

Outline of the Interim Summary

"Realization of a Private Sector-led Economic Society" through
the Opening of Government-driven Markets for Entry into the
Private Sector

August 3, 2004

Council for the Promotion of Regulatory Reform

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I. Inauguration of the Council for the Promotion of Regulatory Reform and the current top priority tasks

- Concentrating on the "opening of government-driven markets to the private sector," study the issue in three working groups, namely "cross-sectional method," "privatization of areas of work under government" and "reform of major government-driven markets."

II. Significance of the opening of government-driven markets to the private sector

1. Importance of opening the government-driven markets to the private sector

- Fundamentally Reconsider about how the roles of public sector and private sector can be separated, and realize an optimal system that will provide users/consumers services with high added-value.

[Significance]

- (i) Providing services according to user needs (improvement of services for citizens)
- (ii) Appropriate allocation of public human resources and complying with administrative demand (administrative and fiscal reform)
- (iii) Business opportunity creation and increasing demand and employment (vitalization of economy)

[What is a government-driven market?]

Market with strong public involvement such as:

- where the government itself provides services and so forth, or
- although it is open to the private sector, there is a restriction on entities who provide services.

2. Approach by the Council

(1) Promotion of opening areas of work under government to the private sector

Promote by closely coordinating the cross-sectional approach (i) with specific approach

(ii).

- (i) Introduction of “Market Testing (competitive tendering between the public and private sector),” etc.
- (ii) Promotion of opening areas of work under government to the private sector

(2) Promotion of the reform of major government-driven markets

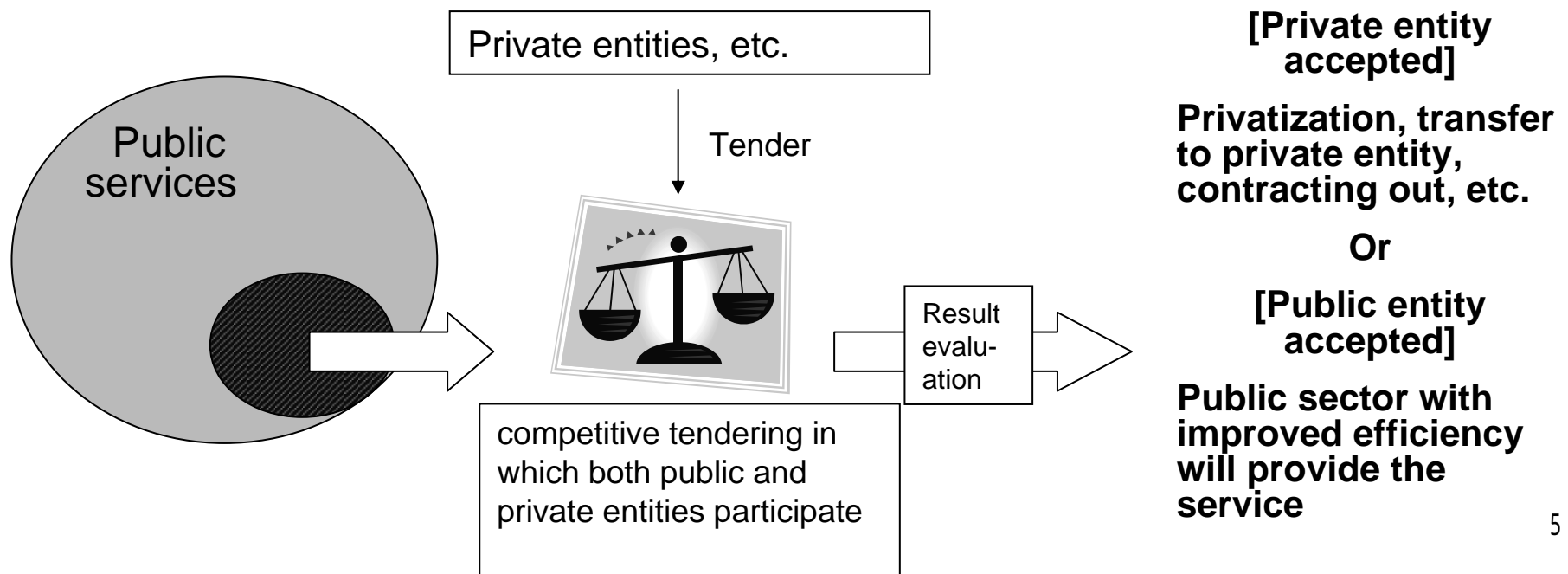
With the "Action Plan for Promotion of Regulatory Reform" by the Council for Regulatory Reform and so forth in mind, discussion should be held intensively on the seven items in three fields such as medical service, education and nursing care.

