

MPHPT

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COMMUNICATIONS NEWS

Biweekly Newsletter of the Ministry of Public Management, Home Affairs, Posts and Telecommunications, Japan

"Guidelines for Consumer Protection Rules in Telecommunications Business Law" Released

In the amended Telecommunications Business Law, which was enacted during the 156th Diet Session, new provisions were set forth for publicity concerning the notification when suspending or discontinuing a business to users (Article 18-3), accountability on terms and conditions (Article 26), and processing complaints (Article 27), as consumer protection rules.

MPHPT, in order to improve consumer protection, has produced and announced guidelines that explain, in an easy-to-understand manner, the purpose and contents of the provisions in the Law and related ministerial ordinances, as guidance to telecommunications carriers in following consumer protection rules.

The "Guidelines for Consumer Protection Rules in the Telecommunications Business Law" provide, in an easy-to-understand manner, the objectives and contents of the provisions in the Law and related ministerial ordinances concerning the intentions of the provisions for publicity and the notification to users, when suspending or discontinuing a business, accountability on terms and conditions, and processing of complaints. Furthermore, in relation to these provisions, the Guidelines indicate preferable voluntary actions to be taken by telecommunications carriers, in order for protecting consumers.

MPHPT plans to apply these Guidelines from a date of enforcement of the amended Telecommunications Business Law (a date to be decided by the applicable cabinet order not exceeding one year calculating from the date of promulgation, July 24, 2003).

I. Provisions of the amended Telecommunications Business Law (excerpts)

(Suspension and Discontinuation of Business and Dissolution of Juridical

Person)

Article 18.

- (1) and (2) (Omitted)
- (3) When a telecommunications carrier intends to suspend or discontinue part or all of the operations of its telecommunications business, as specified in the applicable ministerial ordinance of the Ministry of Public Management, Home Affairs, Posts and Telecommunications, the telecommunications carrier shall inform fully to that effect to users (meaning persons concluding contracts with a telecommunications carrier to receive telecommunications services. Hereinafter the same shall apply.) of said telecommunications business to be suspended and discontinued. Provided, however, that in the cases where suspension or discontinuation of a telecommunications business specified in the applicable ministerial ordinance of the Ministry of Public Management, Home Affairs, Posts and Telecommunications as those having a comparatively small influence on the users' benefit, this shall not apply.

(Accountability on Terms and Conditions)

Article 26.

Telecommunications carriers and persons who perform conclusion of contracts as business of intermediary, commission or procurement concerning the provision of telecommunications ser-

vices from other telecommunications carriers (hereinafter referred to as "telecommunications carrier, etc.") shall, when intending to perform conclusion of contracts, contracts as business of intermediary, commission or procurement concerning the provision of telecommunications services that are specified as telecommunications services pertaining

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to people's daily lives in the applicable ministerial ordinance of the Ministry of Public Management, Home Affairs, Posts and Telecommunications, with persons who intend to receive telecommunications services (except persons who are telecommunications carriers), explain outlines of terms and conditions including charges concerning said telecommunications services to the persons, as specified in the applicable ministerial ordinance of the Ministry of Public Management, Home Affairs, Posts and Telecommunications.

(Procedure for Processing Complaints, Etc.)

Article 27.

Any telecommunications carrier shall, properly and promptly, process complaints and inquiries from users (including persons who intend to receive telecommunications services and except persons who are telecommunications carriers. The same shall apply to Article 29 paragraph (2)) concerning operations methods of said telecommunications carrier pertaining to telecommunications services specified in the applicable ministerial ordinance of the Ministry of Public Management, Home Affairs, Posts and Telecommunications under the preceding article or telecommunications services provided by said telecommunications carrier specified in the applicable ministerial ordinance of the Ministry of Public Management, Home Affairs, Posts and Telecommunications under the same article.

II. Prior notice to users pertaining to suspension or discontinuation of business operations

[When to release prior notice]

- The telecommunications carrier concerned shall fully inform users of the suspension or discontinuation "by setting a reasonable time period" prior to implementation thereof so that the users can have enough time to select a substitutable service and shift thereto.

(Basic concepts)

Users shall have a necessary time period to implement the following procedures:

- a) The users shall be provided with information on the suspension or discontinuation of business operations by the telecommunications carrier; subsequently, they come to be in-

formed to that effect;

- b) The users shall come to recognize the existence of alternative or substitutable services;
- c) The users shall be able to understand, compare and consider terms and conditions for the alternative or substitutable services; and
- d) Subsequently the users shall be enabled to decide which service they will shift to.
 - Specifically, it is vital to inform users to that effect at least one month prior to the implementation.
 - In addition, considering necessary procedures, etc. for shifting to alternative services, if necessary, this is "the earlier the better" case for users to ensure an enough time to prepare.

(e.g., a standard time period to be needed for installation work, etc. of such a service as FTTH and DSL)

[Methods of informing users]

The telecommunications carrier concerned shall appropriately inform users to that effect through any of the following methods:

1. Door-to-door visits

- Salespeople visit individual users and deliver them a notice.
- It is essential to explain in an easy-to-understand manner, when necessary, in writing.

2. Telephone call

- Explanation via telephone call. It is essential to explain in an easy-to-understand manner.

