalization and network building are increasing the value of content. In other words, aside from content’s value in its own right, it has also acquired value as an intermediate good for integrating users into the digital consumption and distribution ecosystem and developing the data-driven economy, with content positioned as a tool for gathering data and retaining consumers, for instance.

Given Japan’s abundant cultural resources, this kind of environmental change is a golden opportunity to expand the mutual benefits for rights holders, rights users and the national economy. To maximize these favorable socioeconomic opportunities, it is vital to build an ecosystem that encourages the use of content, while ensuring that high-quality content is produced sustainably, with appropriate remuneration returned to creators. To this end, it will be necessary to draw up a work schedule aimed at establishing a copyright system for the digital age and plan how to put in place the relevant institutional environment, including devising new ways of reducing transaction costs such as the time required for rights management in a manner compatible with protecting the rights of rights holders.

In particular, the Task Force’s interim report compared and analyzed options for institutional reforms to facilitate integrated rights management to enable the



comprehensive, swift, and smooth use of a vast, diverse array of copyright works—including material not managed by a specific organization, such as past content, UGC, and orphan works—amid the remarkable quantitative and qualitative changes in the distribution of content currently being driven by digitalization and network building. Specifically, these four options are (1) limited rights to receive remuneration; (2) a mixed system of central management and limited rights to receive remuneration; (3) extended collective licensing; and (4) a fundamental revision of the compulsory license system. Based on this comparative analysis, the Task Force states that the structural changes and issues involving the content industry at present need to be addressed by undertaking institutional reforms that substantially satisfy a number of conditions, including the following.

- a) Ensuring that structural changes and issues can be addressed by applying optimal measures and procedures tailored to the field and purpose.
- b) Facilitating integrated management, while also being alert to the issue of respect for the wishes of users.
- c) Ensuring that decisions on remuneration are swift and reasonable in light of the market.
- d) Ensuring that barriers to rights management can be resolved swiftly and appropriately in light of their social significance and reasonableness.

It is also necessary to set out the roles to be played by platform operators in the protection and management of rights. In creating a sound ecosystem, it is essential to ensure that creators and content producers can enjoy fair profits as a result of the use and success of their work. Developing this kind of environment to facilitate the sustainable creation of high-quality content is vital in order to tap into fast-growing overseas markets.

Finally, with content usage formats becoming increasingly diverse as information and communications technology advances and becomes more widespread, some have pointed out that a legislative response alone is not sufficient to keep up when a response to new usage formats is required. Furthermore, recent years have seen a growing need to build consensus with platform operators and other new stakeholders. In this situation, there are cases in which it may be effective to use soft law such as guidelines formulated through discussion involving multiple stakeholders, as described in 6. (1). Where stakeholder discussions fail to achieve progress, amassing individual examples of success in resolving cases through dispute resolution mechanisms is another effective approach. Reflecting judgments amassed through dispute resolution mechanisms in soft law is also meaningful. When designing a soft lawmaking process of this kind, there are cases in which the

direction of discussions involving only a limited range of parties may deviate from requirements arising from wide-ranging socioeconomic benefits, so promoting consensus building among the parties with the involvement of third parties such as government organizations or experts may be necessary.

**(Direction of Measures)**

- Prepare a work schedule aimed at establishing a copyright system for the digital age.  
(Short-term, Medium-term) (Cabinet Office; Ministry of Internal Affairs and Communications; Ministry of Education, Culture, Sports, Science and Technology; Ministry of Economy, Trade and Industry)
- The Agency for Cultural Affairs will seek to ensure compatibility between facilitating the use of copyright works and returning appropriate remuneration to rights holders, taking into account the structural changes surrounding content markets arising from advances in and widespread use of digital technology. To this end, it will seek to put in place a system for simple, integrated rights management of a vast, diverse array of copyright works—including material not centrally managed by a specific organization, such as past content, UGC, and orphan works—that allows for a variety of usage situations, based on systems such as the extended collective licensing system. In this process, with the cooperation of the Cabinet Office (Intellectual Property Strategy Promotion Bureau), Ministry of Economy, Trade and Industry, and Ministry of Internal Affairs and Communications, the Council for Cultural Affairs will undertake deliberations while securing a consensus among creators and other rights holders, users, and business operators, in order to reach a conclusion before the end of 2021, and will implement the requisite measures in FY2022.  
(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology; Cabinet Office; Ministry of Internal Affairs and Communications; Ministry of Economy, Trade and Industry)
- The relevant ministries and agencies will, taking into account stakeholder needs, work together to implement the measures required to promote the use of technology that helps to facilitate rights management and the return of remuneration, and encourage the use of rights holder information databases. In the music field, further efforts will be made to enhance platforms assisting in rights management by using existing rights information databases to record rights information about individual creators who have not entrusted their copyright or other rights to a rights manager.  
(Short-term, Medium-term) (Cabinet Office; Ministry of Internal Affairs and Communications; Ministry of Education, Culture, Sports, Science and Technology;

Ministry of Economy, Trade and Industry)

- Conduct studies to ascertain the usage status of copyright works and the reality of protection for the interests of rights holders on posting sites and other platforms.

(Short-term, Medium-term) (Cabinet Office; relevant ministries and agencies)

- The diversification of distribution channels due to digitalization has put in place an environment enabling content to be disseminated overseas, bringing opportunities to access overseas content markets. As such, investigate issues relating to copyright in the overseas expansion of Japanese content tailored to the digital age, and support efforts to increase earnings from the overseas use of copyright works by such means as enhancing the functions of centralized copyright management organizations in the Asia-Pacific region via the World Intellectual Property Organization's (WIPO) financial contribution program. In addition, consider further support measures, such as collaboration with relevant organizations with a view to the overseas expansion of copyright works.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology)

- The growing prevalence of social media has made it easy for anyone to create, disseminate, and use copyright works, giving rise to a situation in which all members of the public routinely come into contact with copyright works. As such, further enhance not only IP creation education initiatives, but also efforts focused on education and raising awareness of approaches to the copyright system and contracts.

(Short-term, Medium-term) (Cabinet Office; Ministry of Education, Culture, Sports, Science and Technology)

- To support contracts relating to the use of copyright works, restructure the Web System for Copyright Protection, which provides a standard template for contracts. In addition, support freelance creators who are not necessarily well-acquainted with copyright by preparing a manual of basic knowledge and considerations regarding copyright contracts, and ensure widespread awareness of this manual among such creators.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology)

- Ensure widespread awareness of guidelines and support measures that contribute to ensuring appropriate transactions in content production and improving the employment environment, and also conduct a survey of the status of compliance with the guidelines. In the film industry, conduct a fact-finding survey regarding the establishment of mechanisms such as certification systems for ensuring appropriate

transactions, along with the acquisition and display of such certification by producers.

(Short-term, Medium-term)(Cabinet Secretariat; Japan Fair Trade Commission;  
Ministry of Health, Labour and Welfare; Ministry of Internal Affairs and  
Communications; Ministry of Economy, Trade and Industry)

- Move forward with initiatives aimed at ascertaining the actual status of activities by freelance artists and others involved in art and culture who have been impacted by the pandemic, along with initiatives aimed at improving the business environment in this field.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and  
Technology)

- With regard to the amendment of the Copyright Act to facilitate rights management in respect of simultaneous streaming and the like, steadily make preparations aimed at the amended act's smooth entry into force, such as drawing up guidelines, while also giving full consideration to the wishes of stakeholders.

(Short-term) (Ministry of Internal Affairs and Communications; Ministry of  
Education, Culture, Sports, Science and Technology)

- Enhance educational programs contributing to the upskilling of creators and production staff who support the content industry, along with opportunities for cultivating management personnel and practical on-the-job training opportunities. In addition, seek to cultivate personnel capable of procuring funding for and managing the production of content for overseas markets.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and  
Technology; Ministry of Economy, Trade and Industry)

- To establish an ecosystem in which the content industry develops sustainably, encourage the development and trial of systems contributing to greater efficiency in content production and distribution processes. In addition, seek to improve productivity in content production and encourage distribution from the perspective of the entire supply chain.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- As well as promoting the creation of content that uses technology offering an expanded customer experience, ensure widespread awareness of content with diversified revenue channels and establish new revenue models for the industry as a whole.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- By supporting businesses producing videos with a storyline that evokes customer

empathy with a view to digital streaming for branding purposes (branded content), encourage the use of video that contributes to corporate branding and seek to create a new distribution market for content, thereby broadening the base of content production.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- To capture growing overseas demand and expand the market for content originating in Japan, support localization (translation, etc.) and promotional activities aimed at overseas business expansion in the field of content, including the transmission of videos recorded at live music and theater performances.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- Provide Japanese dramas, anime, documentaries, films, variety shows, and other broadcast content free of charge to countries and regions where efforts to broadcast Japanese television programs on a commercial basis have failed to make headway, and broadcast or stream programs in those countries and regions in order to promote understanding of Japan, foster pro-Japanese sentiment, and lay the foundations for future commercial expansion into those countries and regions.

(Short-term, Medium-term) (Ministry of Foreign Affairs)

- To spread the word about the attractions of regional Japan, use the internet and other means effectively to expand broadcast content overseas via collaboration with the Broadcast Program Export Association of Japan (BEAJ), broadcasting stations, relevant ministries and agencies, local governments, and local industry, among others, taking into account the growth in video streaming and other developments in the diversification of the global viewing environment, as well as changes in the need to disseminate information within Japan.

(Short-term, Medium-term) (Ministry of Internal Affairs and Communications)

- To ensure that appropriate remuneration is fed back to creators, leading to further content production, move forward with consideration of new measures for feeding back remuneration in the digital age and measures to support and cultivate creators. In addition, regarding the private copying levy system, reach a conclusion on the identification of the specific equipment covered that takes account of the reality of private recording as a transitional measure until new measures for feeding back remuneration are put in place, and implement the necessary measures as soon as possible.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology; Cabinet Office; Ministry of Internal Affairs and Communications; Ministry of Economy, Trade and Industry)

- Promote the development of the environment required for the sound development of the e-sports industry, including moving forward with deliberations by relevant ministries and agencies concerning the positioning of e-sports in relevant systems and policy fields.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry; relevant ministries and agencies)

## **(2) Initiatives to support the content creation ecosystem**

### **(i) Enhancing measures to combat counterfeit goods and piracy**

#### **(Current Situation and Challenges)**

It has been pointed out that, exacerbated in part by stay-at-home demand driven by the pandemic, the damage caused by piracy sites is escalating, with access to several huge piracy sites exceeding levels seen during the heyday of the Manga-Mura website previously identified as a problem. Taking appropriate measures to combat pirate copies constitutes an important element in efforts to build a creation ecosystem, as it enables creators and others employed in the content industry to receive remuneration via the consumption of authorized content. In addition, such efforts are closely connected to the CJ Strategy, as increasing opportunities for overseas users to consume authorized content will assist in speeding up the expansion of Japan-related authorized content into overseas markets. Factors such as the growth in use of electronic books and video streaming services triggered by the pandemic have accelerated the pace of DX in the content field. To ensure that creators and content business operators can enjoy the benefits of this change to the fullest, the issue of piracy must be tackled as a key issue for government.

The Menu of Comprehensive Measures against Piracy Distributed Online and Time Schedule of the Measures published in October 2019 was updated in April 2021 to reflect the progress status of each initiative. Among the measures positioned in the menu as the first stage, which focuses on steadily implementing those measures that can be undertaken immediately, are taking advantage of bilateral discussions and various international conferences to further enhance international collaboration and enforcement, and cracking down on egregious leech sites following the enactment and entry into force of the amended Copyright Act. The introduction to anti-virus software of access prevention functions and the reinforcement of efforts to identify those disseminating such material are positioned among the second-stage measures, which are focused on preparing for introduction and legislation. Blocking is positioned as one of the third stage measures, which are to be considered while examining the effects of other initiatives and the extent

of the damage being done.

As well as continuing to enforce a strict crackdown, it will be necessary to enhance the government-wide response in the area of measures to combat counterfeiting and piracy, taking into account the status of these initiatives, while also supporting private sector initiatives.

**(Direction of Measures)**

- To prevent the damage caused by online piracy from escalating, implement the necessary initiatives in partnership with relevant ministries and agencies, based on the Menu of Comprehensive Measures against Piracy Distributed Online and Time Schedule of the Measures updated in April 2021, while also verifying the extent of the damage and the effects of the measures.

(Short-term, Medium-term) (Cabinet Office; National Police Agency; Ministry of Internal Affairs and Communications; Ministry of Justice; Ministry of Foreign Affairs; Ministry of Education, Culture, Sports, Science and Technology; Ministry of Economy, Trade and Industry)

- Promote awareness activities by ministries and agencies, and by relevant organizations, such as effective awareness activities using online content from which the public can learn about copyright, in order to foster a deep-seated sense of discipline among the public to ensure that they do not tolerate counterfeit and pirated items, including infringed content, based on the awareness that purchasing counterfeit and pirated items, and inadvertently consuming infringed content benefits the infringing party.