- (i) Lifting the ban on “Mixed Medical Care Service (combined use of insured and non-insured medical care services)
- (ii) Allowing joint-stock corporations to participate in the management of medical institutions through the medical corporation
- (iii) Reconsidering the pricing mechanism in the medical field
- (iv) Reconsidering the community health care program (regulation of the number of hospital beds)
- (v) Integrating nursing care service and in-home care service
- (vi) Unifying competition criteria between schools with different management styles
- (vii) Lifting the ban on schools "publicly established and privately managed"

III. "Market Testing" (competitive tendering between the public and private sector) as a cross-sectional method to promote opening of public services to the private sector

1. What is "Market Testing"?

- System to translate "what can be done in the private sector to what should be done in the private sector" into reality.
- Both public and private entities shall participate in the competitive tendering on even ground. Entity excelling in terms of both price and quality shall be accepted, and such entity will provide the service.
- Already implemented in US, UK, Australia, etc.

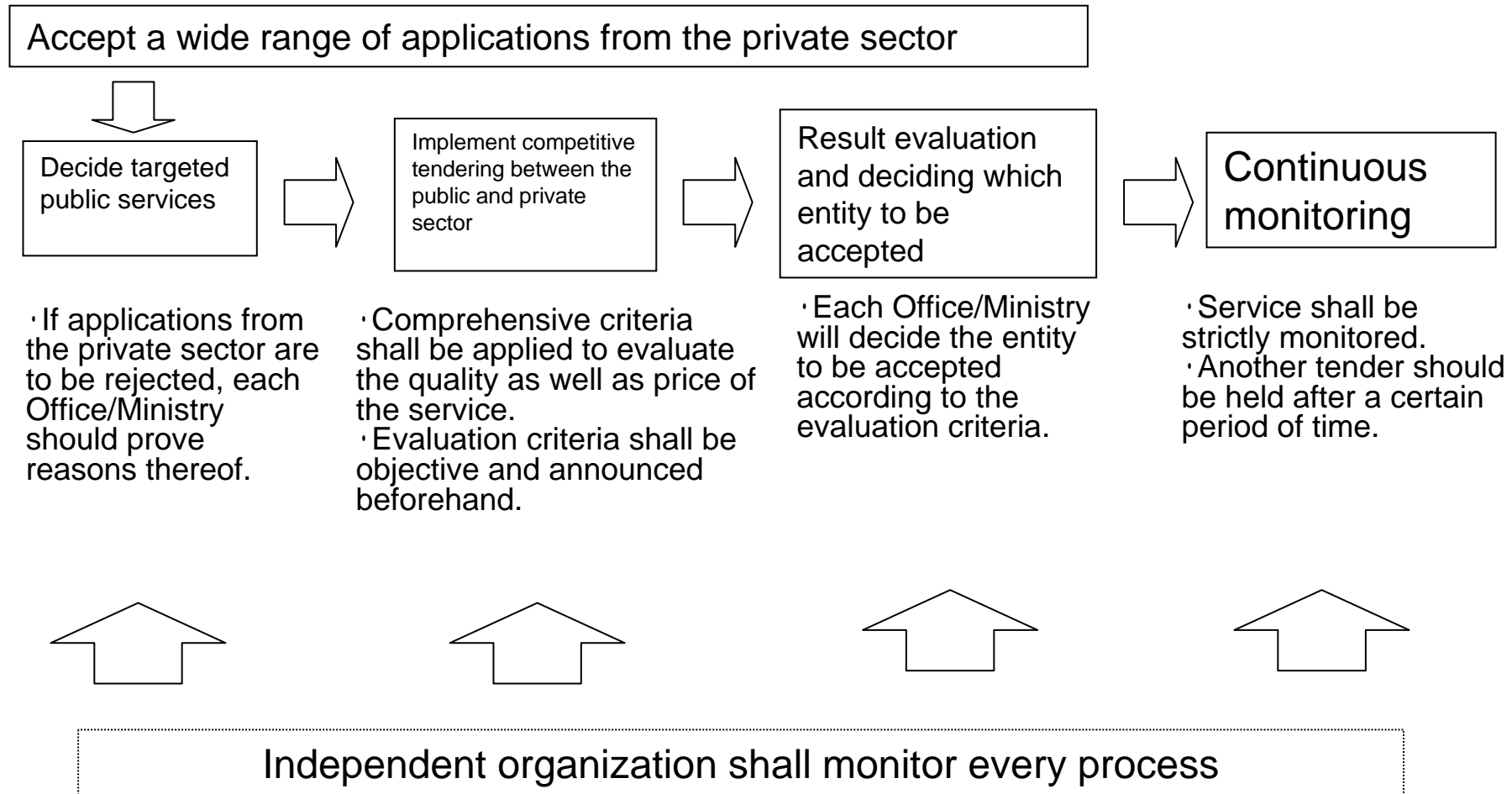


2. Basic policy for introducing "Market Testing"

- (i) Focus on services provided by the central government
 - At the same time, enhance the environment for the local public entities to voluntarily introduce "Market Testing."
- (ii) Target a wide range of services based on applications from the private sector
 - Every public service shall be the target. The list of the targeted services for each year shall be decided based on a wide range of applications from the private sector.
- (iii) Establish the legal framework
 - Legal framework shall be established for:
 - measures such as reforming various related regulations that will hinder the opening of public services to the private sector, and ensuring equal-footing between the public and private sector.
 - establishment of the competitive tendering system between the public and private sector.
- (iv) Disclose comprehensive information such as costs for public services
 - Transparency and conditions of disclosure shall be improved not only for direct expenses, but also for comprehensive information on management such as indirect expenses, subsidies, amount exempted from tax, etc.
- (v) Establish the monitoring system in order to ensure the equal-footing on competition between the public and private sector
 - Independent organization consisting of civil experts shall monitor the entire implementation process in order to ensure transparency, neutrality and fairness.

3. Implementation process – transparent, neutral and fair process

"Market Testing" should be implemented every year according to the following flow.



4. Schedules

(i) Organization

- Actively utilize civil experts, who have adequate experience and knowledge of the private sector (including those of corporate management) at the Cabinet (Office for the Promotion of Regulatory Reform, etc.) [Starting from 2004]

(ii) Guideline

- Promptly establish the specific guidelines on tendering procedures, etc. [Within 2004]

(iii) "Law on Market Testing (working title)"

- Examination and establishment of the "Law on Market Testing (working title)" [FY2004-2005]