3. Delivery of written documents, including mail items, correspondences, telegrams, etc.

- Delivery of a DM, telegram, facsimile, an explanatory document attached to an invoice, an enclosed document in an envelop for invoice, etc.
- It is vital that such explanatory documents shall be easy-to-understand for recipient users, for instance, simple and plain fonts/layouts.

4. Transmission of e-mail

- Through use of e-mail
- Basically, it is vital to send e-mail containing information only on the suspension or discontinuation of business operations. In this case, "important notice" or "notice on the suspension (or discontinuation) of business operations" should be entered in the subject column.

5. Explanation on a portal site, etc. of the service concerned

- Explanation on a portal site, etc. users watch whenever using the service concerned
- It is vital that such explanatory pages shall be easy-to-understand for users, for instance, simple and plain fonts/layouts.

<Preferable response>

1. In addition to direct notice to users by means of communications specified in the applicable ministerial ordinance, other means including press releases, website posting, advertising on daily papers, etc. shall be taken for making public the suspension or discontinuation.
2. If necessary, plural means of communications shall be taken.
3. Where there are insufficiently informed users despite efforts for notice, the carrier concerned shall repeatedly inform the users to that effect or take other means of communications.
4. The carrier concerned shall establish a section to accept inquiries from users and explain/introduce their own or other provider's alternative/substitutable services.
5. The carrier concerned shall bona fide respond to inquiries on terms and conditions for the period by the suspension or discontinuation, content of alternative services, procedures for transition, etc.

III. Explanation before conclusion of contract

<Services to be explained>

1. Telephone and ISDN
2. Cellular telephone and Internet access services on cellular phone
3. PHS and Internet access services on PHS
4. Internet access service
5. DSL service
6. FTTH service
7. Cable TV Internet access service
8. Public wireless LAN access service
9. FWA service
10. IP telephony service

<Methods of explanation>

1. Methods at counter, on the street, etc.

Before conclusion of a contract, a carrier (or agent) shall deliver potential users documents containing matters to be

explained.

2. With consent from users, the following methods may be allowed:

- i) Display matters to be explained as posted on a website (before an application form page for contract)
- ii) Send e-mail
- iii) Deliver a storage media such an electromagnetic media as CD-ROM
- iv) Send DM, etc. containing matters to be explained
- v) Telephone call (it is a must that after explanation via telephone call, written documents shall be sent without delay.)

<Matters to be explained>

"Outline of terms and conditions including charges pertaining to the telecommunications service concerned"

- 1. Name of the telecommunications carrier (in cases of a carrier's agent on a contract basis, its name)
- 2. Contact points for the carrier (As for telephone numbers, the business hours for the telephone be included)

[Contact points for the agents (as for telephone numbers, the business hours for the telephone be included). However, they are not needed where the carrier is responsible for inquiries pertaining to the agents.])

- 4. Charges to be applied to its users, and
 - i) when a free-of-charge or discount campaign is applied, its period, scope,

and other terms and conditions, and ii) where other charges excluded in charges for the service are applied, details thereon.

- 5. Where there are clauses stipulating requests for changes and cancellation from users, the clauses and the following clauses:
 - i) Limits on grace periods for changes and cancellation of contract
 - ii) Clauses on early withdrawal penalty on changes and cancellation
 - iii) Payment of return costs, etc. for rental modem upon changes and cancellation
- 6. Special limitations on content of the telecommunications service, the quality of service thereof, location, emergency report, etc.
 - In cases of cellular telephones/PHS terminals, services may not be offered where radio waves do not reach said terminals: The fact
 - In cases of best-effort type Internet access services, the transmission speed concerned may not be attained depending upon situations surrounding telecommunications facilities and circuits: The fact
 - In cases of IP telephony services, depending upon circuit status, voices may be difficult to hear in comparison with ordinary subscriber telephones: The fact that the speech quality may be low from

time to time. Whether emergency reports are possible or not.

<Preferable response>

Although the following practices are not statutory mandates, they are preferable responses from the viewpoint of consumer protection:

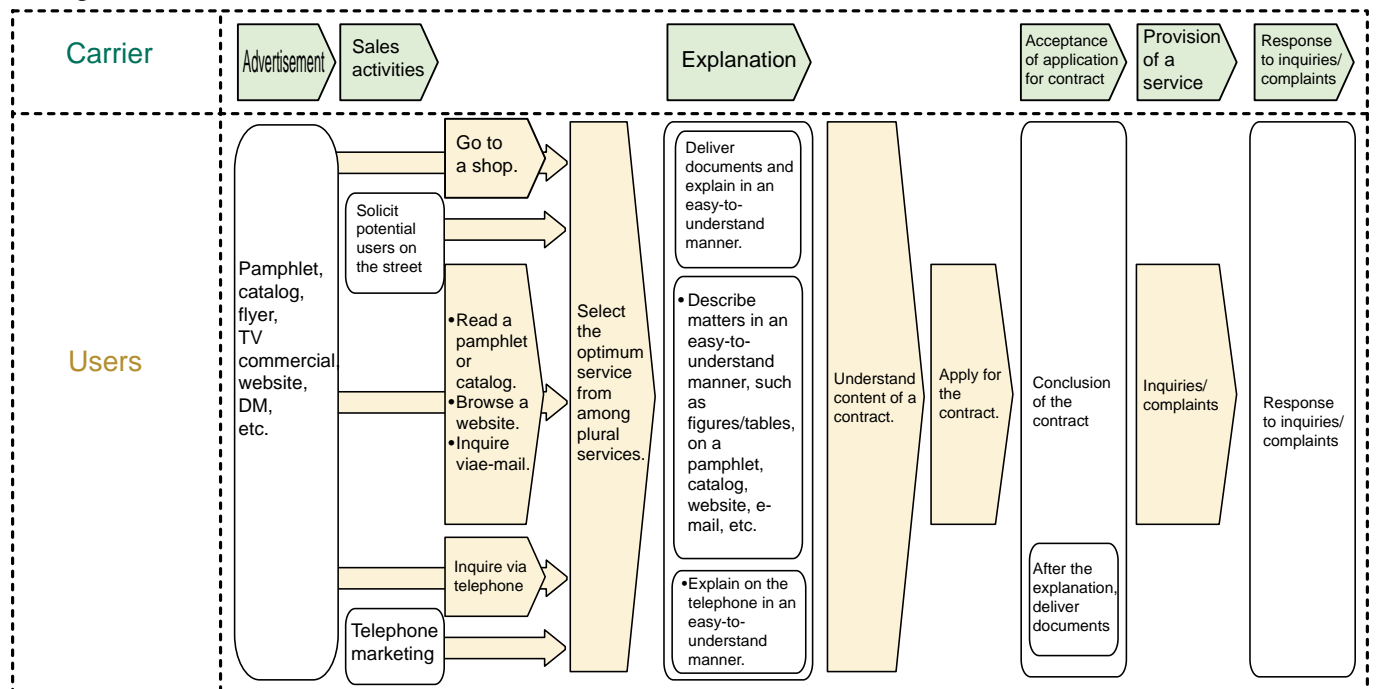
- 1. Toward consumers who do not sufficiently understand through an ordinary explanation, the carrier shall make a further detailed explanation.
- 2. When requested further detailed information from consumers, the carrier shall politely explain the detailed information so consumers can fully understand the details.
- 3. Upon explanation to minors, the carrier shall explain to them focusing on prevention from use of high-priced services.
- 4. The carrier shall i) produce manuals, etc. and ii) improve training for employees.

IV. Appropriate processing of complaints, etc.

- In consideration of the current status where troubles are arising from asymmetry in accessibility to information between carriers and consumers, these guidelines stipulate obligations to be imposed on telecommunications carriers to appropriately and rapidly process complaints and inquiries from users so that consumers can continue

<Reference: Flow toward contract>

<A general flow toward conclusion of contract for a telecommunications service is as follows:>



to use telecommunications services with ease-of-use.

- Whether "appropriately and rapidly process(ed)" or not shall be judged on a case-by-case basis for each individual case. At least the following cases are not "appropriately and rap-

idly process(ed)":

- Where there is no contact point for accepting complaints and inquiries
- Even if there are contact points for accepting complaints and inquiries, when the contact points and their business hours are not open to con-

sumers

- Even if the contact points for accepting complaints and inquiries are open to consumers, when the contact points are actually not accessible from consumers

Radio Law and Wire Telecommunications Law to Be Amended

-- Toward construction of the world's most advanced wireless networks --

On February 17, 2004, MPHPT submitted to the 159th Diet Session a "Bill to amend part of the Radio Law and part of the Wire Telecommunications Law" with the purpose of preparing regulatory frameworks for further promoting effective radio spectrum use, toward realization of the world's most advanced wireless networks.

Outlines of the bill are as follows:

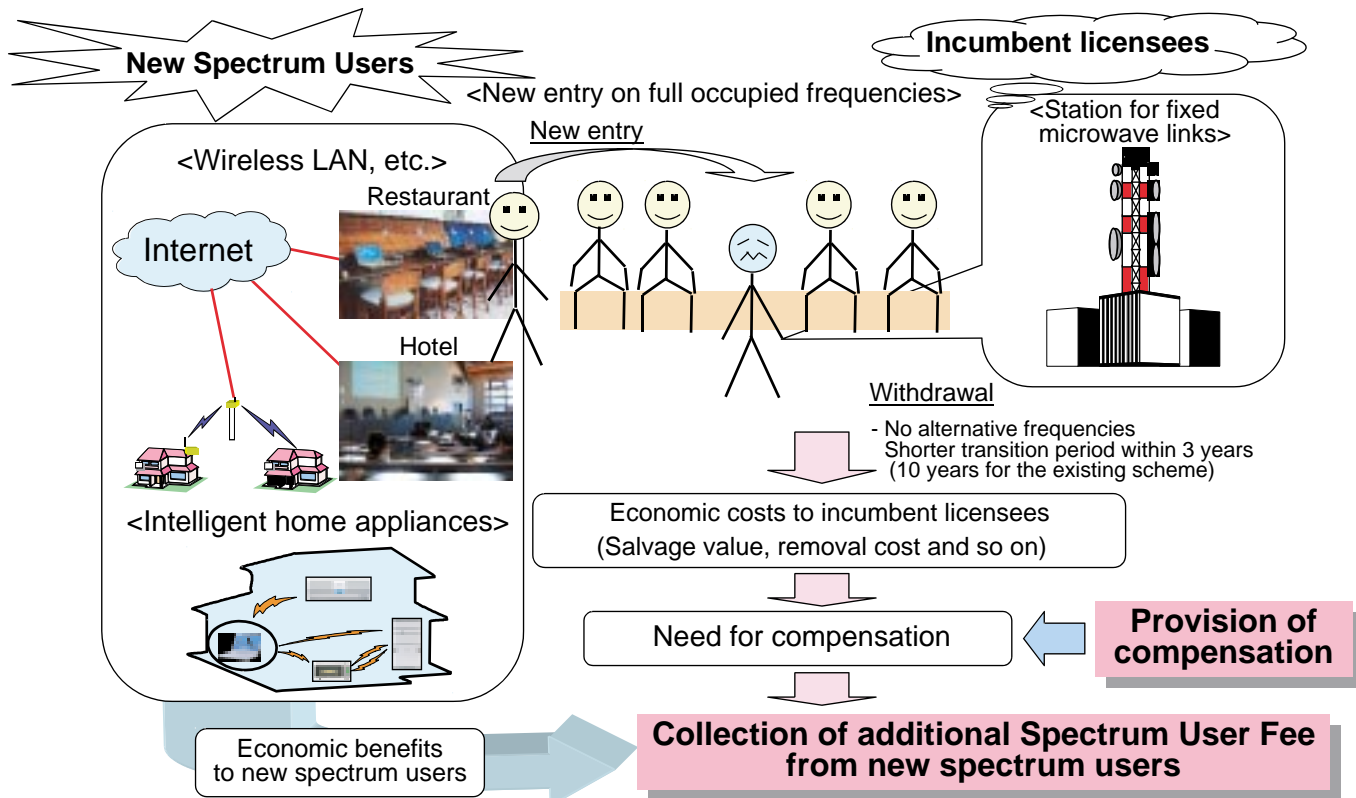
Outlines of the Bill to amend part of the Radio Law and part of the Wire Telecommunications Law