(Short-term, Medium-term) (National Police Agency; Consumer Affairs Agency; Ministry of Finance; Ministry of Education, Culture, Sports, Science and Technology; Ministry of Agriculture, Forestry and Fisheries; Ministry of Economy, Trade and Industry)

- To address the growing influx of counterfeit and pirated items arising from advances in cross-border electronic commerce (e-commerce), continue to enforce a strict crackdown on items of this kind imported in the guise of goods for personal use. The Diet has approved and promulgated amendments to the Trademark Act and the Design Act that position acts in which overseas business operators bring counterfeit items into Japan by postal or other means as an infringement of trademark rights. Accordingly, while enforcing these amendments, consider such measures as

amending the Customs Act and other legislation to facilitate effective border enforcement against the infringing items in question and take the requisite measures. In addition, consider matters concerning other intellectual property rights as needed.

(Short-term, Medium-term) (Ministry of Finance; Ministry of Economy, Trade and Industry; Ministry of Education, Culture, Sports, Science and Technology)

## **(ii) Creating a digital archive society**

### **(Current Situation and Challenges)**

Digital archives have a foundational role in supporting intellectual activity both now and in the future by facilitating the efficient sharing of society's knowledge and cultural and historical resources, as well as enabling them to be passed on to future generations.

While latent demand for various digital archive resources has recently been exposed by the impact of COVID-19, the situation has also brought to the fore such issues as the fact that digital technology is not being fully used on the front lines of education and public services. With the whole world in the grip of a paradigm shift and various activities moving into digital spaces without geographical or time constraints, it is vital to address these issues and to strive to create a digital archive society in which open digital content is routinely used and becomes the bedrock sustaining creative activities in various fields.

Promoting the building, sharing, and use of digital archives in Japan is an initiative that will lay the foundations not only for preserving and developing culture and passing it on to future generations, but also for the secondary use of content and the dissemination of information both within Japan and overseas. Above all, there are hopes that diverse digital content will see greater use in education, academic research, tourism, regional revitalization, disaster prevention, health care, business, and a variety of other fields via Japan Search, a platform providing cross-sectoral metadata for digital content. Providing metadata for a diverse array of Japanese content that can be searched, browsed, and used in aggregate, the full version of Japan Search was launched in August 2020. It also serves as a platform underpinning the very foundations of the digital archive sharing and use cycle, and is expected to see significant growth in the future as further digital archives are established.

The Digital Archive Japan Promotion Committee and Practitioner Review Committee have undertaken ongoing discussions concerning practical issues relating to the construction and use of digital archives in various fields, and published a three-year summary report in August 2020. These discussions resulted in the following documents being put together, to support initiatives by archive organizations: Desirable Approaches



to Displaying Conditions for Secondary Use in Digital Archives (April 2019); Guidelines for Long-Term Storage for Digital Archives (August 2020); and the Digital Archive Assessment Tool (revised edition) (August 2020), which serves as a set of indicators for self-assessment.

Along with the further augmentation of digital content in various fields, the outstanding issues that should be tackled include support for and collaboration with regional archive organizations (such as local museums and art museums, libraries, public archives, and universities and research institutes), and partnerships with overseas organizations. It will be important to make further progress in the digital archiving of Japan's diverse array of cultural resources and to promote efforts to put in place an environment conducive to the wide-ranging use of digital content.

### **(Direction of Measures)**

- Pursue further partnerships and enhancements to facilitate comprehensive navigation of various digital information resources on Japan Search, which is a platform enabling information concerning Japan's diverse array of content to be searched, browsed, and used in aggregate. In particular, promote collaboration with digital archives of regional cultural resources. In addition, establish usage models based on the content shared via Japan Search for various fields and themes, including education, academic research, and regional revitalization, as well as seeking to expand opportunities for its use and bolster efforts to spread the word about it overseas.

(Short-term, Medium-term) (Cabinet Office; National Diet Library;<sup>7</sup> relevant ministries and agencies)

- Via the Digital Archive Japan Promotion Committee and Practitioner Review Committee, consider issues concerning the construction and use of digital archives, starting with measures for developing Japan Search as a platform for the use of digital archives, and reflect the findings in specific initiatives.

(Short-term, Medium-term) (Cabinet Office; National Diet Library; relevant ministries and agencies)

- As well as striving to further augment digital content in each field, promote further use where possible, by such means as using digitally archived content for online streaming and seeking to monetize it through overseas deployment.

(Short-term, Medium-term) (Cabinet Secretariat; Cabinet Office; Ministry of

---

<sup>7</sup> Although the National Diet Library belongs to the legislature, it is listed among the ministries and agencies in charge under the Intellectual Property Strategic Program 2020 for the purpose of convenience, since measures concerning digital archives are to be addressed by the whole government and the institution in question plays an important role in this.

Internal Affairs and Communications; Ministry of Education, Culture, Sports, Science and Technology; Ministry of Economy, Trade and Industry; Ministry of Land, Infrastructure Transport and Tourism; National Diet Library)

- As well as supporting the preservation and use by research institutions and the like of works of media art such as manga, anime, and video games, move forward with the development of information hubs and create forums for disseminating content linked to Japan Search, and also promote mutual induction by users.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology)

- In light of the amendment of the Copyright Act relating to the revision of the flexible rights limitation for libraries, steadily move forward with preparations to facilitate its entry into force, by such means as engaging in discussions with interested parties concerning its detailed operation and preparing guidelines. With regard to the creation of a flexible rights limitation for research purposes, conduct research to gain a more detailed understanding of the reality of the use of copyright works by researchers within Japan and their usage needs. Then, based on the results, move forward with deliberations, while giving full consideration to protecting the interests of rights holders.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology; National Diet Library<sup>8</sup>)

### **(iii) Supporting screen productions by improving the location shooting environment**

#### **(Current Situation and Challenges)**

As composite arts that incorporate various elements, including the manga or novels on which they are based, as well as music and fine art, screen productions such as movies and broadcast programs are a key cornerstone of content and also play a major role in fostering deeper empathy toward Japanese history, culture, and society, and creating new value. Improving the environment for the location shooting of such screen productions is an important form of support for such productions.

Furthermore, location shooting for major screen productions is expected to have a variety of effects, including showcasing the appeal of the country or region hosting the production to the rest of the world, revitalizing the local economy, promoting the screen

---

<sup>8</sup> While the National Diet Library is a body affiliated to the legislature, it has an important role to play in preparations to facilitate the entry into force of amendments to the Copyright Act relating to the revision of the flexible rights limitation for libraries. Accordingly, it has been included in the list of bodies responsible for implementation.

industry, and boosting the number of tourists. Accordingly, international competition to attract location shooting is intensifying, with other countries developing systems to provide financial support and assistance in obtaining the permits and approvals required for shooting. However, it has been pointed out that Japan is missing out on opportunities to attract location shooting, as it has lagged behind other countries in terms of support systems.

Attracting location shooting by major screen productions is thought likely to be effective in cultivating personnel for domestic screen productions, promoting business practices that accord with international standards, improving the production environment, and eliciting investment. In particular, their anticipated effects include fostering the ability to plan productions with a view to overseas expansion and improving technical production skills such as camerawork via joint productions with overseas production companies, as well as introducing such practices as production accounting and the exchange of written contracts. Major screen productions released in several countries have a high degree of international publicity potential and it has been pointed out that viewing screen productions can be the catalyst for some of the audience who became interested in the locations where they were set or shot to visit those locations. Screen productions are expected to have this kind of inbound tourism effect.

In August 2020, the Guidelines to Facilitate Location Shooting were formulated and published jointly by relevant ministries and agencies, with a view to improving the environment for the location shooting of Japanese and international screen productions. These guidelines set out matters to be addressed by film commissions (FCs),<sup>9</sup> requirements of those with authority to grant permits and approvals, and matters for those making screen productions to bear in mind. The guidelines provide examples of success in facilitating location shooting, such as situations in which approval is sought to use a road that falls into the jurisdiction of more than one area, requiring coordination by a higher administrative authority or department, where a unified response by different administrative departments and the suggestion of alternative solutions by those with authority to grant approval result in a positive outcome.

Moreover, a study has been underway since 2019, aimed at verifying the effects of overseas screen productions that have actually been attracted to Japan, in terms of employment creation, regional revitalization, industrial and human resource development, and the attraction of tourists, both inbound and from within Japan.

While COVID-19 means that there are currently restrictions on location shooting and

---

<sup>9</sup> A non-profit public body that supports those making screen productions in order to facilitate location shooting, for the primary purpose of promoting regional revitalization.

efforts to attract productions, it is important to continue with efforts to improve the shooting environment. It is also vital to proceed with deliberations concerning sustainable measures to attract location shooting, including the provision of financial incentives, while also verifying the effects of attracting location shooting.

**(Direction of Measures)**

- To attract, facilitate, and encourage location shooting, follow up on and revise as needed the guidelines summarizing the matters to be handled by FCs, those with the right to issue permits and approvals, and those making screen productions, and promote more widespread circulation of these guidelines among stakeholders to promote mutual understanding. In addition, as well as making improvements including to the operational aspects of permit and approval procedures, further enhance efforts to assemble information about locations throughout Japan, introduce FCs in each area, share information about permits and approvals, and publicize this information both within Japan and overseas.

(Short-term, Medium-term) (Cabinet Office; National Police Agency; Ministry of Internal Affairs and Communications; Ministry of Education, Culture, Sports, Science and Technology; Ministry of Land, Infrastructure Transport and Tourism)

- After confirming that efforts to attract location shooting can take place, while keeping a close eye on the impact of COVID-19, undertake a survey to verify the effects of attracting location shooting of overseas screen productions. Verify the effects of attracting location shooting from such perspectives as human resource development and gaining fresh knowledge of production techniques and production management in the screen industry, regional revitalization, and increasing inbound tourism. Then, based on this, move forward with deliberations concerning sustainable measures to attract location shooting, including financial support.

(Short-term, Medium-term) (Cabinet Office; Ministry of Internal Affairs and Communications; Ministry of Education, Culture, Sports, Science and Technology; Ministry of Economy, Trade and Industry; Ministry of Land, Infrastructure, Transport and Tourism)

- Engage in ongoing efforts to secure opportunities for the screening of Japanese films by such means as promoting international cultural exchange through film and holding Japanese film festivals in other countries, including China, Russia, India, and the ASEAN countries. In addition, lay the foundations for encouraging international co-productions through greater use of the Film Co-production Agreement between Japan and China, as well as negotiations aimed at the conclusion of an international co-

production agreement with Italy.

(Short-term, Medium-term) (Ministry of Foreign Affairs)

- To provide support to ensure that diverse Japanese films continue to be made and released, support outstanding Japanese film productions and enhance human resource development initiatives through exchanges involving Japanese films in production and foreign film industry figures.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and  
Technology)

## **5. Bolstering the use of IP among startups and SMEs, and in agriculture**

### **(1) Ensuring appropriate IP transactions among startups and SMEs**

#### **(Current Situation and Challenges)**

Startups creating innovative technologies are extremely important as a source of innovation. The acquisition of patents by startups not only serves as proof of the extent of their technical capabilities, but also could facilitate financing and work in their favor in their exit strategy. Having IP in the form of patents and know-how is also important when seeking to build equal alliances with large corporations.

SMEs, too, play a major role as a source of industrial competitiveness and innovation in Japan. Encouraging the use of IP by SMEs is essential in seeking to revitalize innovation in Japan, as there are analyses to show that SMEs that attach importance to IP and know-how tend to be highly productive.

It is necessary to put in place an environment in which startups and SMEs can compete fairly and freely, as surveys<sup>10</sup> have revealed cases in which, when startups and SMEs worked with large corporations, the large corporation demanded that the resultant patent be attributed to itself alone, despite having contributed virtually nothing to the joint research, or that the smaller partner's IP be licensed to it free of charge. Another example involved a large corporation demanding that IP be transferred free of charge by hinting at the exercise of rights under a right to request purchase of shares contained in its investment agreement with a startup.

In light of this situation, the Guidelines on Business Partnership Contracts with Startups (March 2021; Japan Fair Trade Commission and Ministry of Economy, Trade and Industry) point out that the lack of legal literacy among startups is one of the reasons why open innovation is making little headway. In June 2020, the Japan Patent Office and the Ministry of Economy, Trade and Industry published the Model Contracts ver.1.0 for Promoting Open Innovation between R&D-based Startups and Business Entities (hereinafter, the "Model Contracts") to serve as a tool for encouraging open innovation by addressing these problems. This was followed in March 2021 by the publication of an AI-focused edition of the Model Contracts. It will be important to continue enhancing the Model Contracts by augmenting the range of contracts covered.