- Examination and establishment of the organization to implement the "Market Testing" [period same as above]

(iv) Selection and implementation of "model projects"

- Selection of "model projects" (accept wide range of applications from the private sector) [During 2004]
- Implementation of "model projects" [FY2005]

(v) Full-fledged introduction of the system [FY2006]

- Apply numerical targets in line with the full-fledged introduction of "Market Testing"

IV. Promotion of opening areas of work under government to the private sector

1. Basic idea for promoting the opening of areas of work under government to the private sector

The rationale of the Council towards the "reasons why the market cannot be opened to the private sector" presented in the previous discussions are shown below.

If any Office/Ministry further claims "the market cannot be opened to the private sector," they must give persuasive reasons based on data that can withstand the discussion based on the rationale below.

- (i) As for the discussion that "exercise of public authority" should be done by government employees:
 - It is legally possible to open to the private sector if the authority is granted to the public sector. There are already quite a number of cases where the "exercise of public authority" is practically open to private sector.

- (ii) As for the discussion that because administrative authority belongs to the Cabinet under the Constitution, administrative authority must be exercised by government employees:
 - The provision on the Constitution means that the Cabinet is responsible for the execution of administrative authority and its result, and does not mean that administrative authority must be executed by government employees.

- (iii) As for the discussion that execution of administrative authority with discretion should be left to the government employees' discretion:
 - The original goal is to narrow the range of discretion as much as possible through manuals and guidelines. It is possible to open to the private sector by improving transparency.

- (iv) As for the discussion that services requiring fairness, neutrality, continuity/stability and high confidentiality must be provided by government employees:
 - It is possible to open to the private sector if necessary measures are taken before granting authority to the private sector, and there are many such precedents.

- (v) As for the discussion that there is work/business requested at conventions to be performed by government employees:
 - It must be interpreted that provisions of conventions are satisfied if the right to make final decision is reserved to the administration, so the actual work need not necessarily be performed by government employees.

- (vi) As for the discussion that there are cases with no marketability or it is more efficient when done publicly:
 - Burden of proof for the above should be borne by the public sector.

2. Vigorous promotion to open areas of work under government to the private sector

Sorting out areas of work under government that may be a potential target for opening to the private sector

- Implement survey on work/business that can be the target of opening to the private sector (there are 812 items to be answered in total). Initially, six types given below are vigorously promoted for opening to the private sector.