I. Purposes

To i) establish a legal framework un-

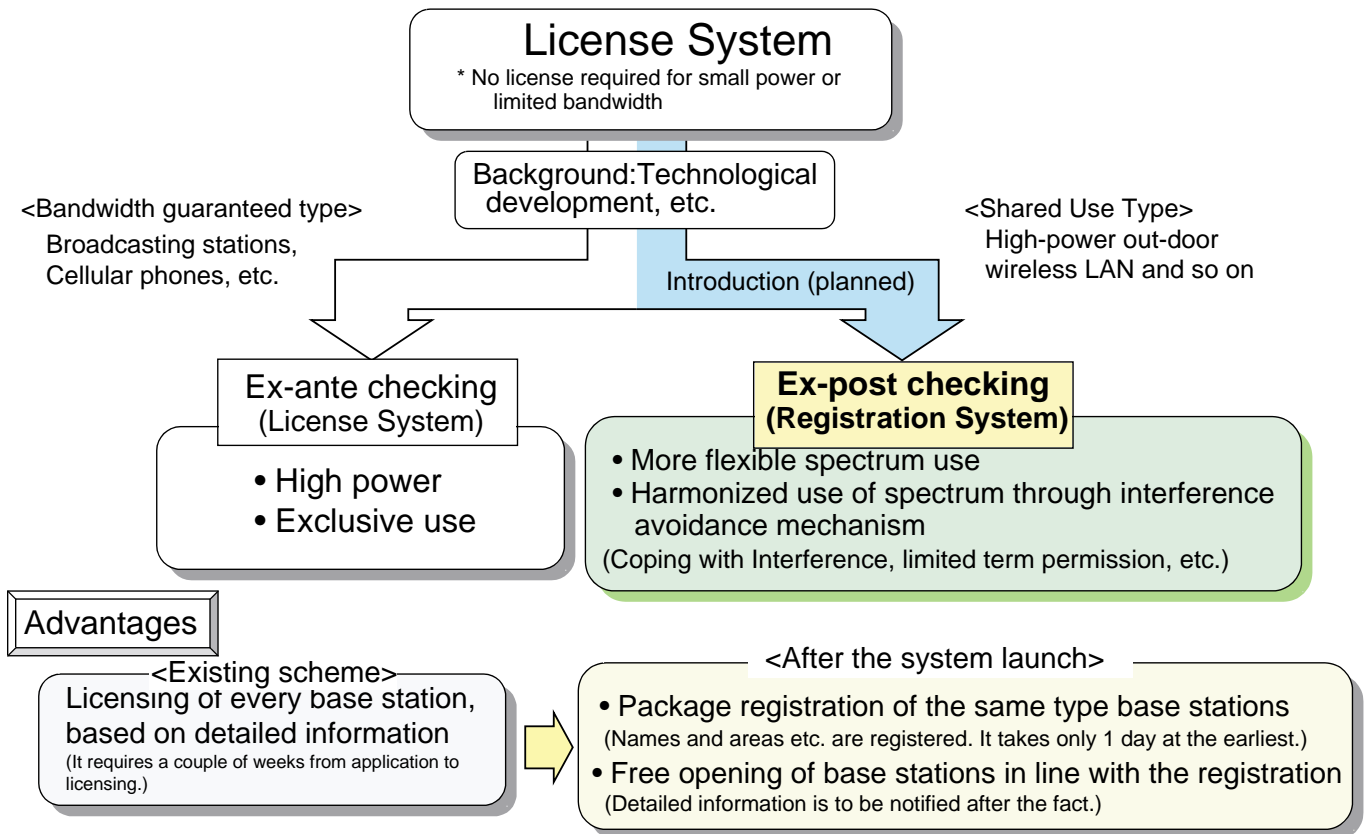
der which compensations will be paid to the existing licensees whose valid terms for spectrum use would be shortened by the swift reallocation of radio spectrums, in order to promote effective radio spectrum use, ii) introduce a registration scheme for radio stations, and iii) prepare penal provisions necessary for ratification of the Convention on