Furthermore, in its March 2021 report, the Investigative Committee on Intellectual Property Transactions established within the Small and Medium Enterprise Agency

---

<sup>10</sup> Japan Fair Trade Commission, Report on a Fact-Finding Survey Concerning Abuse of a Superior Bargaining Position Targeting a Manufacturer's Know-How and Intellectual Property Rights (June 2019); Japan Fair Trade Commission, Report on a Fact-Finding Survey Concerning the Trade Practices of Startups (November 2020), etc.

published templates for non-disclosure agreements and contract manufacturing agreements (hereinafter, the “Agreement Templates”) that SMEs could use as-is in specific transactions in which they were the contractor. This report also set out the Guidelines on Intellectual Property Transactions, which provide a summary of points for SMEs to bear in mind regarding the handling of IP jointly developed with large corporations.

It is hoped that, in conjunction with widespread awareness and use of the Agreement Templates and Model Contracts, the Guidelines on Intellectual Property Transactions will improve awareness of the fair handling of IP among parties, thereby resulting in mutually beneficial cooperation between startups/SMEs and large corporations, as well as helping to drive open innovation.

#### **(Direction of Measures)**

- As well as calling on large corporations and related organizations to comply with the Guidelines on Intellectual Property Transactions, use Inspectors who Monitor Subcontracting Business and the like to check compliance and take the necessary measures. In addition, disseminate the Agreement Templates widely among companies and those providing companies with support services, and encourage their use.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- Work on expanding the number of companies participating in the Declaration of Partnership Building framework, which involves making a commitment to engaging in transactions based on the Guidelines on Intellectual Property Transactions and the Agreement Templates, not requiring business partners to conclude one-sided non-disclosure agreements, and not exploit the company’s position in the deal to demand the disclosure of know-how or the transfer of IP rights free of charge.

(Short-term, Medium-term) (Cabinet Office; Ministry of Economy, Trade and Industry)

- As well as working to ensure that the Guidelines on Business Partnership Contracts with Startups and Model Contracts aimed at R&D-focused startups gain widespread currency and become firmly established, consider such matters as expanding the scope of contract parties to include universities, etc. and increasing the number of technical fields covered.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry; Japan Fair Trade Commission)

## **(2) Supporting the use of IP by startups and SMEs**

### **(Current Situation and Challenges)**

The government is implementing various support measures aimed at startups and SMEs, to facilitate the appropriate use of IP created by such companies.

Looking at support for IP use by startups, the Japan Patent Office (JPO) is promoting efforts to revitalize the ecosystem by such means as disseminating effective information via its IP Base IP-focused portal site for startups and providing forums enabling stakeholders in the venture ecosystem to link up with those involved with IP. In addition, the JPO is implementing the IP Acceleration Program for Startups (IPAS), which dispatches teams of experts in the fields of business and IP who have experience of supporting startups to help early-phase startups to build an appropriate IP strategy tailored to their business, while also cultivating the know-how required to deliver IP support to startups among the IP experts providing the support.

The JPO is widely promoting the use of the IP system by SMEs through such initiatives as introducing a system of blanket reductions in examination fees and patent fees for SMEs, and eliminating the requirement to submit a certificate when applying for reductions in or exemptions from fees.

Moreover, based on the Second Regional Intellectual Property Revitalization Action Plan formulated in July 2020, the JPO is providing hands-on support in building IP strategies, while the National Center for Industrial Property Information and Training (INPIT) is offering a one-stop service via the Consultation Counters on Comprehensive IP Support Measures established in all 47 Japanese prefectures. Furthermore, the JPO is providing regional financial institutions with support in preparing IP-related Business Proposals, which suggest solutions for leveraging IP to address the business challenges faced by SMEs.

However, it would be fair to say that awareness of the importance and necessity of the use of IP by startups and SMEs is not necessarily adequate, so ongoing efforts to raise awareness are required.

Accordingly, it is necessary to strive to further enhance support measures for startups and SMEs, including continuing to consider approaches to the Consultation Counters on Comprehensive IP Support Measures, which provide support relating to the acquisition and strategic use of IP rights by SMEs, and also continuing to provide hands-on support in building IP strategies.

### **(Direction of Measures)**



- Promoting efforts to revitalize the ecosystem by such means as disseminating effective information, including streaming video, via the IP-focused portal site for startups, and providing forums enabling stakeholders in the venture ecosystem to link up with those involved with IP.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- As well as enhancing efforts to build appropriate IP strategies tailored to the business of early-phase startups via IPAS, further promote the sharing of know-how in supporting startups among the experts in IP providing support.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- To promote the use of IP by leading medium-sized businesses and SMEs, provide hands-on support in building IP strategies focused on IP use, in accordance with the Second Regional Intellectual Property Revitalization Action Plan (formulated in July 2020). In addition, ascertain the reality of the situation and take the requisite measures to strengthen partnerships between the Consultation Counters on Comprehensive IP Support Measures and SME support organizations.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- Have regional financial institutions support the preparation of IP-related Business Proposals to promote the use of IP by SMEs through feasibility assessments from an IP perspective.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry) [Described above]

- Analyze the Reports on Assessments of IP-related Businesses used to date and compile a list of items surveyed that assist in assessments of IP-related businesses. In addition, consider a template to support private sector survey companies in preparing Reports on Assessments of IP-related Businesses.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry) [Described above]

- Promote the use of the Management Design Sheet as part of business consultation services at Yorozu Support Centers, by such means as assisting in their preparation to support service users in considering their long-term visions.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry; Cabinet Office) [Described above]

- Review approaches to the Consultation Counters on Comprehensive IP Support Measures, to further enhance support for SMEs in regional Japan.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- With reference to the License of Right system,<sup>11</sup> consider an IP system and matching mechanisms to encourage collaboration among companies and open innovation, and reach a conclusion.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

### **(3) Enhancing the IP usage environment in agriculture, forestry and fisheries**

#### **(Current Situation and Challenges)**

With all parts of government working together to expand exports of agricultural, forestry, and fisheries produce and food products, it is vital to ensure that the IP from which Japanese agricultural, forestry, and fisheries produce, and food products derive their advantage in terms of high quality and high added value is protected and used overseas. At the same time, the growth in demand for Japanese agricultural, forestry, and fisheries produce and food products in overseas markets is giving rise to cases in which counterfeit versions of Japanese branded products escape onto the market or genetic resources from Japanese wagyu beef are taken overseas without authorization. Such incidents are detrimental to the value of branded products and cause the producers of agricultural, forestry, and fisheries produce to lose out on profits.

In light of this situation, an amendment to the Plant Variety Protection and Seed Act aimed at preventing outflows of new varieties of high-quality plants to other countries was established in December 2020 and entered into force on April 1, 2021. As well as ensuring widespread awareness of the amended Plant Variety Protection and Seed Act and working in partnership with the customs authorities, it would be desirable to maintain the support for plant variety protection (PVP) applications overseas provided by the Plant Variety Protection Consortium.

In addition, the Act for Partial Revision of the Act on Improvement and Increased Production of Livestock, and the Act on Prevention of Unfair Competition on Genetic Resources of Livestock were established in April 2020 and entered into force in October that year, with the aim of bolstering protection for wagyu beef genetic resources. Going forward, efforts should be made to ensure that the mechanisms for protecting wagyu beef genetic resources based on these laws function adequately.

Formulated in April 2021 to bolster the international competitiveness of agricultural, forestry, and fisheries produce and food products, the Ministry of Agriculture, Forestry

---

<sup>11</sup> A system in which patent fees are reduced by a certain percentage on condition that the patent holder assumes the obligation to grant a license should a third party request one, as an incentive to license rights to third parties.

and Fisheries Intellectual Property Strategy 2025 indicated, as a future direction of IP strategies, the need for an open-close IP strategy, given such background factors as the growth in exports of agricultural, forestry, and fisheries produce and food products and increasing moves toward overseas business expansion.

It is hoped that relevant ministries and agencies will work together to steadily promote the protection and use of IP in the field of agricultural, forestry, and fisheries produce and food products.

### **(Direction of Measures)**

- Put in place an environment conducive to the protection and use of agricultural know-how and the like as a trade secret, undertake dissemination and awareness activities to encourage greater use of the IP rights system for the protection and use of IP in the agriculture, forestry, and fisheries sector, and promote initiatives aimed at human resource development in the field of IP related to agriculture and fisheries.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries)

- Promote widespread awareness of the amended Plant Variety Protection and Seed Act and work with customs authorities to prevent plants and seeds that infringe breeder's rights from being taken overseas. In addition, move forward with deliberations aimed at streamlining authorization methods for registered varieties and clarifying their conditions of use, and at building models for comprehensive authorization.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries)

- Provide support for efforts aimed at the promotion and use of overseas PVP systems for varieties developed in Japan, including the gathering and provision of information by organizations supporting the management of agricultural IP, the integrated acquisition of breeder's rights overseas based on collaboration among variety developers and global production areas, and measures to protect and combat infringements of such rights.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries)

- Through collaboration with activities such as those of the East Asia Plant Variety Protection Forum, encourage East Asian countries to sign up to the UPOV Convention.<sup>12</sup> In addition, undertake cooperation with PVP authorities in other countries to ensure prompt PVP registration overseas, by such means as using the results of PVP examinations conducted in Japan for overseas examinations and alleviating the administrative burden of overseas applications through linkages to the

---

<sup>12</sup> The International Convention for the Protection of New Varieties of Plants

International Union for the Protection of New Varieties of Plants' (UPOV) common application system (UPOV PRISMA).

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries)

- Work on harmonizing Japan's PVP examination guidelines with international standards to promote more advanced examination of PVP applications, in accordance with the amended Plant Variety Protection and Seed Act. With regard to the studies of variety properties conducted by the Center for Seeds and Seedlings of the National Agriculture and Food Research Organization, promote internationally harmonized growing tests and put in place systems for conducting such studies as growing tests for fruit trees, on-site inspections, and studies of agricultural pest resistance. Furthermore, taking into account the status of international technology development in relation to the use of genetic information in PVP examinations, conduct studies to ensure that efficient PVP examinations can be conducted in Japan, as well.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries)

- As well as promoting widespread awareness of the Act on Prevention of Unfair Competition on Genetic Resources of Livestock, promote initiatives to prevent unfair competition, by such means as encouraging widespread use of templates for contracts that should be concluded when handing over wagyu beef genetic resources under the Act.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries)

- As well as promoting widespread awareness of the amended Act on Improvement and Increased Production of Livestock, develop and operate a nationwide system to aggregate information and alleviate the administrative burden on prefectures arising from reporting by livestock artificial insemination facilities under the Act. In addition, undertake regular on-site inspections to conduct checks and provide guidance regarding distribution management at livestock artificial insemination facilities across the country.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries)

## **6. Enhancing institutional, operational, and human resources infrastructure to support the use of IP**

### **(1) Using soft law in the IP field**

#### **(Current Situation and Challenges)**

The socioeconomic environment surrounding IP has been changing at a dizzying pace in recent years, giving rise to a need for IP systems to respond to such changes in an agile manner. As such, attention has come to focus on the use of soft law to provide de facto standards of conduct, alongside the establishment of legal norms through legislation. As it can be easily drawn up or modified, and created and managed in a manner tailored to individual situations, soft law has the advantage of enabling norms to be flexibly altered in response to changing times, without the need to amend legislative acts.

Soft law is broad in concept and can be classified according to various approaches.<sup>13</sup> For example, it can be classified into (i) approaches based on fleshing out abstract civil norms in the form of guidelines—that is to say, a technique in which guidelines and the like are used for the specific application of rules, while retaining the flexibility provided by abstract legal provisions; and (ii) approaches based on fleshing out abstract administrative norms in the form of private sector codes of self-regulation—that is to say, a technique in which the law stipulates only the comprehensive norms, while autonomy regarding the way in which they will be implemented is delegated to the private sector.

One example of the first category is the formulation by stakeholders of guidelines setting out a certain interpretation of the flexible rights limitation under the Copyright Act for institutions such as schools and libraries. Meanwhile, examples of the second category include cases in which the conditions of invocation and application of hard law is left up to soft law, those in which soft law is established in fields where no hard law exists, and those in which regulations are introduced via platform-based initiatives. Approaches of this kind have also been adopted in the digital field in recent years.

When it comes to the role of public administration in shaping soft law, it is vital for governmental bodies to be involved in shaping soft law and appropriately coordinating interests from the perspective of ensuring that they achieve the public good. Some have also pointed out that another role of public administration is to provide stakeholders with incentives to properly shape and maintain soft law.

