



Regulating Data - a Korean Perspective

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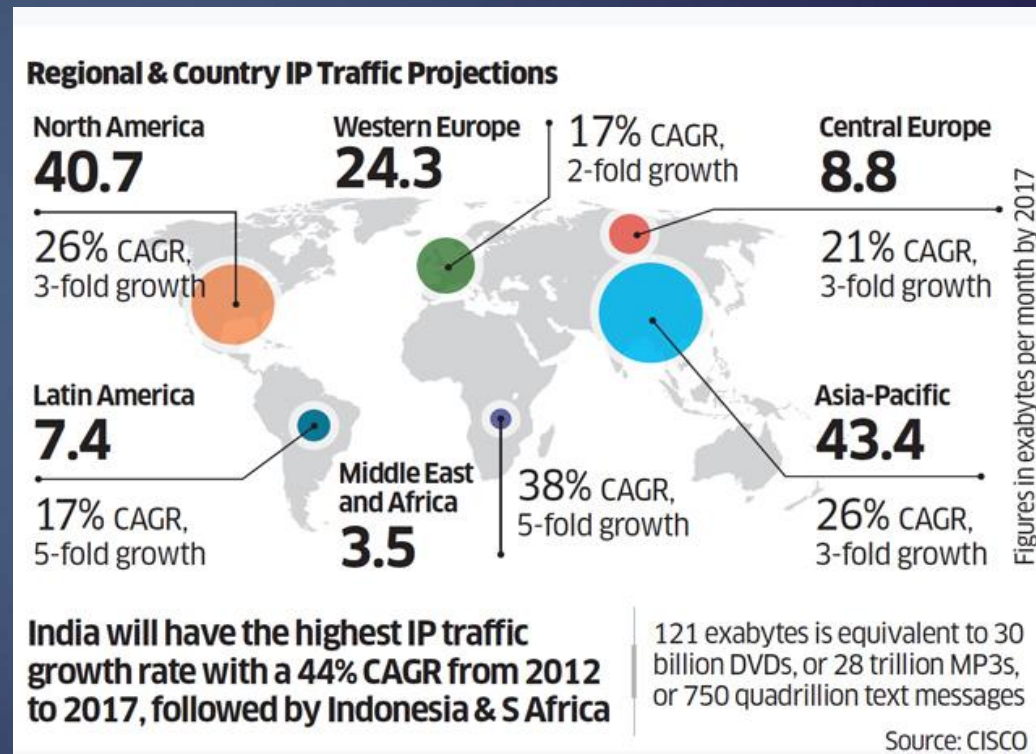
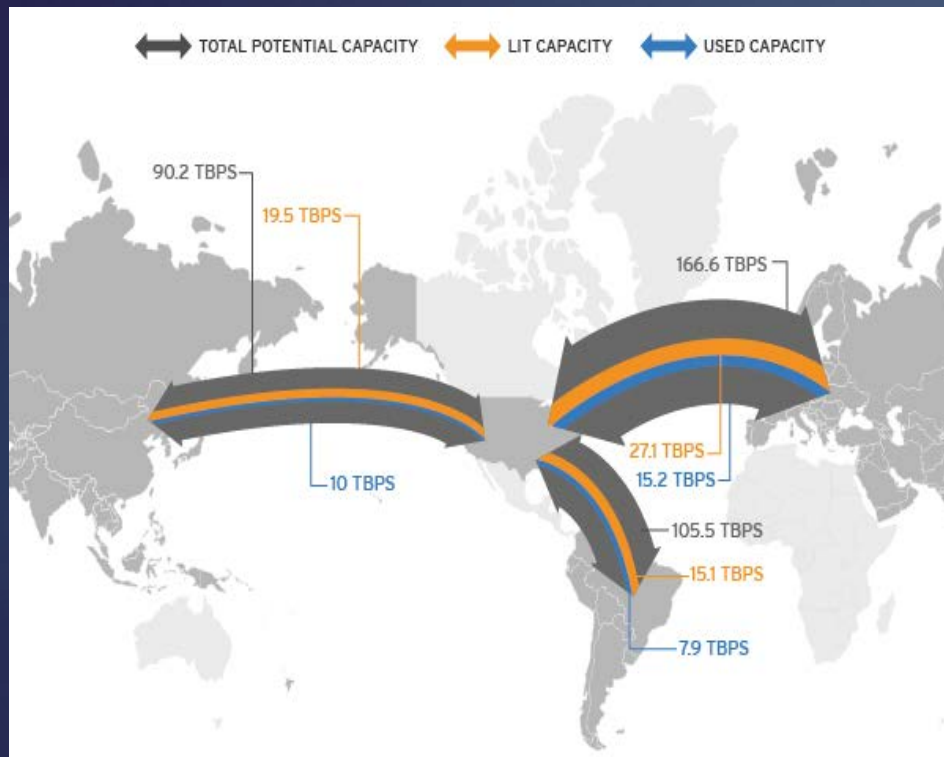
- (1) Cross-Border Data Flow (CBDF) in Today's World
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Cross-Border Data Flows