Execution of rapid Spectrum Refarming



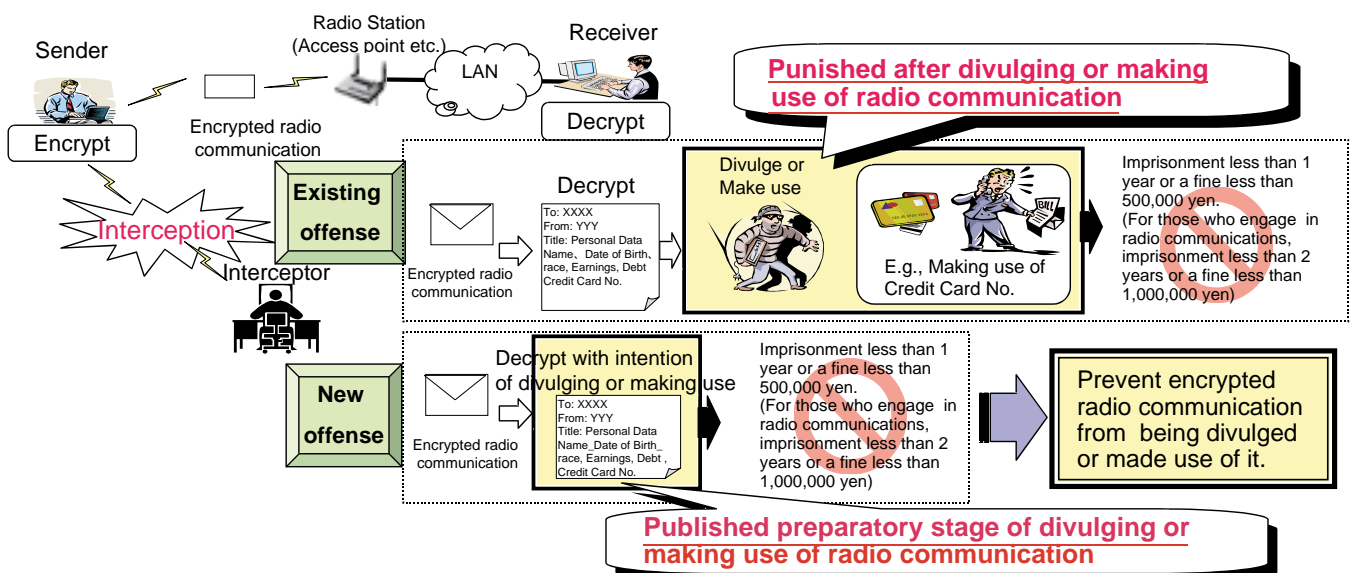
In order to enable outdoor wireless LANs in major metropolitan areas within 2005, it is planned to advance the expiration date of license of by two years incumbent licensees of 4.9-5.0 GHz (fixed microwave links for telecommunications business) in three major metropolitan areas.

Introduction of Registration System



The amendment of Radio Law and Wire Telecommunications Law

Back-ground	(1) The necessary amendment for ratification of Convention on Cybercrime i) Criminalizing decryption of encrypted radio communication with dishonest intent ii) Establishing jurisdiction on the offence committed outside the territory shall also be punished (2) The diffusion of Wireless LAN, etc. => Needs for secure wireless communication
Existing Offense	Punishment for divulging and making use of other people's radio communications.
New offense	i) Punishment for a person who intercepts encrypted radio communications when he/she decrypts or tries to decrypt other person's encrypted radio communication with intention of divulging or making use of it. ii) Punishment for the person who commits the offence above and the offence on violation of secrecy of wire telecommunication outside the territory.