---

<sup>13</sup> Materials prepared by IKEGAI Naoto for the 6th meeting of the Vision Committee (April 16, 2021) introduce various classifications, including soft law drawn up by the public sector and soft law drawn up by the private sector soft law; soft law based on industry self-regulation and soft law based on stakeholder agreements; soft law focused on industry groups and soft law focused on platforms; and soft law based on administrative norms and soft law based on civil norms.

On the other hand, there are concerns that, when formulated by those in a dominant position, soft law may be misused; in addition, some have expressed the view that soft law drawn up by industry groups may function as a barrier to entry. From this perspective, too, it should be kept in mind that there are cases in which there is a strong need for governmental bodies to be involved, in addition to the private sector.

As there is likely to be scope enabling rule-making to be tailored to changes in the times through more effective use of soft law in the field of IP as well, more in-depth discussion of the advantages and disadvantages of soft law should be pursued, and the findings reflected in deliberations concerning systems.

### **(Direction of Measures)**

- When considering the establishment of new IP-related systems and the revision of existing ones, verify the applicability of soft law while taking into account its advantages and disadvantages, and then take the requisite measures.

(Short-term, Medium-term) (relevant ministries and agencies)

- With regard to the amendment of the Copyright Act to facilitate rights management in respect of simultaneous streaming and the like, steadily make preparations aimed at the amended act's smooth entry into force, such as drawing up guidelines, while also giving full consideration to the wishes of stakeholders.

(Short-term) (Ministry of Internal Affairs and Communications; Ministry of Education, Culture, Sports, Science and Technology) [Described above]

- In light of the amendment of the Copyright Act relating to the revision of the flexible rights limitation for libraries, steadily move forward with preparations to facilitate its entry into force, by such means as engaging in discussions with interested parties concerning its detailed operation and preparing guidelines. With regard to the creation of a flexible rights limitation for research purposes, conduct research to gain a more detailed understanding of the reality of the use of copyright works by researchers within Japan and their usage needs. Then, based on the results, move forward with deliberations, while giving full consideration to protecting the interests of rights holders.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology) [Described above]

## **(2) Putting in place infrastructure aimed at resolving IP disputes**

### **(Current Situation and Challenges)**

Infrastructure development aimed at resolving IP disputes is imperative in order to ensure the appropriate protection and use of IP. As a growing number of companies expand their business globally, the risk of becoming embroiled in IP disputes is increasing. And as disputes become increasingly globalized, the solutions to these disputes are becoming more complex.

Looking at steps already taken to put in place infrastructure aimed at resolving IP disputes, the 2019 partial revision of the Patent Act introduced a system of on-site examination to facilitate evidence collection by a neutral expert for infringement trials relating to patent rights and the like, and also revised the method for determining damages, with the objective of providing appropriate redress for infringements of patent rights. Furthermore, a bill for the partial revision of the Patent Act and other instruments, which included the introduction of a system enabling opinions from a wide variety of third parties to be solicited by courts in patent rights infringement trials, was established in May 2021.

Alternative dispute resolution (ADR), which involves methods of settling disputes without litigation or trials, can be an effective means of resolving disputes in some cases. Arbitration—a procedure in which, rather than seeking to settle the dispute in a domestic court of law in one country or the other, the parties to the dispute select an arbitrator to determine how the dispute should be resolved—makes a substantial contribution to resolving global IP disputes. In Japan, too, the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers was revised in May 2020 to expand the scope of representation in international arbitration cases with a view to promoting international arbitration. In addition, in October that year, the Arbitration Legislation Subcommittee of the Ministry of Justice’s Legislative Council embarked on deliberations concerning the revision of arbitration legislation. Infrastructure development aimed at promoting international arbitration is also underway, including the opening of a dedicated international arbitration facility, the cultivation of such personnel as arbitrators and arbitration counsel, and efforts to publicize the system and raise awareness of it among companies both within Japan and overseas.

Mediation can also be effective in resolving IP disputes. In October 2019, some courts began operating IP mediation procedures aimed at the swift, easy resolution of IP disputes through discussion. It is hoped that this system will also be used effectively.

Additionally, it is expected that the Japanese Law Translation Project will increase reliability and transparency on the global stage by ensuring widespread international awareness of Japan’s IP-related laws and regulations, and also by providing swift, high-quality translations in response to legal amendments and the like.

On the other hand, some are still calling for the enhancement of the damages system to provide appropriate redress to those whose rights have been infringed and to deter infringement. Accordingly, it is necessary to take specific needs into consideration while developing infrastructure for resolving IP disputes.

**(Direction of Measures)**

- Seek to improve dispute resolution abilities throughout Asia by holding an international conference and seminars on the theme of IP-related disputes, with the involvement of judicial officials from Asia. In addition, hold an international conference with the involvement of Western judicial officials, promote international collaboration in IP dispute resolution, and provide information about settling IP-related disputes to members of the legal profession in Japan and private sector companies.

(Short-term, Medium-term) (Ministry of Justice; Ministry of Economy, Trade and Industry)

- Promote further enhancement and revitalization of ADR by properly handling the screening of applications for ADR certification and moving forward with initiatives aimed at publicizing and promoting widespread awareness of certified ADR (*Kaiketsu Support*), as well as facilitating partnerships between certified ADR providers and relevant organizations.

(Short-term, Medium-term) (Ministry of Justice)

- Support the development and operation of legal systems for exercising IP rights in emerging economies. In addition, support the cultivation of IP judicial officers by such means as conducting training for judicial officers from emerging economies, in order to establish effective judicial procedures.

(Short-term, Medium-term) (Ministry of Justice; Ministry of Foreign Affairs)

- While making use of the dedicated international arbitration facility established in Toranomon, Tokyo, undertake human resource development of arbitrators and arbitration counsel, and publicize and raise awareness among companies and other organizations both within Japan and overseas. In addition, move forward with deliberations concerning the revision of arbitration legislation.

(Short-term, Medium-term) (Ministry of Justice; relevant ministries and agencies)

- With a view to enhancing the provision of information in the form of high-quality English translations of Japanese laws and regulations, put in place frameworks to facilitate swift translation and promote enhancements to the usage environment, as well as proactively spreading the word about this information overseas.



(Short-term, Medium-term) (Ministry of Justice)

- Continue efforts to enhance the dissemination of information to other countries regarding major IP-related judicial precedents, the IP mediation system that was launched in October 2019, and other information concerning the settlement of IP disputes in Japan.

### **(3) Strengthening the infrastructure for examinations related to IP rights**

#### **(Current Situation and Challenges)**

The situation around the examination of patents and the like is undergoing substantial change, due in part to the COVID-19 pandemic and the march of digitalization. While patent applications in Japan have plateaued, a dramatic increase has been seen in the number of patent applications in China, with Chinese patent documents accounting for about 70% of all patent documents worldwide. As such, the examination burden arising from foreign-language patent document search continues to rise.

When it comes to trademark applications, too, the need to enhance the examination system is becoming a matter of urgency, as the examination process cannot keep pace with the recent increase in applications, resulting in examinations taking longer. The rise in applications relating to new products and services is also increasing the burden of examinations concerning the indication of designated goods and designated services, and the distinctiveness of trademarks. Furthermore, in respect of the examination of design applications, hardly any change has been seen in the number of applications since Japan's accession to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs, despite worldwide recognition that design is an important management resource for improving corporate value.

On the other hand, the fiscal base supporting such industrial property rights policy could not be described as stable, so measures to place this fiscal base on a stable footing are a matter of urgency.

In light of this situation, in February 2021, the JPO's Subcommittee on Fundamental Issues established under the Intellectual Property Committee of the Industrial Structure Council compiled a report entitled Approaches to Industrial Property Rights Policy in the Mid- and Post-pandemic Age.

Among the specific measures advocated in the report were implementing thorough efforts to improve efficiency throughout the whole patent examination process and optimize the burden of examination work; achieving greater operational efficiency in trademark examinations and putting in place an environment that encourages

international applications; and promoting thorough awareness of the design system, with a focus on the importance of design, and the effectiveness and strategic usage of design rights.

In conjunction with this, with a view to reforming the expenditure and revenue structure of the Patent Special Account, the report recommends that the JPO implement thorough efforts to reduce expenditure, and disclose enhanced information regarding future approaches to the fee structure and the fiscal management of the Patent Special Account, as well as ensuring transparency and undertaking regular reviews in this area.

Based on this policy, efforts should be made to strengthen examination infrastructure, which is a fundamental infrastructure element promoting innovation.

#### **(Direction of Measures)**

- With the aim of promoting innovation in patent examination with a view to delivering the world's fastest, highest-quality patent examinations, consider such matters as reviews of the value provided tailored to applicants' needs for examination quality and convenience, the implementation of thorough efforts to achieve greater efficiency in the patent examination process, and the optimization of the burden of examination work, and then take the requisite measures.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- To maintain and improve services relating to industrial property rights, continue initiatives aimed at reducing expenditure, consider approaches to the fee structure, and revise the expenditure and revenue structure of the Patent Special Account.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- Promote greater efficiency in trademark application examination work and the enhancement of the examination system. In addition, consider putting in place an environment that encourages international trademark applications.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- Further enhance efforts to ensure widespread awareness of the importance of design and ways of strategically using design rights. In addition, consider approaches to the duration of examinations based on user needs and take the requisite measures.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

#### **(4) Promoting the use of IP in academic-industrial collaboration**

##### **(Current Situation and Challenges)**

As repositories of comprehensive knowledge in the humanities, social sciences, and

natural sciences, universities are some of Japan's most crucial research institutions producing knowledge. In addition, it is hoped that IP based on university research output resulting from academic-industrial collaboration and other initiatives will be incorporated into the ecosystem, serving as an agent for inducing the circulation of IP.

However, it has been noted that the number of patent applications by Japanese university researchers is still low and IP management such as the appropriate conversion of research output into IP and academic-industrial collaboration activities is still not adequate at the organizational level. As such, commentators have pointed out the need to promote efforts to bridge the gap for the integration of university research output into society and to bolster the formulation of IP strategies with a view to the use of rights from the research phase.

Given differences in the stances of universities and companies on such aspects of basic IP practice as the timing of the publication of inventions—with universities wanting to publish the outcomes of research as journal articles as soon as possible, whereas companies prioritize commercialization—it is necessary to promote deeper mutual understanding between them through closer partnership and communication. In addition, some have pointed out the challenges faced by universities, in terms of their inability to allocate resources to strengthening IP management and the lack of time available for human resource development, due to the large number of staff employed on fixed-term contracts.

In the pharmaceuticals field, startups conducting translational research play an important role in bridging the gap to enable university R&D output and seeds to be commercialized by industry. However, as some commentators have noted that there are greater challenges in using this approach in Japan than in other countries, deliberations concerning ways of improving the situation are required.

#### **(Direction of Measures)**

- Before the end of FY2021, create a forum for representatives of industry, academia, and government to consider the handling of IP in academic-industrial collaboration, taking into account the distinctive attributes of the bioscience field, including deliberations on the introduction of conditions concerning the disclosure of research outcomes at an appropriate time.

(Short-term, Medium-term) (Cabinet Office; Ministry of Education, Culture, Sports, Science and Technology; Ministry of Economy, Trade and Industry)

- Promote widespread awareness of the Guideline for Enhancing Industry-Academia-Government Collaboration Activities, which is aimed at facilitating organization-to-

organization partnerships between universities and companies, and of the expanded edition featuring prescriptions for resolving bottlenecks at universities and the like.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry; Ministry of Education, Culture, Sports, Science and Technology)

- As well as working to ensure that the Guidelines on Business Partnership Contracts with Startups and Model Contracts aimed at R&D-focused startups gain widespread currency and become firmly established, consider such matters as expanding the scope of contract parties to include universities, etc. and increasing the number of technical fields covered.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry; Japan Fair Trade Commission) [Described above]

- IP management at universities consists of various elements. Accordingly, consider approaches to the use of data in the Evidence data platform constructed by Council for Science, Technology and Innovation (e-CSTI), which allows the characteristics of each university and their various issues to be identified on the basis of evidence.

(Short-term, Medium-term) (Cabinet Office; relevant ministries and agencies)

## **(5) Cultivating the personnel who create IP**

### **(Current Situation and Challenges)**

As places that cultivate people with abundant creativity, educational settings will play an important role in fostering an environment that provides creative people who demonstrate outstanding talent in specific fields with a place in which their talent can flourish and in which they can take on challenges.

Accordingly, the government established the Intellectual Property Creation Education Consortium in January 2017 to form effective partnerships with schools and local communities to promote the nationwide spread of IP creation education, which aims to foster understanding of the creation of new things and respect for things created by others through enjoyable educational activities at elementary, junior and senior high schools and colleges of technology. As a result, IP creation education is now spreading across the country. Following the launch of locally led regional consortiums in eight areas of Japan, the initiative has entered a new phase in FY2021, with the regional consortiums taking the lead in promoting IP creation education.