	The Council's idea	Examples
(i) Benefit and collection	<ul style="list-style-type: none"> • Basically, it is automatically decided according to benefit criteria and tax rate, so it is possible to open to the private sector 	Collection of national and local taxes, pension service, etc.
(ii) Maintenance, management and operation of public facilities	<ul style="list-style-type: none"> • Public accommodations are to be abolished or privatized in the near future • As for other public facilities, PFI and appointed management systems should be utilized further 	Accommodation, government office building, lodgment, information and communication system, prison administration facility, etc.
(iii) Work related to registration	<ul style="list-style-type: none"> • There is basically no room left for political judgment in this area of work, so it is possible to be opened to the private sector. 	Certification of parking space, registration and notarization service, industrial property registration, automobile registration etc.
(iv) Statistical research, production etc.	<ul style="list-style-type: none"> • Because there is no necessity that must be done by government employees, it should be done by an entity that best satisfies certain requirements. 	Statistical service, minting, production of white papers, research on alcoholic beverages, etc.
(v) Tests, verifications, etc.	<ul style="list-style-type: none"> • As for investigations, tests, verifications, etc. related to permission, those with no room left for political judgment in items for such investigation subject to opening to the private sector. • Other tests, verifications, etc. should also be considered for opening to the private sector from the perspective of introducing competition as far as possible. 	Approval service for production of pharmaceutical products, real estate transaction specialists certification examination, measuring equipment test, quarantine for plants and animals, radio wave monitoring, etc.
(vi) Other work/business	<ul style="list-style-type: none"> • Work/business similar to those already opened to the private sector are to be promoted to open to the private sector with high priority. • As for work/business done by independent administrative agencies, necessary studies must be started before the first deadline of the middle-term objective at the latest. 	Treatment of property damage accident, job-search service, air control service, etc.

How to proceed with the study of opening areas of work under government to the private sector in the future

- Further devoted study should be done on the highest possible number of work tasks and business, and reach the conclusion for opening areas of work under government to the private sector for this fiscal year.
- Those that cannot reach a conclusion must also be approached actively in the next fiscal year and afterwards.

3. Reconsideration of public and national property administration system

- One should make a general principle to allow the execution of private rights, such as lending rights, for administrative assets.
- Also, conventional segmentation such as administrative assets and general assets should be reconsidered.

V. Promotion of the reform of major government-driven markets

1. Medical field

(1) Lifting ban on “Mixed Medical Care Services (combined use of insured and non-insured medical care services)”

[Specific measures: take action during FY 2004]

- From the perspective of patient-oriented treatment, ban on “Mixed Medical Care Services” should be completely lifted for cases where patients choose the treatment themselves based on appropriate information on treatments not covered by health insurance.
(It must be promptly implemented with the priority on preventative treatments, test with limitation on numbers covered with health insurance, new test methods/medicine/treatment in medical institutions that clear certain level, etc.)

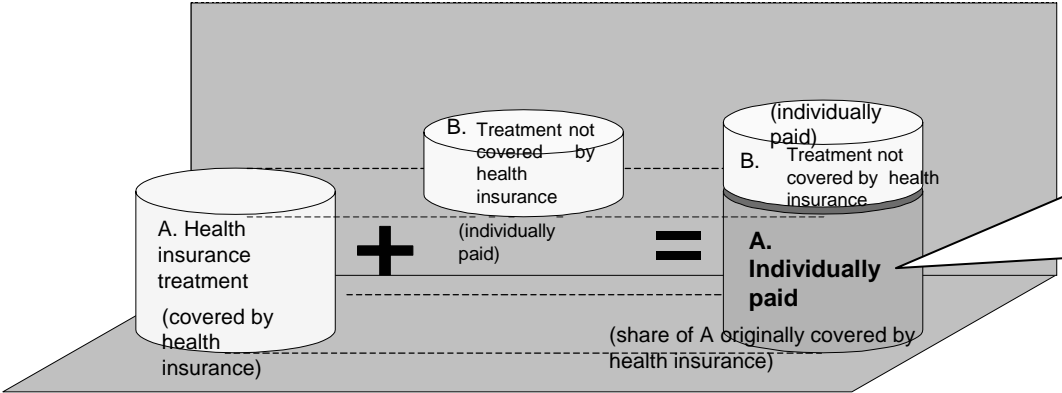
[Contention] : Ministry of Health, Labour and Welfare : The Council

- Whether it is right or wrong to lift the ban

There is a concern for accepting the combined use of insured and non-insured medical care services without any limitation that a sufficient level of safety/efficacy may not be ensured. Thus, it must be handled by expanding the scope of the "specified medical care coverage system" where it is judged under a certain rule.

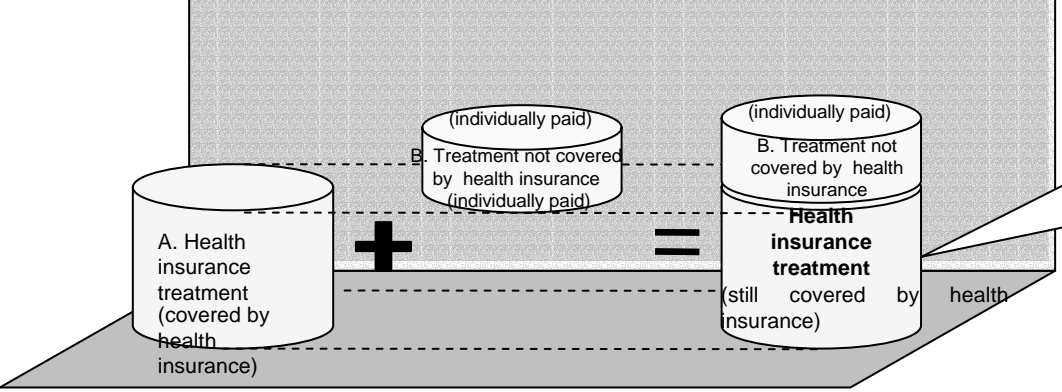
Method to give limited permission to “Mixed Medical Care Services” under the specified medical care coverage system, that is to approve techniques individually through discussions in the Central Social Insurance Medical Council, will take too much time. It cannot be approved unless there is a drastic reform such as speeding up the process, maintaining transparency, shifting to a user-oriented concept, etc.