- ▶ Hard to capture in traditional trade statistics; policy-makers do not realize its importance for economy
- ▶ According to TeleGeography, demand for international bandwidth increased at a compound annual rate of 49% between 2008~2012. Over the same period, volume of international trade in goods and services rose an average of 2.4%
- ▶ CBDF is mostly about inbound-outbound data traffic originating from the US, but growth is faster in Asia

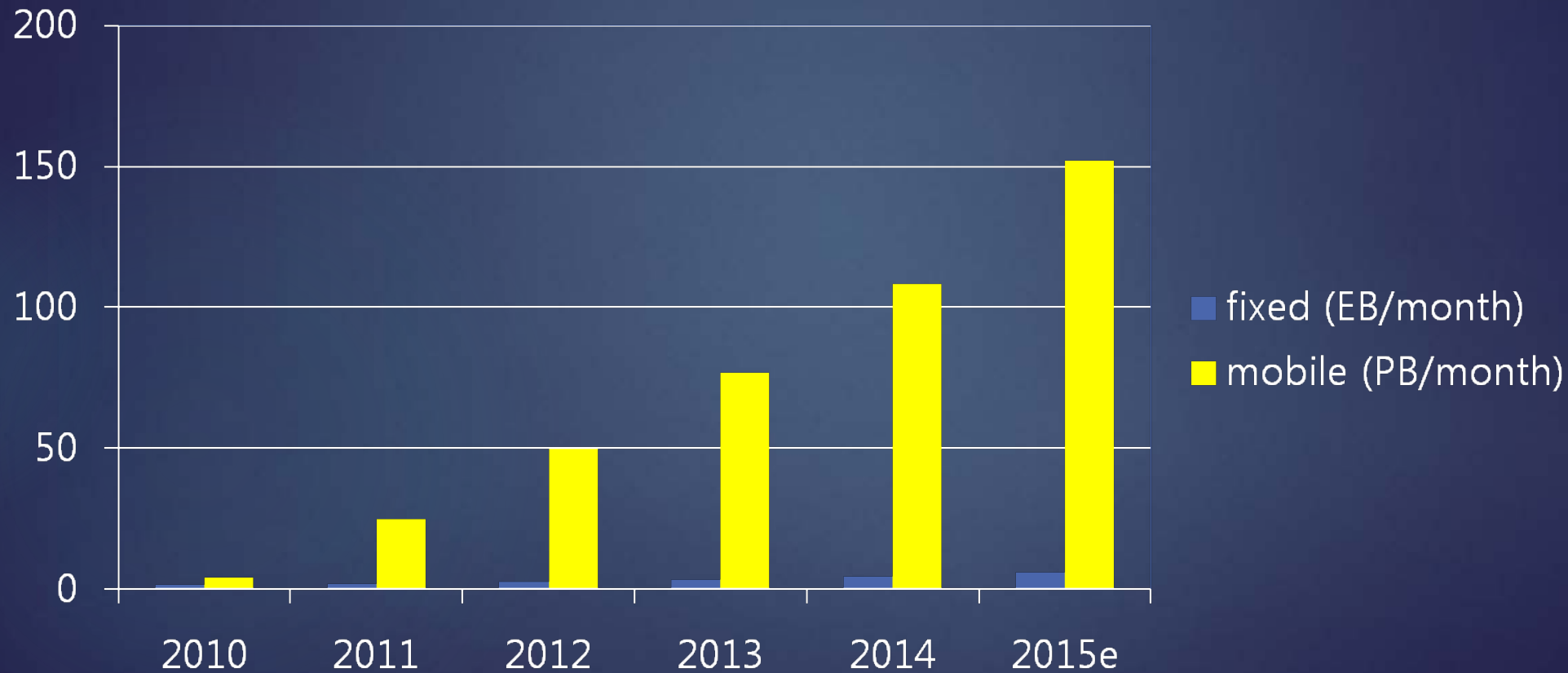
A brief look at global internet data traffic