In July 2020, the Intellectual Property Creation Education Consortium established the Working Group on Promotion and Practice, which discussed measures to further promote IP creation education and ensure sustainable practice. The Working Group also put

together an action plan of specific steps for those involved in IP creation education to take at each stage in the process of promotion and practice ((1) Learn; (2) Practice; and (3) Continue practicing). It is hoped that the promotion and practice of IP creation education will progress in a form that accords with this action plan, with the regional consortiums playing the leading role.

**(Direction of Measures)**

- Promote the introduction of IP creation education in courses and seminars aimed at providing teachers with knowledge about IP.  
(Short-term, Medium-term) (Cabinet Office; Ministry of Education, Culture, Sports, Science and Technology)
- The growing prevalence of social media has made it easy for anyone to create, disseminate, and use copyright works, giving rise to a situation in which all members of the public routinely come into contact with copyright works. As such, further enhance not only IP creation education initiatives, but also efforts focused on education and raising awareness of approaches to the copyright system and contracts.  
(Short-term, Medium-term) (Cabinet Office; Ministry of Education, Culture, Sports, Science and Technology) [Described above]
- As well as promoting thorough awareness of and compliance with the purpose of the next curriculum guidelines, put together an educational program that can be used in IP-related education in high schools.  
(Short-term, Medium-term) (Ministry of Economy, Trade and Industry; Ministry of Education, Culture, Sports, Science and Technology)
- To provide all university students, including those in undergraduate schools of education, with opportunities to receive IP-related education, promote the smooth introduction of such education to the curriculum by using the Joint Usage Center System for Education to share curriculums and introduction processes with universities considering the introduction of IP education.  
(Short-term, Medium-term) (Cabinet Office; Ministry of Education, Culture, Sports, Science and Technology)
- Investigate the IP-related content of textbooks for proficiency examinations and consider specific measures to introduce IP creation education into normal lessons.  
(Short-term, Medium-term) (Cabinet Office; Ministry of Education, Culture, Sports, Science and Technology; Ministry of Economy, Trade and Industry)
- Consider approaches to content that enables students to learn efficiently about copyright online and undertake effective awareness-raising activities using such

content.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology)

- Have the locally led regional consortiums established in eight regional blocks nationwide select schools to serve as hubs for promoting IP creation education and choose teachers to take on the core tasks of promotion and practice.

(Short-term, Medium-term) (Cabinet Office; Ministry of Education, Culture, Sports, Science and Technology)

- Follow up on the activities of the locally led regional consortiums and consider approaches to the Intellectual Property Creation Education Consortium.

(Short-term, Medium-term) (Cabinet Office)

- Use mechanisms including the INNO-vation Program, Global Science Campus, EDGE-NEXT (Exploration and Development of Global Entrepreneurship for NEXT generation), and the MITOU Program to identify and cultivate individuals capable of creative thinking.

(Short-term, Medium-term) (Ministry of Internal Affairs and Communications; Ministry of Education, Culture, Sports, Science and Technology; Ministry of Economy, Trade and Industry)

- In promoting the AI Quest (Problem Solving AI Human Resources Development) Program, work with the Japan Inter-University Consortium for Mathematics and Data Science Education and promote widespread use of the Practical Guidebook on Data Provision for Fostering Human Resources of Experts in AI and Data Science.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

## **7. Restructuring the Cool Japan Strategy**

Daily life throughout society has been substantially impacted by the prolonged COVID-19 pandemic and CJ initiatives continue to face a major crisis. The novel coronavirus has dealt a huge economic blow to CJ-related fields such as food service, tourism, culture and the arts, events and entertainment, which are the mainstay of CJ initiatives. In some cases, the very survival of these sectors is threatened. As the source of Japan's rich culture and appeal, CJ-related fields are one of the pillars supporting the Japanese economy, especially culture and tourism. These fields entertain people and stir their emotions, and are a particular source of comfort to those going through hard times. CJ-related fields have made a huge contribution to Japanese society in artistic, cultural, economic, and emotional terms, but now they face a crisis that could extinguish them. Ensuring the survival of CJ-related fields that have suffered immense harm and securing the employment of the people who work in them is of paramount importance in order to keep the flame of Japanese arts and culture alight and enable them to flourish further, to maintain this cornerstone of economic development, and to protect this source of comfort to people traumatized by COVID-19. The government has already implemented various support measures in collaboration with the relevant sectors, aimed at ensuring the survival of CJ-related fields and securing the employment of the people who work in them. Going forward, it will be important for the public and private sectors to continue working together to steadily implement the necessary measures.

The pandemic has brought both inbound and domestic flows of people to a standstill and is abruptly transforming social modalities. As a result, stakeholders in associated fields have faced tremendous adversity. At the same time, such stakeholders have mustered their knowledge and creativity in their struggle to survive, bringing forth the shoots of new initiatives, drawing primarily on digital technology and online approaches. As a result, authentically Japanese attractions capable of surviving even in this harsh environment have been cultivated. The battle against the novel coronavirus also provides an opportunity for Japanese people themselves to take a fresh look at the true nature of Japan's appeal and to rediscover its splendor and intricacies.

CJ initiatives are predicated first and foremost on Japanese people themselves confidently honing Japan's attractions and spreading the word about them. It is necessary to restructure the CJ Strategy to take account of the social changes wrought by COVID-19, enhancing CJ initiatives by having Japanese people themselves discover and hone the true nature of Japan's appeal, while incorporating international perspectives, and then establish new business models incorporating the use of digital technology and spread the

word about them worldwide. In addition, these efforts must be tied into the revitalization of Japan's pandemic-weary culture and economy, with an eye to the opportunities presented by Expo 2025 Osaka, Kansai, Japan. In the medium to long term, the aim should be to create a virtuous circle by ensuring that talented individuals from across the globe are drawn to Japan by its appeal and creativity, work with stakeholders across many different fields and regions of Japan, further enhance Japanese culture, and roll out new ideas to the rest of the world, thereby strengthening Japan's soft power. With the pandemic triggering a social transformation, this is precisely the time when it is vital to restructure and bolster CJ initiatives, in order to lay the foundations for Japan's survival and ensure it enjoys a bright, affluent future as a nation respected internationally, with a significant presence.

## **(1) Ensuring the survival of CJ-related fields**

### **(Current Situation and Challenges)**

The spread of COVID-19 has inflicted immense damage on CJ-related fields. In the food service sector, measures such as voluntary restraint and reduced operating hours have caused restaurant earnings to fall and driven some out of business. While there have been initiatives aimed at addressing the impact of the pandemic, with a growing number of restaurants offering online ordering for delivery and takeout services, a number of establishments that have long upheld Japanese food culture, including renowned restaurants and venerable *shinise* (long-established) businesses in regional Japan, have been forced to shut up shop. Some have expressed concern that this might even erode the very fabric of Japanese food culture. In the events and entertainment field, too, turnover has plummeted as restrictions on travel and gatherings have seen most live events canceled. For example, some calculations suggest that the market in 2020 was about 80% smaller than it had been the year before. Many of those working in the events and entertainment field are freelance or sole proprietors, and many couples working in this area have been plunged into poverty by the sudden drop in both their incomes. Severely impacted by restrictions on travel, tourism has suffered a major blow, with the number of foreign tourists visiting Japan in 2020 down 99% compared with the previous year for several months in succession.

CJ-related fields are not only an essential element for Japan's rich culture and economic growth, but are also the wellspring of Japan's world-class appeal. Furthermore, these fields have made life worth living for Japanese people over the years, providing them with comfort and encouragement throughout a range of national crises. The knowledge



and know-how of people working in CJ-related fields are important intangible assets for Japan that, once lost, will never be recovered. We must keep the flame of Japanese arts and culture alight. While the government has already implemented various support measures aimed at ensuring the survival of CJ-related fields, it will be vital to continue providing the requisite support in collaboration with relevant sectors.

The battle against COVID-19 has thrown into stark relief the vulnerability of CJ-related fields. Leading medium-sized businesses, SMEs, micro-enterprises, sole proprietors, and freelancers play a major role in CJ-related fields, so the government has been implementing a wide range of support measures to assist stakeholders of this kind. However, problems have also been seen, such as support failing to reach such stakeholders due to the absence of or deficiencies in contracts or accounting documents. The sector's business practices and structure will need to be revised and deliberations aimed at improving the resilience of CJ-related fields undertaken in order to weather COVID-19 and ensure that CJ-related fields do not again suffer a devastating blow when society undergoes radical transformations triggered by pandemics and the like in the future.

#### **(Direction of Measures)**

- Steadily implement the Emergency Economic Measures to Cope with the Novel Coronavirus (COVID-19) in order to ensure the survival of CJ-related fields that have suffered immense damage and secure the employment of the people who work in them. In addition, devise ways of spreading the word about the content of the economic measures and procedures for accessing them in a manner that is easy to understand, so that the requisite support measures can be provided for the people who need them at the appropriate time.

(Short-term, Medium-term) (Relevant ministries and agencies)

- When implementing the economic measures, devise initiatives aimed at improving the resilience of CJ-related fields, including establishing new business models based on digital technology and the like, revising business practices such as those relating to contracts and accounting practices, and considering safety nets.

(Short-term, Medium-term) (Relevant ministries and agencies)

- Fully canvass needs concerning the measures required to ensure the survival of CJ-related fields and promote further development, and consider them in light of the attributes of each sector.

(Short-term, Medium-term) (Cabinet Office; relevant ministries and agencies)

- Promote initiatives aimed at shoring up the revenue base for live performances within Japan, such as using advanced technology to create more diverse, robust income streams for such performances.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry; relevant ministries and agencies)
- Support initiatives such as those aimed at securing opportunities to cultivate artists and showcase their work, bolstering the infrastructure for ongoing activities, and using ICT to gain audiences.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology; relevant ministries and agencies)
- Move forward with initiatives aimed at ascertaining the actual status of activities by freelance artists and others involved in art and culture who have been impacted by the pandemic, along with initiatives aimed at improving the business environment in this field.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology) [Described above]
- Keeping a close eye on the status of efforts to bring the pandemic under control, implement a campaign that brings the public and private sectors together to stimulate demand for artistic, cultural, and sporting events, which have been dealt a huge blow by COVID-19. In the events sector, undertake a campaign to promote the widespread adoption of new approaches to events and ensure that these approaches become firmly established within society.

(Short-term) (Cabinet Secretariat; Ministry of Economy, Trade and Industry; Ministry of Land, Infrastructure Transport and Tourism; Ministry of Agriculture, Forestry and Fisheries; Ministry of Education, Culture, Sports, Science and Technology)
- To prevent the spread of COVID-19, while still allowing events to take place, support measures at event venues, such as sanitizing, taking temperatures, and ventilation.

(Short-term) (Ministry of Education, Culture, Sports, Science and Technology; Ministry of Economy, Trade and Industry)
- Support the formulation and dissemination of evidence-based guidelines for preventing the spread of infection, with a view to the resumption of events and live performances.

(Short-term) (Ministry of Education, Culture, Sports, Science and Technology; Ministry of Economy, Trade and Industry; Ministry of Health, Labour and Welfare; relevant ministries and agencies)

## **(2) Impact of COVID-19**

The COVID-19 pandemic began to spread while discussions aimed at translating into reality the CJ Strategy formulated in September 2019 were underway. As measures such as restrictions on travel and gatherings were implemented, inbound tourism plummeted, while physical events and business meetings were canceled across the board, causing the foundations on which the CJ Strategy had been premised to crumble. With everyday life reliant on the internet and people across the globe holing up at home, new forms of business that tap into the net are being deployed. In addition to changes in social modalities, major transformations are being seen in people's behaviors and values, reflecting widespread pandemic-related anxiety and such practices as the growing use of masks among the public.

With the involvement of experts from a wide range of fields, the Cabinet Office conducted a survey of the effects of COVID-19 on social modalities and on the behaviors, interests, and preferences of people worldwide. The results showed that the novel coronavirus is having wide-ranging impacts throughout society.

First and foremost among these is the progressive shift of many aspects of society onto the internet. Teleworking and home-working have become prevalent across the globe, while remote and online teaching is increasingly being used in education. Amid this situation, moves to relocate offices from big cities to regional Japan are being seen, accompanied by a rise in people moving house to provincial areas. Major changes are also being seen in approaches to business, with an upsurge in food delivery and e-commerce coming in response to the closure of small retail outlets and bans on going out, while drive-through businesses have proliferated in answer to the need for contactless transactions. Although the shift toward digital and online operations throughout society was already being observed before the pandemic, COVID-19 suddenly accelerated these moves, and the trend is expected to continue.