Current system of insurance payment ("Mixed Medical Care Services" not permitted)



When even one treatment not covered by health insurance is combined with health insurance treatment, insurance will not cover the original health insurance treatment and the entire expense must be paid by the patient.

If "Mixed Medical Care Services" is approved...



Insurance will be paid for the part covered by health insurance. Patients need to pay only for the treatment not covered by health insurance that they chose.

(Prepared by the Council)

(2) Allowing joint-stock corporations to participate in the management of medical institutions through a medical corporation

[Specific measures: take action during 2004]

- Grant the position as a company member to the joint-stock corporation who is an investor. Accept its acquisition of voting right at the general meeting of members.
- Accept investment by a medical corporation to other medical corporations.
- Accept voting rights according to the amount invested.

[Contention] : Ministry of Health, Labour and Welfare : The Council

- Allowing joint-stock corporations to enter into medical institution management through medical corporation

As for accepting joint-stock corporations entering into medical institution management on a nationwide scale, according to the nature of the joint-stock corporation where profits earned through business activity are to be returned to shareholders, there is a concern that it will lead to a sharp rise of national medical expenditure or may have a disadvantage on ensuring appropriate medical treatment among the region by withdrawal from unprofitable areas.

As for the rise of national medical expenditure, treatment shall be basically covered by health insurance among all the medical corporations. Thus, it is unlikely that the price of health insurance treatment will differ according to the corporate form and have a critical impact on national medical expenditure. As for the opinion that the corporation may withdraw from unprofitable areas, there are already cases of medical corporations where the business situation deteriorates and bankruptcy occurs under the current system, so this issue is not limited to the case of joint-stock corporations.

(3) Reconsidering the pricing mechanism in the medical field [Take action promptly]

- Drastic reconsideration on the operation policy of the Central Social Insurance Medical Council, maintaining the fairness of the altruistic public members composition and shortening of their incumbency.
- Disclosure of reasons for revising medical treatment fees, etc., and ex post evaluation of the result of the revision
- Mechanism to compile opinions in the field such as those from patients and individual doctors, as well as those from citizens
- Disclosure of minutes in order to ensure transparency

(4) Reconsidering the community health care program (regulation of the number of hospital beds) [Study and take action during FY2004]

- Front-load the schedule for reconsidering regulation of the number of hospital beds, etc.

Reconsidering the pricing mechanism in the medical field

[Contention] : Ministry of Health, Labour and Welfare
: The Council

The Central Social Insurance Medical Council is established as a council for both parties of the insurance contract, namely "those who pay the insurance premium" and "those who provide medical service," consult and reach agreement, while the altruistic members have the role of mediator for these two. As for the desirable state of the Central Social Insurance Medical Council, it is necessary to have an extensive and serious discussion, including discussion within the Council. It is necessary to continue discussion about reforms that must be addressed promptly, as well as about the most desirable direction for the system, and to start coping with issues that have obtained agreement. Fair discussion cannot be expected if discussions and opinions within the Central Social Insurance Medical Council are going to be the precondition of the reforms on the focal points of the Council itself. Verification of the third party, especially those from the citizen's perspective is essential. By raising such issues, it is necessary to encourage people in various fields to express their opinion and take the most appropriate measures. Discussion within the Council should also be carried forward by openly disclosing the process of the discussion to the public and winning their understanding.

2. Nursing care field

(1) Integrating services at Institutional Services (Note1) and In-home Care Services (Note2)

(Note1) Three facilities covered by long-term care insurance

(Note2) Including Special facilities and Group homes for the elderly with dementia

[Specific measures]

(i) Burden of accommodation costs and so forth on users for three facilities covered by long-term care insurance

[Take action during FY2005]

(ii) Abolishment of subsidies to social welfare corporations on the maintenance of facilities

[Draw conclusion during FY2004, take action during FY 2005]

(iii) Disclosure of information related to service details

[Take action during FY2004]