(source: CISCO infographics)



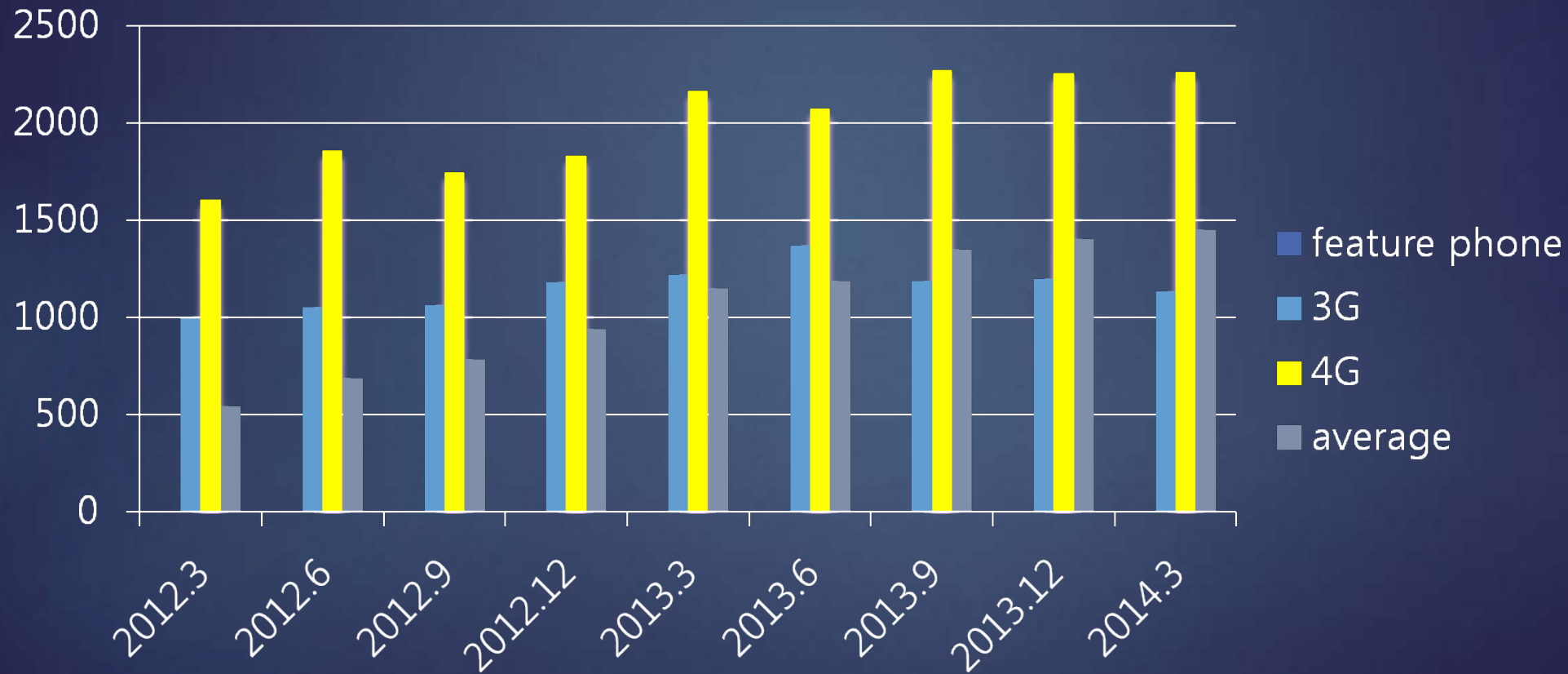
Data Traffic in Korea- mostly mobile

(source: Korea Communications Commission)