Travel and consumption trends reflect worldwide restrictions on travel, gatherings, and going out: demand has grown for pastimes and hobbies that can be enjoyed at home, such as movies, games, and cooking, with online events and ingredients for home cooking enjoying great popularity. While online activities are becoming more widespread, people still have a tremendous longing to get together in person, so demand for physical events and the like is expected to recover as restrictions on travel, etc. are eased. Demand for travel to quieter, more rural areas and for activities such as solo travel, mountain climbing, camping, and cycling is mounting as people seek to avoid crowded environments and

contact with others. This trend is expected to continue.

The COVID-19 pandemic is also causing major changes in people’s values. Reflecting anxiety about the pandemic, there is greater demand for safety, peace of mind, and high quality levels, along with rising consciousness of hygiene, as seen in the growing use of masks. In addition, awareness of social issues in the form of nature, the environment, and the SDGs is surging.

### (3) Approach to restructuring the CJ Strategy

In light of the impact of COVID-19 on the behaviors of people worldwide, there is no need to change the CJ Strategy’s objective of increasing the number of Japan enthusiasts overseas to boost Japan’s soft power, nor to alter the overall approach of strengthening collaboration among relevant ministries, agencies, organizations, and stakeholders, encouraging the involvement of a wide range of stakeholders, especially those in regional Japan, and seeking to enhance publicity potential.

On the other hand, there have been changes in the environment that were not considered when the CJ Strategy was formulated, including the accelerating digitalization of society, restrictions on travel and gatherings, and changes in people’s values. Accordingly, we have restructured the CJ Strategy with the addition of three new priorities: responding to changing values, building a virtuous circle of exports and inbound tourism, and establishing new business models leveraging digital technology. In addition, we have enhanced two other areas serving as means of promoting the CJ Strategy, namely publicity potential and infrastructure supporting CJ.

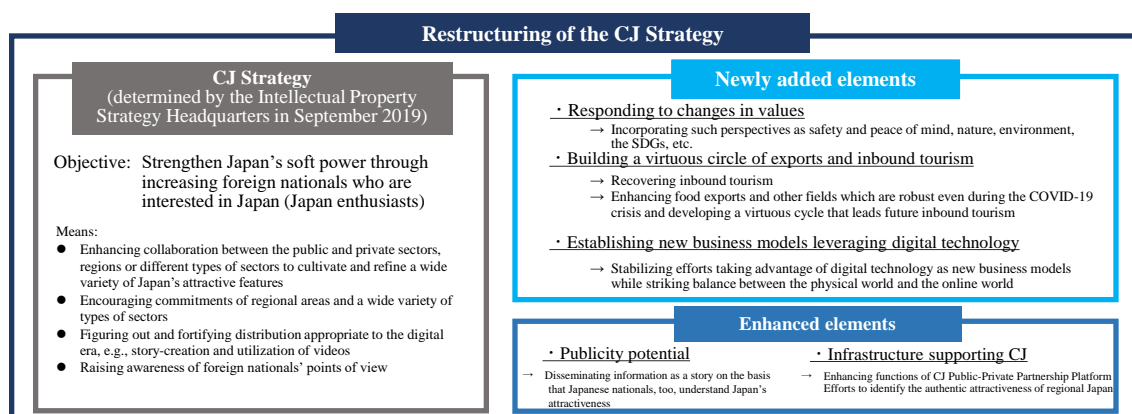
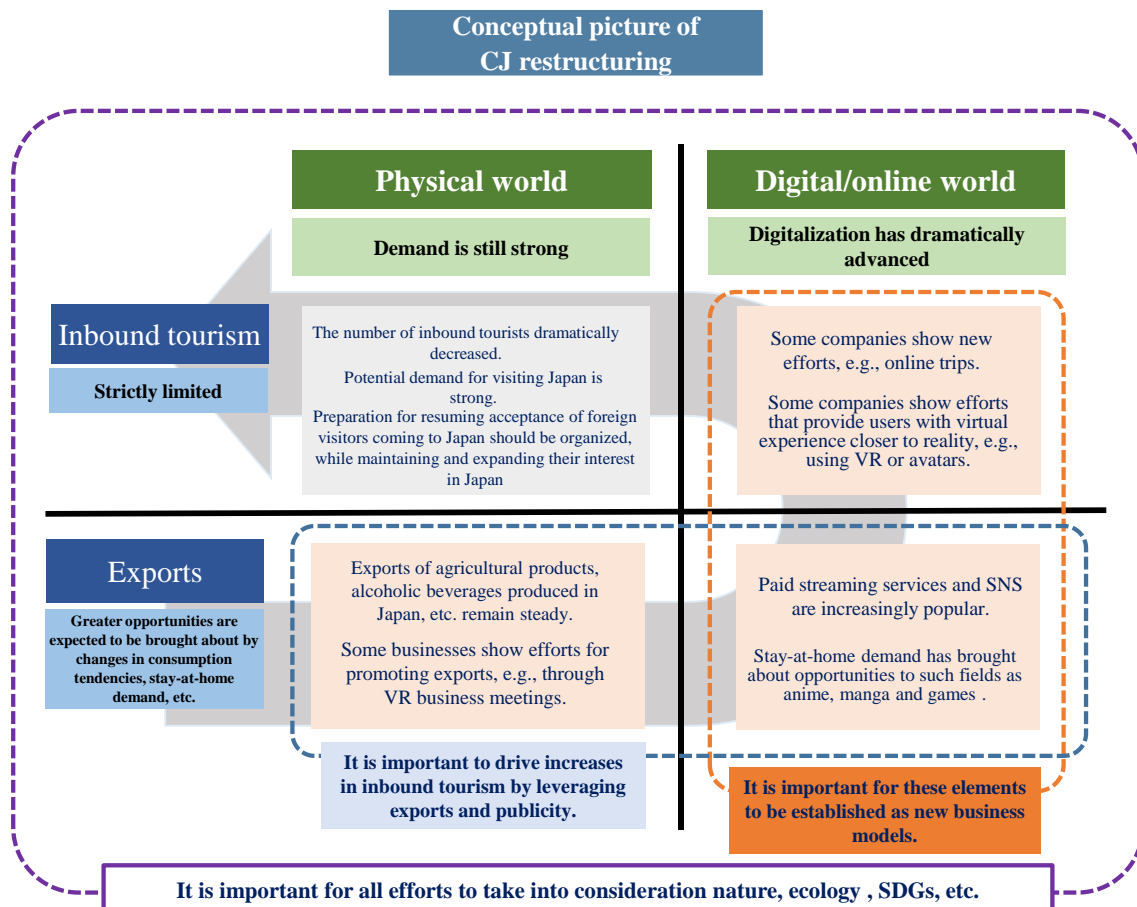


Figure 16: Restructuring of the CJ Strategy

The concept diagram below shows the perspectives adopted in restructuring the CJ Strategy, with the areas of focus divided into inbound tourism and exports, and physical and digital/online engagement. Despite the pandemic, both physical and digital/online exports remain strong, while new initiatives that tap into the digital/online realm are being seen in the areas of both inbound tourism and exports. Going forward, as well as further stimulating exports, it will be vital to ensure that new initiatives tapping into the digital/online realm become firmly established. With regard to physical inbound tourism, which has been significantly limited by the pandemic, preparations must be made to ensure that initiatives aimed at this segment's recovery can be put into action as soon as international flows of people resume in earnest. In addition, it is vital to position the strengthening of exports and digital/online initiatives as a form of investment in preemptively stimulating demand that will lead to the recovery of physical inbound tourism. Furthermore, in light of changes in values worldwide, consideration for nature, ecology, and the SDGs is an indispensable element in all initiatives.



**Figure 17: Conceptual picture of restructuring the CJ strategy**

- a) **Newly added elements**
- (i) **Responding to changing values**

**(Current Situation and Challenges)**

The effects of the pandemic are transforming the values of people across the globe. These changes include growing concern about social issues relating to such matters as nature, ecology, and the SDGs, as well as increasing consciousness of safety, peace of mind, hygiene, and health. The CJ Strategy did not necessarily treat nature, ecology, the SDGs, safety, peace of mind, hygiene, and health as key elements. Going forward, it will be necessary to reflect people’s changing values by further incorporating these elements as CJ priorities at every stage, from identifying and honing attractions to product development and overseas deployment, and to storify these elements to spread the word about them.

It would be fair to say that the change in values worldwide presents Japan with a major opportunity. Japan has a rich natural environment, and a powerful eco-consciousness is woven throughout Japanese culture and ways of life, as represented by efforts to live in harmony with nature in a mutually beneficial way, consideration for the environment, and the use of the expression “*mottainai*” to express regret for waste. Many elements of Japanese culture and ways of life are essentially upheld in the SDGs. Moreover, a great many Japanese industries and products relate to safety and peace of mind. For example, safety and peace of mind are part of the brand image established by Japanese food and products. Broadening the perspective to include fields such as Japan’s outstanding disaster prevention and management products, which have not hitherto been promoted from a CJ viewpoint, presents us with an opportunity to highlight new facets of Japan’s appeal overseas from the standpoint of safety and peace of mind. Furthermore, cleanliness and hygiene are nothing new to Japanese people, with many visitors to Japan mentioning these qualities in their impressions of Japanese townscapes and Japanese society as a whole even before the advent of COVID-19. Given the changes in values wrought by the pandemic, it is vital to turn the spotlight onto the value incorporated into the very essence of Japanese culture and ways of life, in order to establish the brand image of Japan as an advanced nation in the realms of the environment, ecology, safety and peace of mind, and hygiene.

The fact that Japanese culture and ways of life are highly compatible with such elements as consideration for the environment and the SDGs presents Japan with a golden opportunity. However, consideration of Japanese people’s perspectives alone poses a risk that aspects of Japan’s appeal that reflect new values and could be exploited overseas might be overlooked. For example, Japanese food culture demonstrates consideration for nature and the environment in its diversity and practice of local production for local consumption. However, although this has value that could be highly attractive worldwide, one can see that Japanese people take it for granted to such an extent that not only do we fail to notice this value and turn it into a brand, but we are even in danger of failing to uphold this tradition for future generations. Conversely, there is also a risk of overlooking matters that should be revised in light of changes in values worldwide. For example, some have pointed out that highly eco-conscious people are disappointed to see that, while Japan has a rich natural environment and is an eco-friendly society, its towns and cities are filled with plastic consumables. There is also a possibility that a more critical eye than before may be turned on Japanese working environments and the like. Moreover, no matter how impressive the content of an initiative, its validity may be called into question if it lacks consideration for diversity and gender, which may even result in the initiative

failing to gain approbation.

While changes in values around the world offer a golden opportunity to promote CJ initiatives, neglecting to notice aspects that lack consideration for changed values has increased potential to cause significant harm to Japan's brand image. Accordingly, it is necessary to revise aspects in need of revision without delay, while incorporating the perspectives of people from across the globe.

**(Direction of Measures)**

- In light of changes in values worldwide, reflect such perspectives as nature, the environment, the SDGs, safety and peace of mind, hygiene, and health across all CJ-related measures by such means as incorporating them into the judging criteria for CJ-related contests and into the conditions for the disbursement of CJ-related grants and subsidies.

(Short-term, Medium-term) (relevant ministries and agencies)

- To tap into the high appeal of food and make food a catalyst for visitors to Japan from around the world to develop an interest in various aspects of Japan, thereby sustainably generating profits for a wide range of fields and regions, implement initiatives aimed at strengthening partnerships between the food sector and other industries and regions, while remaining conscious of the need to maintain sustainability and also giving consideration to changes in values worldwide and the perspective of their being valued as part of Japan's appeal.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries)

- As food is diverse, reflecting the history and other distinctive features of Japan's regions, and therefore holds tremendous potential to lead to regional revitalization, seek to further refine the appeal of food and promote interest in food culture. Moreover, strive to ensure widespread awareness—both at home and overseas—that food culture is part of Japan's proud cultural heritage and support initiatives that effectively spread the word about it to other countries in a manner befitting the digital age, in the form of a Japan Brand that unites both food and food culture.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries;  
Ministry of Education, Culture, Sports, Science and Technology)

- To promote farm stays—a form of tourism in which visitors are accommodated in rural communities—support the development of accommodation facilities that leverage traditional-style old houses and the like, and develop food menus and hands-on, interactive programs that tap into local resources. In addition, use videos tailored to target audiences to promote farm stays to people both within Japan and overseas.



(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries;  
Ministry of Land, Infrastructure Transport and Tourism)

- With reference to initiatives such as Kyoto Prefecture's, define the *shinise* businesses that should be promoted from a CJ perspective and develop a database of them. In addition, consider how to approach their promotion, including the establishment of a commendation or award scheme, approaches to spreading the word about them overseas, and collaboration with local governments.