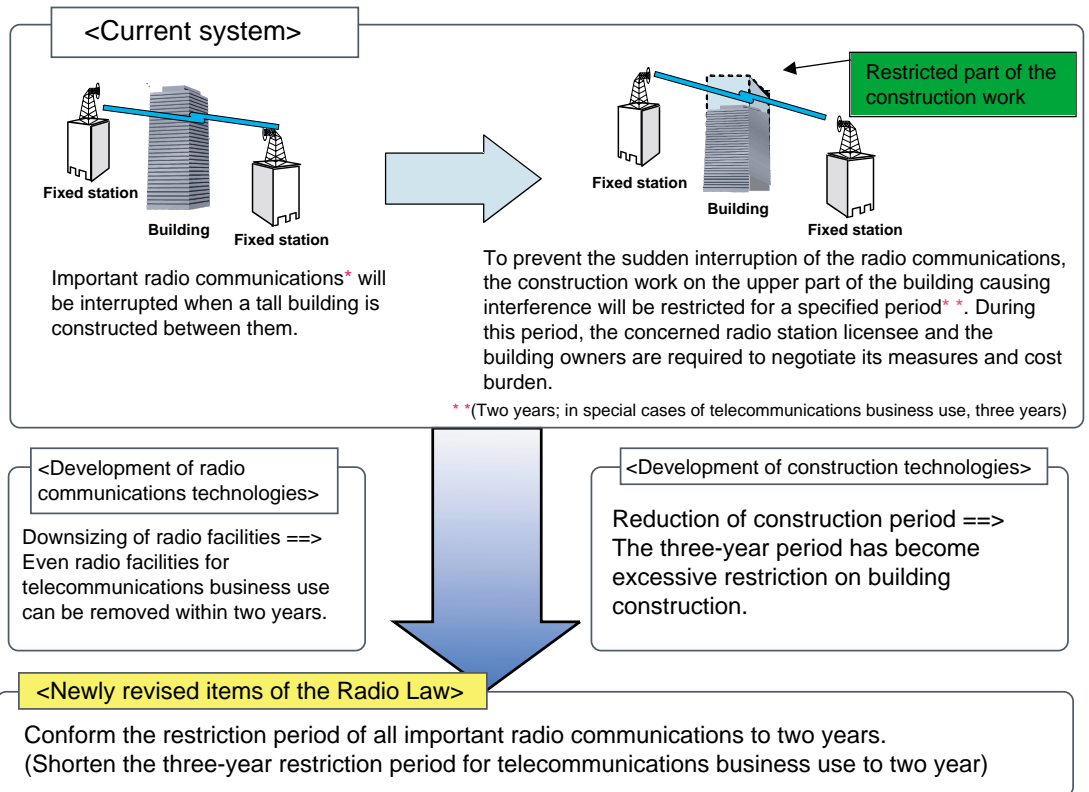
Cybercrime

II. Outlines

1. Amendments to Radio Law

- 1) Introduction of a compensation scheme for reallocation of radio spectrum
 - i) In cases where, based on results of the evaluation of efficiency in radio spectrum use, stipulating the expiration date for use of radio frequencies of existing radio stations within a period shorter than specified period, measures will be adopted to deliver compensations (to be budgeted from the Spectrum User Fee, for covering costs burden ordinarily imposed on said existing licensees due to the shortened expiration date) to the existing licensees (who intend to apply for change of frequency designation to be needed for the rest of said expiration date for use).
 - ii) A necessary amount of Spectrum User Fees will, for a specified period, be collected from new spectrum users of the said frequency bands whose expiration date for use was shortened.
- 2) Introduction of a registration scheme for radio stations
 - i) Part of the ex-ante regulations pertaining to radio station licenses satisfying specified conditions will be relaxed to a registration scheme.
 - ii) Supervisory measures for registered radio stations, such as valid terms of registration, limits on opening of radio stations, regis-

Relaxation of the building restrictions on tall buildings, etc. related to radio relay for use of telecommunications services [concerning regulatory reform]



* Note: The term "important radio communications" refers to operations of telecommunications services, broadcasting services, services for the purpose of protecting lives or properties or in maintaining public peace and order, meteorological services, electric power supply activities for the power utilities and operations of trains for the railway business.

tration of requirements for invalidation, etc., will be established. Also, the provisions pertaining to the Spectrum User Fee (imposed on registered radio stations) will be prepared.

3) Measures relevant to the Convention on Cybercrime

Measures will be taken for punishing acts, attempted offenses and offenses committed outside Japan, by intercepting coded radio communications and decoding the communications with the purpose of leaking or stealing the confidential information.

4) Rationalization of a scheme for ensuring important radio communications

Considering the current status of preparatory/construction periods for building, restriction of construction period of specified tall buildings within radio propagation blockage prevention areas pertaining to radio stations for telecommunications business use, will be re-

laxed from three years to two years.

2. Amendments to Wire Telecommunications Law

In response to ratification of the Convention on Cybercrime, measures for punishing offenses of confidentiality of wire telecommunications committed outside Japan corresponding to violation of confidentiality of wire telecommunications and its attempted offenses.

3. Dates on which the amended provisions shall come into force

- 1-1) and 1-4) except some part shall come into force on the day not exceeding three months from the day of promulgation.
- 1-2) except some part shall come into force on the day not exceeding one year from the day of promulgation.
- 1-3) and 2. except some part shall come into force on the day when the Convention on Cybercrime comes into force in Japan.

Survey Results on "Actual Status of Businesses Related to Communications Industry"

-- Actual status of broadcast programming production industry and cable TV programming supply industry --

MPHPT compiled a survey, conducted in October 2003, on the actual status of the communications industry (telecommunications and broadcasting businesses). This survey focused on the broadcast programming production industry and cable TV programming supply industry. Major results of this survey are as follows:

1. Broadcast programming production industry

- The actual sales amount (per company) in FY2002 increased by 7.0% over the previous fiscal year; and FY2003 planned sales amount (per company) increased by 1.3% over the previous fiscal year.
- The secondary use of TV broadcast programming were implemented mainly for "rebroadcast," "packaged media" and "satellite broadcast."
- Business efforts in the broadcast programming production industry are being made for fields of "Hi-Vision production/technologies" and "Internet programming production."
- As managerial problems, companies pointed out "how to get orders" and "human resources."

2. Cable TV programming supply industry

- As managerial problems, there has been an increase in the number of companies pointing out the need to "ensure human resources with experience and skilled persons" and "improve employee training."