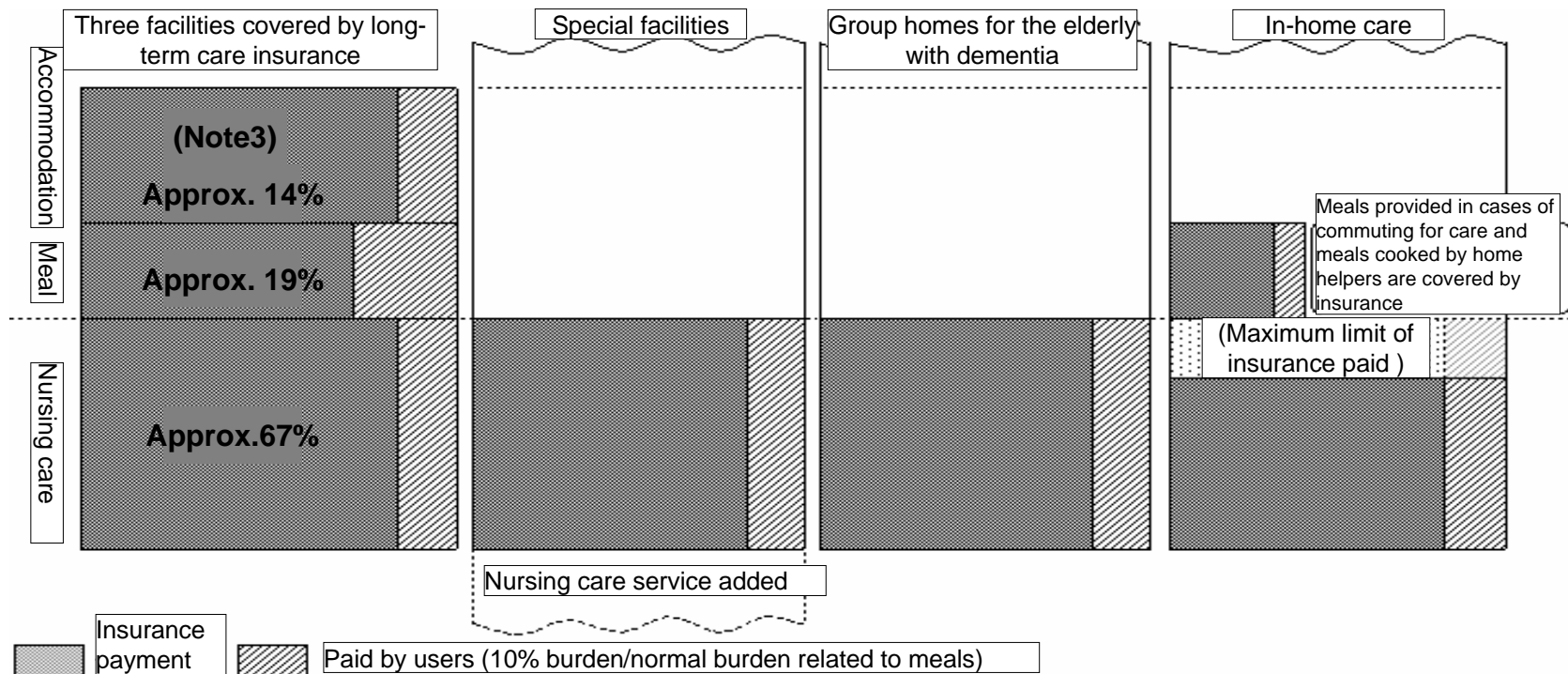
Abolishment of subsidies to social welfare corporations on the maintenance of facilities
[Contention] : Ministry of Health, Labour and Welfare
: The Council

There is a function to adjust the facility maintenance level within the region for subsidies on the maintenance of facilities. As a result, it achieves a certain level of outcome, for instance, difference in capacity of special nursing homes for the elderly per 100 thousand population of age 65 or above kept at a level of 1.8 times between the prefectures of largest and smallest figures. Thus, it is preventing the unnecessary increase in insurance payments. If the subsidies are abolished under this situation, the conventional type of large-sized facilities for large areas may unnecessarily be built. This is a severe problem from perspectives of both the quality of nursing care service and the finance of long-term care insurance.

Grounds are unclear for the claim that the construction of nursing care facilities will increase, even though the subsidies are being abolished rather than being raised. Even if such large-sized facilities for large areas should increase temporarily for some reason, it is expected that new entry of private firms will be enhanced due to the equalization of competition criteria, which will lead to selection through competition. Thus, it cannot be necessarily said that the abolishment of subsidies on the maintenance of facilities will lead to an increase in insurance payments and decline in the service quality.

Comparing the scope of insurance payment (cost burden) among facilities

In three facilities covered by long-term care insurance (Note1), expenses related to nursing care, meal, housing etc. are covered by insurance.
 In special facilities (Note2), group homes for the elderly with dementia and in-home care, expenses for nursing care are covered by insurance.



The above chart is prepared by the Secretariat based on the materials for The Seventh Nursing Care Insurance Subcommittee of the Social Security Council, dated December 22, 2003.