(Short-term, Medium-term) (Cabinet Office)

## **(ii) Building a virtuous circle of exports and inbound tourism**

### **(Current Situation and Challenges)**

Inbound tourism and exports (overseas business expansion) are the tandem elements providing the impetus for CJ initiatives. A virtuous circle of inbound tourism and exports had previously been established. For example, people from around the world who had developed an interest in Japan via anime or manga would visit Japan as inbound tourists, engage in consumption within Japan, discover Japan's appeal and spread the word about it, and continue to buy Japanese products and tell people about the attractions of Japan even after returning home, thereby inducing new inbound tourism. With COVID-19 having caused inbound tourist numbers to plummet, the virtuous circle of inbound tourism and exports that existed hitherto has collapsed, so it is necessary to rebuild a virtuous circle of inbound tourism and exports with strong exports as its starting point, even while the pandemic continues.

Initiatives aimed at the phased recovery of inbound tourism must be promoted, while keeping a close eye on such matters as the extent of infection both within Japan and overseas. In December 2020, the Tourism Strategy Implementation Promotion Committee finalized the Strategy for Preventing the Spread of COVID-19 and Recovering Tourism, which advocates phased efforts to increase the number of inbound tourists. Based on this policy, it is necessary to strategically promote the recovery of inbound tourism by appropriately implementing measures focused on identifying attractions within Japan, enhancing preparedness to accept inbound tourists, and spreading the word, based on a shared sense of purpose and priorities among CJ-related ministries, agencies, and organizations. These efforts must be implemented at each of three stages, namely the stage at which the number of inbound tourists is strictly limited, the stage at which restrictions are eased and the number of inbound tourists starts to grow, and the stage at which the number of inbound tourists recovers to pre-pandemic levels, and we begin to look further

ahead.

Despite the novel coronavirus, Japan remains popular as a tourist destination, with survey results showing that Japan continues to be high on the list of countries and regions people want to visit once the pandemic ends. Accordingly, for the time being, it is necessary to maintain people's interest in Japan and make preparations for the full-scale resumption of inbound tourism, while making more proactive use of such aspects of Japan's authentic appeal as its rich natural environment, its regional attractions, and its food and food culture. Moreover, with foreign tourists visiting Japan who demand high-quality service expected to play a major role in the recovery of inbound tourism, it is vital to make preparations aimed at attracting such tourists, including leveraging high-quality cultural and natural resources, revitalizing the art market, encouraging the development of high-quality accommodation, and human resource development. Some have expressed the view that, as digital and online operations become part of our everyday lives, analogue experiences such as places without internet connections and places where people can experience traditional ways of life will acquire high value as experiences beyond the quotidian. Accordingly, it is necessary to adopt a flexible viewpoint in identifying Japan's authentic appeal.

In terms of spreading the word about Japan's appeal, it is vital to make effective use of social media, given its growing presence, while engaging in more extensive analysis of the relevant interests and preferences, along with communication trends. Inbound tourists had been playing a significant role in bolstering Japan's publicity potential. However, given that their number has plummeted, in addition to posting information on the internet, it is necessary to adopt more agile means of spreading the word, while leveraging social media and networks such as those of Japanese diplomatic missions overseas. Furthermore, when inbound tourism resumes, Japan must, as a nation, send out a forward-looking message welcoming inbound tourists.

Although exports—another pillar of CJ—declined for a while due to the pandemic, they are bouncing back from its effects, with exports of agricultural produce and alcoholic beverages produced in Japan now higher than they were before the COVID-19 outbreak. With people worldwide increasingly shunning meals out and taking the opportunity to eat at home, rising demand for home cooking is expanding business opportunities in the realm of agricultural produce. Mounting safety consciousness and the desire for peace of mind also provide favorable conditions for exports of agricultural produce and alcoholic beverages produced in Japan. In the private sector, virtual reality-based online business talks and other such initiatives are progressing in response to society's shift online and moves to avoid contact in the face of COVID-19. In addition to these efforts, it is

necessary to efficiently leverage the networks of JETRO and the Japan House hubs, the networks cultivated and invested in by the Cool Japan Fund Inc. (hereinafter the “CJ Fund”), and cross-border e-commerce initiatives to position aspects such as nature, the environment, and safety and peace of mind front and center, establishing them as a brand, while expanding exports of Japanese products such as agricultural produce and alcoholic beverages produced in Japan.

Expanding exports is also crucial from the perspective of the resumption of inbound tourism. With the number of inbound tourists having dropped and given the difficulty in visiting Japan, exports of Japanese products are an effective means of enabling people worldwide to experience Japan and of maintaining their interest in Japan. It is important to drive increases in inbound tourism once it resumes by effectively leveraging exports and using them to build a desire to visit Japan among people across the globe. Hitherto, inbound tourism was the starting point for the virtuous circle of inbound tourism and exports providing the motive force behind CJ. However, going forward, it will be vital to make strategic use of exports to build a virtuous circle with exports as its starting point that will lead to inbound tourism in the future, thereby revitalizing CJ initiatives as a whole.

#### **(Direction of Measures)**

- Dispel anxieties about traveling to Japan, while promoting visits to Japan tailored to post-pandemic changes in travel demand, by such means as disseminating information about Japan’s efforts to ensure safety and peace of mind via digital marketing by the Japan National Tourist Organization (JNTO) and Japanese diplomatic missions overseas, among others.

(Short-term, Medium-term) (Ministry of Land, Infrastructure Transport and Tourism;  
Ministry of Foreign Affairs)

- Develop tourism hubs and areas centered on cultural resources by such means as encouraging the development of cultural tourism hubs in accordance with the Cultural Tourism Promotion Act, as well as by increasing the appeal of Japan Heritage and other cultural resources, and stepping up efforts to spread the word about them. Furthermore, encourage international exchange involving museums and the like, and promote the development of high-added-value aspects of cultural facilities and cultural resources as cultural tourism resources.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and  
Technology; Ministry of Land, Infrastructure Transport and Tourism; Cabinet  
Office)

- To encourage the attraction of foreign tourists visiting Japan who demand high-quality tourism services, promote the development of human resources and an environment conducive to encouraging the development of high-quality accommodation facilities.

(Short-term, Medium-term) (Ministry of Land, Infrastructure Transport and Tourism)
- To spread the word about the attractions of regional Japan, use the internet and other means effectively to expand broadcast content overseas via collaboration with the Japan Broadcast Program Export Association of Japan (BEAJ), broadcasting stations, relevant ministries and agencies, local governments, and local industry, among others, taking into account the growth in video streaming and other developments in the diversification of the global viewing environment, as well as changes in the need to disseminate information within Japan.

(Short-term, Medium-term) (Ministry of Internal Affairs and Communications)  
[Described above]
- Move forward with the development of the systems and environment required to attract international art fairs and auctions to Japan and to tap into customers in overseas markets, in order to revitalize the Japanese art market and turn it into a major international hub.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology)
- Work with relevant local governments, ministries, and agencies and with private sector business operators to improve the visitor environment at national parks, including increasing the quality of facilities for use by visitors and enhancing content, as well as improving secondary transport and encouraging broader regional partnerships, the use of tours, and efforts to leverage local products, thereby boosting the benefits and effects for a variety of fields and the surrounding region with the national park at its heart. In addition, apply examples of success at the eight parks where initiatives are being promoted first to other areas in order to promote such initiatives nationwide.

(Short-term, Medium-term) (Ministry of the Environment)
- With a view to increasing exports of agricultural, forestry, and fisheries products and foods, the Action Strategy for Expanding the Export of Agricultural, Forestry, and Fishery Products and Foods formulated in December 2020 identified 27 priority products in respect of which Japan has the advantage of a good reputation overseas and which therefore offer scope for expanding exports. Regarding these 27 priority

products, promote efforts to cultivate and expand the range of areas producing goods for export, taking a market-oriented approach, and also ensure that the public and private sectors work together to enhance marketing capabilities.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries)

- To increase the number of overseas hubs for spreading the word about Japanese food and food culture and to further expand exports of Japanese-produced agriculture, forestry, and fisheries produce and ingredients, support business operators working to increase and enhance Japanese Food and Ingredient Supporter Stores Overseas, where people from around the world who are interested in Japan or have previously visited the country can experience Japanese food. In addition, implement comprehensive overseas publicity initiatives, including a searchable list of Japanese Food and Ingredient Supporter Stores Overseas and information about Japanese chefs and recipes.

(Short-term, Medium-term) (Ministry of Agriculture, Forestry and Fisheries)

- To further expand exports of alcoholic beverages produced in Japan, taking into account the Action Strategy for Expanding the Export of Agriculture, Forestry, and Fishery Products and Foods formulated in December 2020, increase awareness by such means as international promotional activities and the promotion of saké brewery tourism. In addition, proactively endeavor to expand sales channels, by such means as providing support to those exhibiting products at major overseas exhibitions, and offering support for matching trading companies and wholesalers involved in the export business with alcoholic beverage businesses. Moreover, to differentiate products and develop their high-added-value aspects, promote branding initiatives by alcoholic beverage businesses, as well as encouraging widespread awareness and use of the geographical indication (GI) system and providing technical support.

(Short-term, Medium-term) (Ministry of Finance; Ministry of Land, Infrastructure  
Transport and Tourism)

- To capture growing overseas demand and expand the market for content originating in Japan, support localization (translation, etc.) and promotional activities aimed at overseas business expansion in the field of content, including the transmission of videos recorded at live music and theater performances.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry) [Described  
above]

- Consider ways of supporting overseas expansion by Japanese private sector business operators by tapping into the networks and knowledge of Japanese nationals resident

overseas who have been involved in business activities in other countries for many years.

(Short-term, Medium-term) (Cabinet Office; relevant ministries and agencies)

### **(iii) Establishing new business models leveraging digital technology**

#### **(Current Situation and Challenges)**

Amid restrictions on travel and gatherings, businesses predicated on physical modes of operation have been compelled to make a major shift, resulting in the spread of new initiatives based on digital technology and online approaches, including online streaming of music and concerts, online delivery services, business talks conducted with the aid of virtual reality, the use of avatars, and 3D computer-generated models. Moreover, moves to develop high-added-value aspects via non-fungible tokens (NFTs) and the like are being seen in fields such as digital art, and some have pointed out the need to develop high-added-value aspects of digital content via innovations that tap into the distinctive properties of NFTs. As initiatives that leverage digital technology and online approaches will be essential elements in future CJ initiatives, CJ-related ministries, agencies, and organizations will need to work together while supporting such initiatives, so that they become established as new business models.

At the same time, given that people still have a tremendous longing to get together in person, and also that there are some forms of value that can only be experienced physically, such as eating and drinking, the perspective of combining digital technology/online approaches with real-world experiences to increase the overall value of an initiative will be vital in establishing new business models. For example, some commentators have noted that, while the events and entertainment field is progressively moving online, the growing prevalence of online events and entertainment is increasing the value of physical events. Accordingly, it will be important to increase profitability by developing business aimed at a broad segment through live online events, and business targeting core fans through physical events, while also making effective use of the sale of goods. Moreover, initiatives in which chefs share their recipes online offer potential for developing high-added-value aspects through tie-ups with the sale of ingredients. Furthermore, it is hoped that combining tourism based on virtual reality with the delivery of local dishes would enable participants to enjoy an experience closer to tourism in the real world, thereby increasing their satisfaction. Rather than using online approaches as a substitute for initiatives in the physical world, it is vital to enhance overall profitability and participant satisfaction by appropriately combining real-world experiences with digital technology

and online approaches in order to establish a sustainable business model.

Needless to say, when establishing new business models, measures to prevent the spread of COVID-19 are crucial. Measures already being taken in CJ-related fields to prevent the spread of COVID-19 include wearing masks, sanitizing at entrances and exits, taking temperatures, and regularly ventilating spaces. Going forward, such measures must be steadily implemented to ensure confidence in physical initiatives, while using them to drive the establishment of new business models and ensure that such new business models become firmly established.

### **(Direction of Measures)**

- Create model cases of digitalization in industry in regional Japan by verifying new projects in which companies selected as Companies Driving Regional Growth with IT companies and the like. In addition, support efforts to roll out model cases to similar industries in other regions.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry)

- To foster new ways to use cultural assets, promote initiatives that use digital technology for precise data measurement to create sophisticated replicas, bolster publicity, and produce content.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology; Cabinet Office)

- With the aim of expanding opportunities for consumption and increasing the average spend, develop the digital technology required to create new tourism content and value unconstrained by conventional modes. In addition, transform tourism services and create new tourism demand by meeting expectations regarding physical tourism through the widespread promotion of online tourism, thereby promoting DX with a view to the advent of the age of Society 5.0 in the near future.

(Short-term, Medium-term) (Ministry of Land, Infrastructure Transport and Tourism)

- Promote initiatives aimed at shoring up the revenue base for performing arts within Japan, such as using advanced technology to create more diverse, robust income streams for live performances.