[Outline of the Survey]

Since FY1992, this Survey has been conducted annually for the assessment of the actual status of businesses closely related to the telecommunications and broadcasting businesses.

[Target companies]

1. Broadcast programming production businesses (surveyed annually): Businesses producing broadcast programming and broadcast advertisements (excluding cable TV programming suppliers)
2. Cable TV programming suppliers (surveyed biennially):

	Number of questionnaires sent	Number of replies	Reply rate (%)
Broadcast programming production businesses	871	292	33.5
Cable TV programming suppliers	52	28	53.8
Total	923	320	34.7

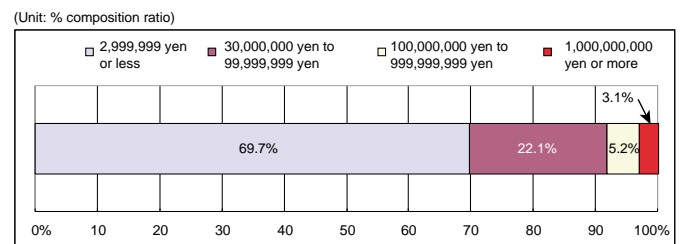
Suppliers of broadcast programming to cable TV operators

I. Broadcast programming production businesses (annually surveyed)

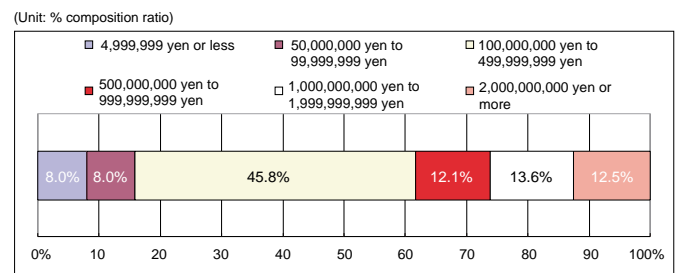
1. Breakdown by business size (capital, sales, number of employees)

- Businesses with capital equal to or less than 29 million yen constitute 69.7% of all businesses.
- Businesses with a sales amount equal to or less than 999 million yen occupy 73.9% of all businesses.
- Businesses with employees equal to or less than 49 occupy 76.3% of all businesses, showing the majority of this industry are medium- and small-sized enterprises.

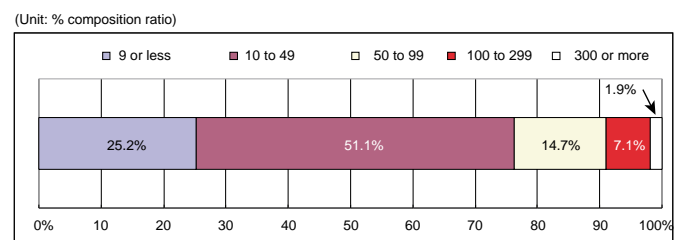
<Industrial structure by capital size>



<Industrial structure by sales amount>



<Industrial structure by number of employees>

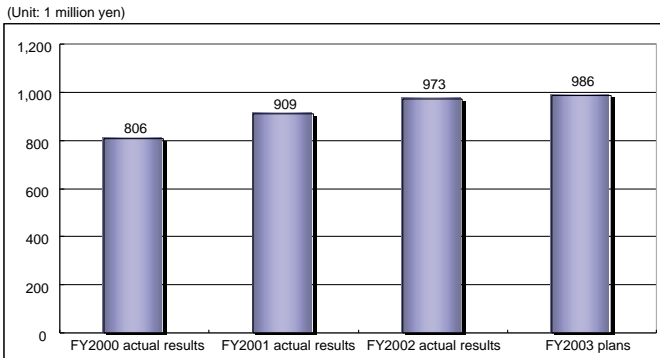


2. Average sales amount of broadcast programming business per company

- FY2002 actual average sales amount per company was

973 million yen (a 7.0% increase over the previous fiscal year).

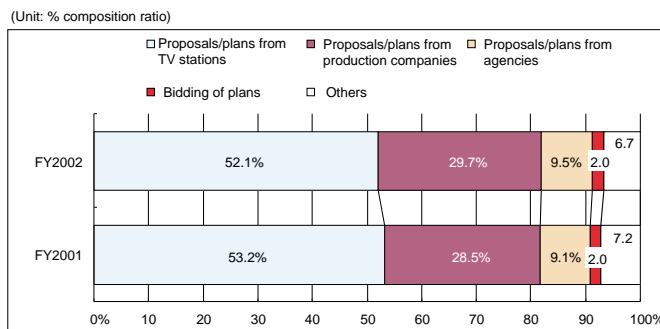
- FY2003 planned average sales amount per company was 986 million yen (a 1.3% increase over the previous fiscal year).



3. Rights management of TV broadcast programming

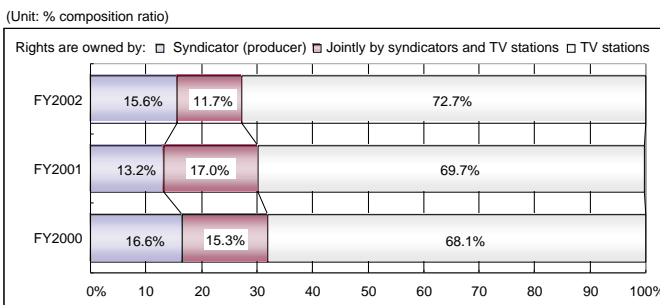
(1) Pathways to contract

- Pathways to concluding contracts concerning TV programming production vary from the initial stage of marketing activities. Proposals/plans from TV stations comprise 52.1% of all contracts.