Because there are no statistical figures to show the amount of each expense for nursing care, housing, etc., breakdown (%) of the expenses in three facilities covered by long-term care insurance was provisionally estimated by the Secretariat for those who currently reside in special nursing-care homes for the elderly (average level of required long-term care:3.6), by assuming the amount of expenses in special facilities as the amount of expenses for nursing care.

(Note1) Three facilities covered by long-term care insurance are: special nursing homes for the elderly, health services facilities for the aged and groups of beds for long term care.

(Note 2) When fee charging homes for the aged or care houses deploying the similar level of nursing-care staff provide nursing care services to residents requiring long-term care, these cases are regarded as covered by long-term care insurance (daily life care for residents in special facilities).

(Note3) In special nursing homes for the elderly residing in small units, amounts equivalent to building costs related to private rooms and common rooms as well as light, fuel and water expenses (accommodation cost) are borne by users.

(Prepared by the Council)

3. Educational field

- (1) Unifying competition criteria between schools with different management styles
 - (i) Application of private education institution aid and preferential taxation to schools established by Stock Firms or NPOs [Take action immediately at least in Special Structured Reform Zones]

[Contention] : MEXT (Ministry of Education, Culture, Sports, Science and Technology)
: The Council

- Private education institution aid

Expending public funds into charitable, educational or benevolent enterprises not under the control of a public authority is prohibited in Article 89 of the Constitution. Whether it is "under the control of a public authority" or not is comprehensively decided based on legal regulations of the School Education Law, the Private School Law and the Private School Promotion Subsidy Law.

Article 89 of the Constitution should be interpreted as a provision to the effect of and in the purpose of eliminating the religious bias from educational business. Thus, it can be sufficiently assured with the restrictions on certain acts in the School Education Law.

(ii) Introduction of Educational Voucher System

[Study and draw conclusions during FY2004]

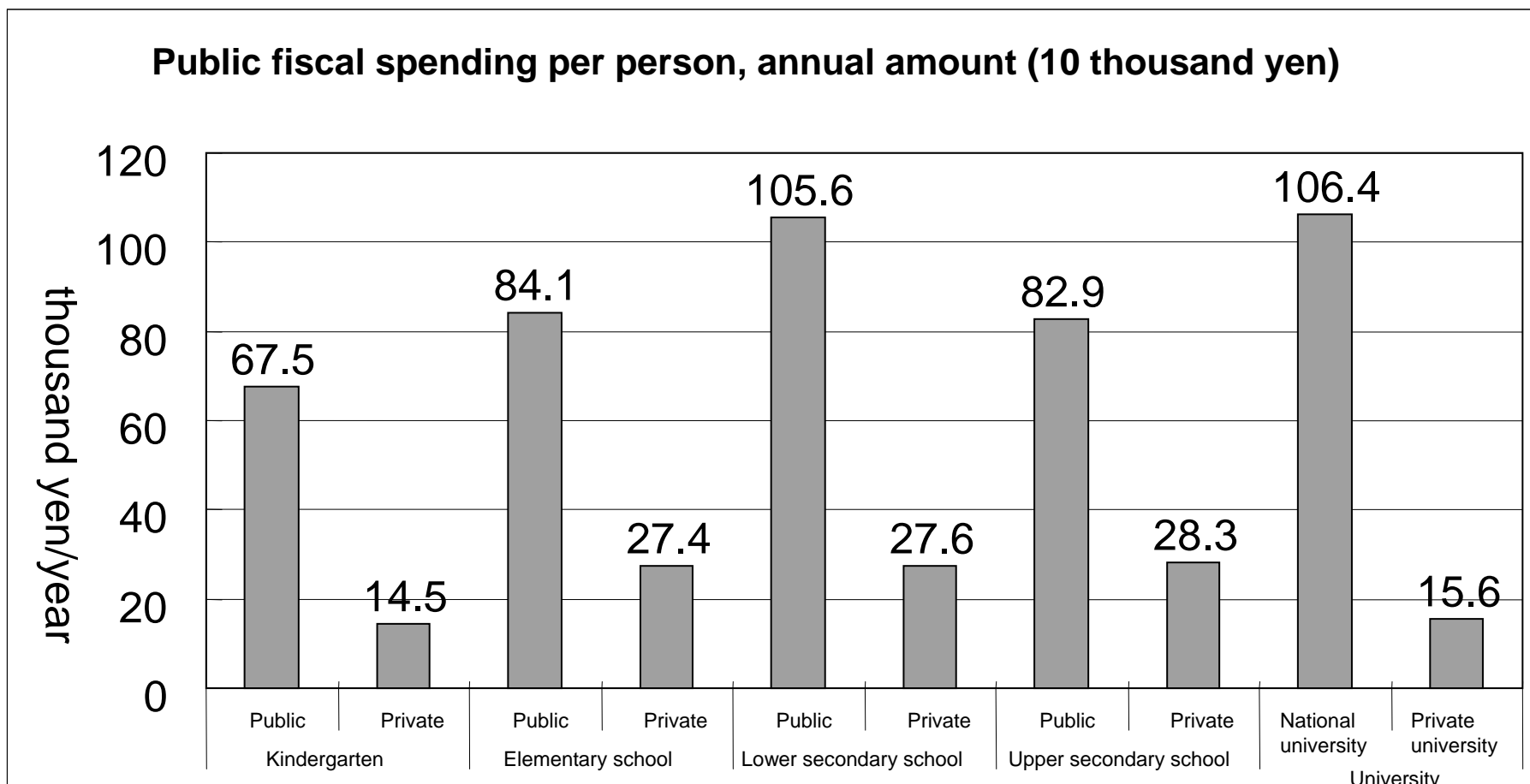
- In order to ensure complete freedom of choice for educational services among students, introduction of an educational voucher system should be considered, instead of institutional aids in which there is a large difference between schools with different management styles (such as national, public and private schools).