(Short-term, Medium-term) (Ministry of Economy, Trade and Industry; relevant ministries and agencies) [Described above]

- To prevent the spread of COVID-19, while still allowing events to take place, support measures at event venues, such as sanitizing, taking temperatures, and ventilation.

(Short-term) (Ministry of Education, Culture, Sports, Science and Technology;  
Ministry of Economy, Trade and Industry) [Described above]

- Discuss support for young people in fields such as architecture, design, and art, and approaches to support for expanding activities overseas.

(Short-term, Medium-term) (Cabinet Office)

## **b) Enhanced elements**

### **(i) Publicity potential**

#### **(Current Situation and Challenges)**

Some commentators have pointed out the importance of enhancing publicity potential in regard to the CJ Strategy by such means as storification, devising gateways based on the interests of the audience and developing depth with consideration for the essence of Japanese culture, and creating means of spreading the word that take into account the communication methods used by people. However, given the transformation in social modalities wrought by COVID-19 and the accelerating pace of change in people's communication environments, further enhancement of publicity potential will be required.

In enhancing publicity potential, selecting and spreading the word about high-quality attractions based on the interests and preferences of the audience is of the most fundamental importance. Accordingly, given the pandemic-induced changes in values, it is necessary to alter the attractions to be publicized and the points to be emphasized in doing so. For example, the magnificent natural environments and national parks found throughout Japan must be placed front and center for audiences with an interest in nature, while the medical system and the state of the pandemic need to be highlighted for audiences concerned about safety and peace of mind, and Japan's ecological initiatives should be emphasized for highly environmentally conscious audiences. In addition, in light of the tendency to avoid crowded places and physical contact, the attractions of regional Japan, travel in more rural areas, and mountain climbing are likely to have great publicity potential. Initiatives focused on selecting and spreading the word about high-quality content based on analysis of audience interests and preferences while leveraging digital marketing techniques can be found in the private sector. In partnership with people who have knowledge of this kind, the government should carefully select high-quality content.

While storification is important in the context of enhancing publicity potential, some have pointed out that the high-context nature of Japanese culture makes it difficult for foreign nationals to understand, so improving storification is a key task. Storification



requires us to select and reaffirm the essence of Japanese culture and then edit it into a form that will be easy to understand from the audience's viewpoint. As such, it is not something that can be done overnight. While rolling out examples of the use of storification to a wide range of areas, it is necessary to make ongoing efforts to increase knowledge and undertake storification without fear of failure.

Paid streaming services are increasingly popular, with global streaming platforms gaining users as the pandemic drove stay-at-home demand. Social media is a growing presence as society's shift online progresses and environmental changes around people's communication methods are gathering pace, with user-generated content (UGC) becoming increasingly influential. In light of changes in the environment around media and communication, posting information on a website is no longer sufficient and more agile efforts to enhance the dissemination of information will be required. It will be necessary to deliver information in a more agile and proactive manner, not only via online assets such as subscription streaming services, social media, and search services, but also by maximizing the use of all assets available to the country as a whole, including human networks such as public and private sector networks of connections to people who have visited or studied in Japan, and also the connections of Japanese diplomatic missions overseas.

Anime, manga, film, games, broadcasting, and other elements of the content field are part of Japan's world-class pop culture and have significantly contributed to bolstering Japan's soft power. While the overseas deployment of content is progressing, the profile of Japanese content other than anime and games in other countries could not be said to be high and some commentators have said bluntly that Japan should face the reality that it is being outdone by other countries with regard to the deployment of content abroad. Another issue faced in regard to the overseas deployment of content is that it is not being linked to the wider interests of Japan as a whole, including other industries. As people's daily lives become increasingly reliant on the internet, the influence and importance of content are growing. Accordingly, as well as moving forward with the multifaceted development of IP and the strengthening of partnerships with other industries, it is vital to enhance Japan's publicity potential as a nation by consolidating the overseas deployment of content through such efforts as the cultivation of personnel conversant with other countries' business practices and languages.

#### **(Direction of Measures)**

- With regard to food culture, including distinctive forms of food culture passed down through the generations in regional Japan and the traditional *kaiseki* cuisine said to

find its origins in the Japanese tradition of the Way of Tea, support initiatives by local governments and the like focused on creating and publicizing Food Culture Stories that shed light on their cultural value and explain their cultural background in an easily understood way. In addition, put together model examples.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology)

- Aim to have Japan's traditional sake brewing technology using *koji* mold registered on UNESCO's Intangible Cultural Heritage list. By doing so, raise global awareness of this technology, as well as ensuring the technology is passed on to future generations.

(Short-term, Medium-term) (Ministry of Finance; Ministry of Education, Culture, Sports, Science and Technology)

- Promote regional revitalization and attract visitors to the regions by holding and publicizing the Japan Cultural Expo and other parts of the Cultural Program throughout Japan, and also by disseminating information about the Cultural Program and other events via the web portal.

(Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology; relevant ministries and agencies)

- Use VR and other new digital technology to spread the word effectively about the appeal of national parks, taking into account the distinctive characteristics of each individual national park. In addition, as well as disseminating information overseas in collaboration with the JNTO website, enhance publicity potential by creating an environment in which national park users, including visitors to Japan from across the globe, can spread the word about the parks themselves.

(Short-term, Medium-term) (Ministry of the Environment; Ministry of Land, Infrastructure Transport and Tourism)

- Provide Japanese dramas, anime, documentaries, films, variety shows, and other broadcast content free of charge to countries and regions where efforts to broadcast Japanese television programs on a commercial basis have failed to make headway, and broadcast or stream programs in those countries and regions in order to promote understanding of Japan, foster pro-Japanese sentiment, and lay the foundations for future commercial expansion into those countries and regions.

(Short-term, Medium-term) (Ministry of Foreign Affairs) [Described above]

- To enhance the publicity potential of overseas embassies and other such outposts, provide the Ministry of Foreign Affairs with videos from film contests organized by relevant ministries and agencies and other such material, so that diplomatic missions

overseas and the like can spread the word about Japan's appeal. In doing so, give consideration to the handling of copyright, to facilitate the flexible use of such videos at diplomatic missions overseas, etc.

(Short-term, Medium-term) (Cabinet Office; Ministry of Foreign Affairs; relevant ministries and agencies)

- Seek to make more effective use of the publicity potential of the Japan Houses. In doing so, take into account not only the promotional side, but also the need to secure sales channels, so that promotional activities at the Japan Houses lead to business.

(Short-term, Medium-term) (Ministry of Foreign Affairs; Cabinet Office)

- Encourage partnerships between the content sector and other industries by supporting initiatives aimed at matching the content industry with other industries and by publicly recognizing and showcasing outstanding initiatives.

(Short-term, Medium-term) (Cabinet Office)

- In circumstances where attracting location shooting is feasible, enhance the environment for attracting location shooting by such means as cooperating with local governments and strengthening partnerships with film commissions, in order to achieve regional revitalization through the attraction of location shooting and effectively tie hit screen productions into the promotion of visits to Japan.

(Short-term, Medium-term) (Cabinet Office; Ministry of Land, Infrastructure Transport and Tourism; Ministry of Foreign Affairs; Ministry of Economy, Trade and Industry)

## **(ii) Infrastructure supporting CJ**

### **(Current Situation and Challenges)**

In promoting CJ initiatives, it is imperative to form partnerships and cooperate with stakeholders across a diverse array of regions and fields. The Cool Japan Public-Private Partnership Platform (hereinafter, the "Public-Private Partnership Platform") serves as a central platform for enhancing public-private partnerships. The government has implemented a number of measures aimed at revitalizing the Public-Private Partnership Platform, including establishing forums for the exchange of opinions among members to refine ideas, as well as striving to diversify and expand membership by getting local governments involved, among others. With values changing as a result of the pandemic, it is vital to establish infrastructure enabling creative people from a wide range of fields to cooperate, share knowledge, and refine ideas, in order to promote CJ initiatives based on global trends. To ensure that the activities of the Public-Private Partnership Platform

can be undertaken in a more systematic and dynamic manner, with an eye to private sector organizations fulfilling core functions specified in the CJ Strategy, it is necessary to undertake initiatives focused on gathering, analyzing, and sharing basic information about the strategic environment, putting projects together, matching project partners, and identifying regional attractions, among others.

While CJ is an initiative aimed at enhancing soft power, some commentators have noted that its outcomes are hard to grasp, so indicators of some kind are required to measure the achievements of CJ. To ensure that stakeholders across the public and private sectors come together to implement CJ initiatives, it is vital to discuss indicators for measuring the achievements of CJ initiatives, while keeping in mind changes in values wrought by the pandemic.

Much of Japan's appeal lies in its regions, so, in order to bolster CJ initiatives at a time when the attractions of regional Japan are being re-evaluated as a result of COVID-19, it is imperative to strengthen collaboration with local governments and strive to make further use of Japan's regional attractions. There are examples of local governments promoting initiatives that are highly interesting from a CJ perspective. For instance, Saga Prefecture's many appealing aspects include agricultural produce such as *Saga Gyu*<sup>TM</sup> (beef), *Ureshino-cha* (tea), and the new *Nijumaru* citrus brand. The prefecture is also famous for its ceramics, such as *Imari-Arita Yaki* and *Karatsu Yaki* ware, and its scenic and historic places include Hizen-Nagoya Castle and the Yoshinogari ruins. The government of Saga Prefecture is striving to promote the area's appeal through a variety of creative endeavors, including efforts to attract location shooting by foreign film productions, tea tourism, and tie-ups with game content. Moreover, the prefecture has recently been implementing a project aimed at leveraging space technology to expand Saga's appeal. Going forward, it will be vital to broaden CJ initiatives through efforts to identify the authentic appeal of regional Japan and expand the potential of Japan's regions by strengthening collaboration with local governments with new ideas, including Saga Prefecture, and providing them with support where necessary.

The CJ Fund has built up knowledge through its investment activities and has formed a wide-ranging network of connections by investing in platform operators in various regions, including North America, China, and Southeast Asia. The knowledge and networks of the CJ Fund are a vital asset for all CJ stakeholders. To further bolster exports and boost the value of the CJ Fund's existing investment projects, it is necessary to strengthen partnerships between relevant ministries and agencies and the CJ Fund by tapping into its knowledge and networks.

With both domestic and international movement of people limited at present, it is

becoming increasingly important for Japan to leverage its assets and networks outside the country, including its diplomatic missions overseas. In addition to tapping into the networks of Japanese diplomatic missions overseas to enhance publicity potential, the knowledge of local culture and circumstances held by these diplomatic missions will be extremely beneficial in promoting CJ initiatives. It is necessary to strengthen partnerships between CJ-related ministries, agencies, and organizations, and Japanese diplomatic missions overseas and the like in order to create a virtuous circle in which information on the attractions of Japan held by the bodies involved in CJ is used by diplomatic missions overseas to enhance Japan's publicity potential as a whole and expand exports, while the knowledge held by these diplomatic missions is used to inform the initiatives of CJ-related bodies.

**(Direction of Measures)**

- Enhance the flow of information among members about the Public-Private Partnership Platform and strengthen CJ initiatives by sharing information about CJ-related policies and approaches, and changes in global trends. In addition, to solicit membership from a wider range of fields and facilitate partnerships with stakeholders, revitalize the activities of the Public-Private Partnership Platform by such means as initiatives involving the exchange of opinions by members, matching initiatives, and initiatives designed to identify the attractions of regional Japan. Moreover, consider enhancing the Public-Private Partnership Platform's networking and research functions, and developing its efforts into more systematic activities.

(Short-term, Medium-term) (Cabinet Office)

- Promote communication through the exchange of opinions with the CJ Fund concerning the overall direction of CJ policy and approaches to it, and also tap into sources such as the Public-Private Partnership Platform to provide the CJ Fund with information about global perspectives and new initiatives in order to support the CJ Fund's investment decisions.

(Short-term, Medium-term) (Cabinet Office; Ministry of Economy, Trade and Industry)

- Support efforts to enhance the value of existing CJ Fund investment projects by facilitating matching based on the introduction of excellent content, while collaborating with Public-Private Partnership Platform members and others.

(Short-term, Medium-term) (Cabinet Office)

- Undertake proactive, ongoing efforts to spread the word in other countries about Japan's diverse attractions and boost interest in Japan abroad through cultural

projects by Japanese overseas embassies and the Japan Foundation (JF) that take into account needs in each country and also include online initiatives. Such projects will include performances and exhibitions covering a wide range of fields, including the attractions of regional Japan and Japanese cuisine, along with everything from traditional culture to pop culture.

(Short-term, Medium-term) (Ministry of Foreign Affairs)

## **8. Work Schedule**