Individual Monthly Mobile Data Use (unit: MB)

(source: Ministry of Science, ICT and Future Planning)



2 Approaches to Regulating Data

- ▶ Type A

No Regulation in Principle + Regulation in Certain Cases

- ▶ Type B

Regulation in Principle + No Regulation in Certain Cases

Type A

vs.

Type B

Accountability Principle

- Example: APEC CBPRs
- Aim: Complement different data protection regimes
- Coverage: at the level of Organization
- Characteristic: Low level of entry, but High risk
- Regulation: self-regulation

Adequacy Principle

- Example: EU Adequacy Rules
- Aim: Harmonize data protection regimes
- Coverage: Geographical area
- Characteristic: High level of entry, but Low risk
- Regulation: regulation by public authority

Korea's Recent Experience

- ▶ (2008.1) info of 1 million customers of Auction, an e-commerce company, leaked
- ▶ (2008.9) info of 11.2 million customers of GSCaltex, gasoline service provider, leaked
- ▶ (2011.7) info of 35 million customers of SKComs, an online game company, leaked
- ▶ (2012.7) info of 8.7 million customers of KT, the nation's #1 telephone service provider, leaked
- ▶ (2012.5) info of 4 million subscribers of EBS, a public broadcasting company, leaked

- ▶ (2014.1) info of 104 million customers of KB, Lotte & Nonghyup, credit card companies, leaked
- ▶ (2014.3) info of 12 million subscribers of KT, leaked again!
- ▶ Despite these breaches of personal information protection, Korea's legal system to address this appears inadequate:
The 3 credit card companies were fined only KRW 6million (USD 6000)
- ▶ Total amount of fine issued by KCC over the last 5 years on 738 cases of breaches of data protection law amount to only KRW 1billion.

Korea's Approach: Type B?

▶ Domestic Laws

Personal Information Protect Act, Article 17

Telecommunications Networks Act, Article 63

Regulations concerning the treatment of Financial Data ...

- ▶ Law is rigid and lacks flexibility: obliges data collector to obtain informed consent from customer/user, but is not developed enough to address data management
- ▶ Companies have little incentive to incorporate data protection practice

Current Issues

- ▶ Not many legal tools available for the protection of personal information other than the requirement of “informed consent”
- ▶ Criticism that current law is ignorant of reality: - guideline for data protection cannot cover every business case (e.g. KCC’s BigData Guideline)
- ▶ Burden is put on the user/customer, not on the company or data collector
- ▶ Dire need for new approach toward data governance

continued

▶ KORUS FTA ARTICLE 15.8: CROSS-BORDER INFORMATION FLOWS

“ Recognizing the importance of the free flow of information in facilitating trade, and acknowledging the importance of protecting personal information, the Parties shall endeavor to refrain from imposing or maintaining unnecessary barriers to electronic information flows across borders.”

- ▶ CBDF issue addressed in Trade in Services Agreement (TISA), TransPacific Partnership (TPP)

Regulatory Flexibility Needed ..

- ▶ Greater CBDF means greater interconnectedness of personal and professional relationships throughout the world
- ▶ Need for consistent and predictable, but flexible regime governing data transfer/movement of information
- ▶ Need to address the issue of privacy and right over one's own data

...and International Cooperation

- ▶ Given the difficult problems of applying national laws beyond jurisdiction, regulators need to come up with a coordinated approach to global data governance that promotes CBDF but also secures individual privacy and related public policy concerns.



Thank you !

Questions?

For questions and comments, contact the presenter at
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