[Contention] : MEXT (Ministry of Education, Culture, Sports, Science and Technology)
: The Council

- Voucher

In the cases of foreign countries, a voucher also has an aspect of educational aid for low-income groups, and its effectiveness is debatable. As for public schools of compulsory education, there is a large difference compared to private schools because of its purpose, for example it does not select the students.

There is no experimental proof to confirm this, so the claim about this point is based on a factual error. There is no reason to show that students receiving similar education can be disadvantaged through public aid, whether they are selected or not.



* Do not include the construction cost of facilities.

* Figures for kindergarten are budgetary figures for FY2002 (based on materials prepared by Japan Federation of Private Kindergartens).

* Figures for elementary, lower secondary and upper secondary private schools are figures for FY2003 (based on materials prepared by Japan Federation of Private Secondary Schools). Figures for public schools are budgetary figures of Tokyo for FY2003 (excerpted from the website of Tokyo Metropolitan Government).

* Figures for universities are figures for FY2003 (prepared by the Council based on "School Basic Survey").

(Prepared by the Council)

(2) Establishment of "public establishment-to-private management system" for school [Taken action during FY2004]

- The “public establishment-to-private managing system” means an arrangement in which the management or operation of institutions established by local governments etc. are comprehensively outsourced to private organizations such as stock firms and NPOs. This system should be immediately applied not only to senior high schools but also to schools including compulsory education.

[Contention] : MEXT (Ministry of Education, Culture, Sports, Science and Technology)
: The Council

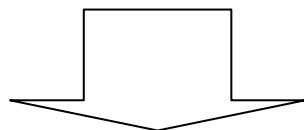
- Publicly establishment-to-private management system

It is impossible to contract out several important acts, for example a decision of enrollment, expel and suspend from school. Such acts should be originally performed by government, because they have aspects of public decision making process.

Such actions are not stipulated under the existing laws as only performed by government ministries and agencies in the current National Government Organization Law. When the “publicly established and privately managed” system is regarded as one type of private school management, it can be realized by arranging acts equivalent to expelling from public school as a dissolution of contract.

VI. Toward the year-end report

- “The opening of government-driven markets to the private sector” should be vigorously surveyed and discussed in cooperation with the Headquarters for the Promotion of Regulatory Reform (Head of Headquarters – Prime Minister). (Also in cooperation with the relevant organizations including the Council on Economic and Fiscal Policy, the Headquarters for Promotion of Special Structural Reform Zones, the Headquarters for Regional Revitalization, etc.)
- As for study by field corresponding to the "Three-Year Plan for Promotion of Regulatory Reform," follow-up for the plan, addressing new issues, and answering individual requests received during “Month for Reception of Proposals for Regulatory Reform” must be considered.



Incorporate the achievements in the year-end report.

List of Members of Council for the Promotion of Regulatory Reform

President	Yoshihiko Miyauchi	Chairman and CEO, ORIX Corporation
Deputy President	Yoshio Suzuki	Chairman, ASAHI RESEARCH CENTER CO.,LTD.
Member	Takao Kusakari	Chairman, NYL LINE
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	Tsutomu Shida	Chairman and Representative Director, Shidax Corporation
	Masumi Shiraishi	Associate Professor, Faculty of Economics, Toyo University
	Tomoko Namba	President & CEO, DeNA Co.,Ltd
	Sanae Hara	Visiting Lecture, Faculty of Economies, Saitama University, Faculty of Business Administration, Aomori University
	Keiko Honda	Principal, McKinsey&Company Inc., Japan
	Yasuhiko Yazaki	Chairman, Yazaki Corporation
Shosaku Yasui	Chairman, Teijin Limited	