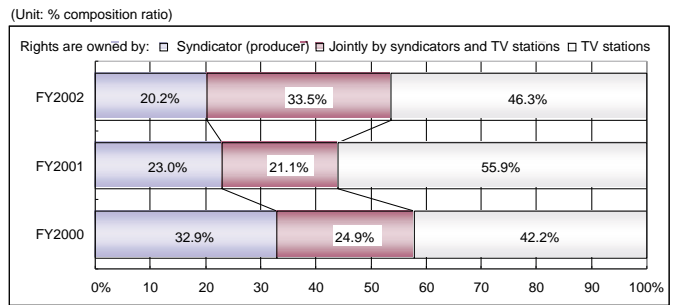
(2) Owner of broadcasting rights

- Only TV stations own broadcasting rights to 72.7% of TV broadcast programming using delivered packaged programming.
- * Packaged programming: Programs already syndicated, recorded, edited and ready to be aired



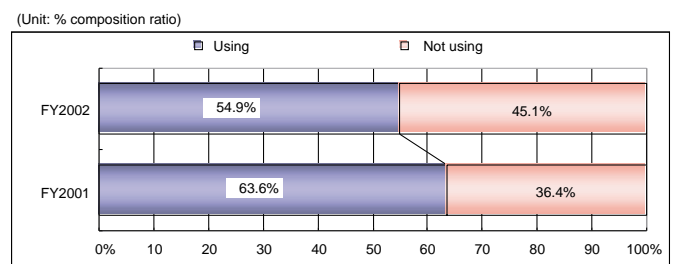
(3) Owner of secondary-use rights

- With respect to packaged TV programming with secondary-use rights, delivered and to be aired, TV stations own 46.3% of these. However, the ratio of joint ownerships by syndicators (producers) and TV stations has greatly increased over the previous fiscal year.
- * Secondary use: Use of broadcast programming for purposes other than the initial purpose of broadcasting. For instance, video cassettes, CD-ROMs, publishing, etc.



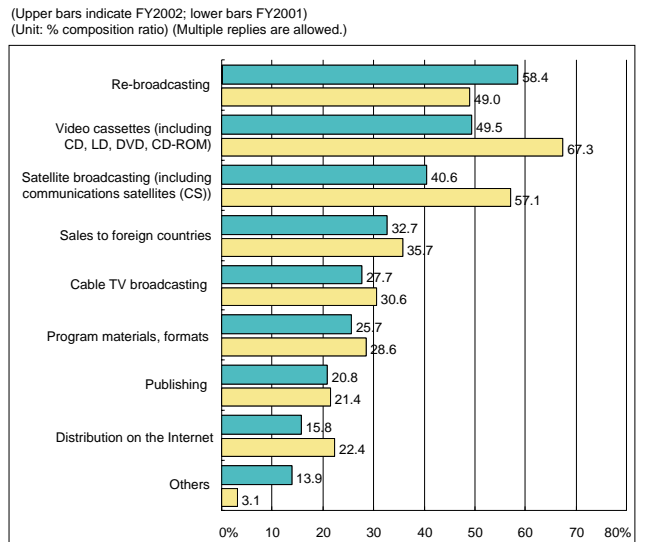
(4) Status of secondary use

- With regard to TV broadcast programming whose secondary-use rights are owned by broadcast programming producers, the ratio of broadcast programming producers who actually exercised secondary-use rights is 54.9%, a decrease from the previous fiscal year.



(5) Applications of secondary use

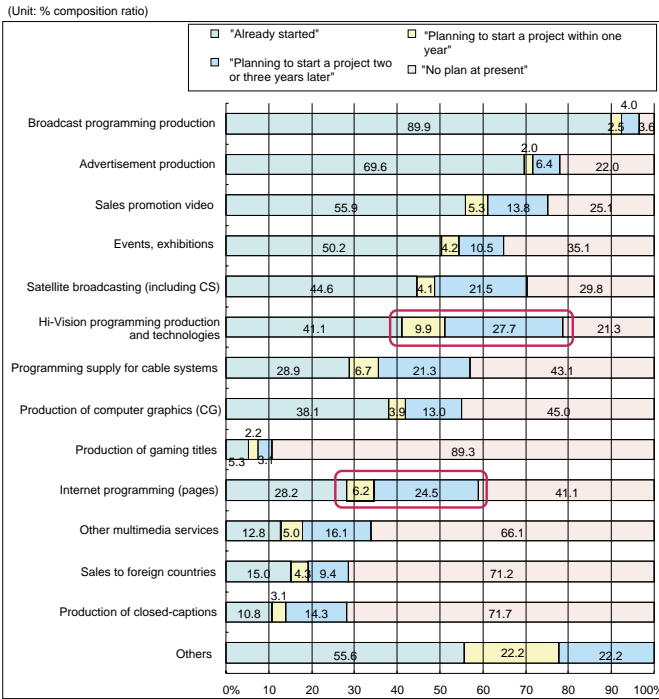
- Applied fields of secondary use are "re-broadcasting," "video cassettes" and "use for satellite broadcast programming,"



ming," being ranked as major use.

4. New business deployment

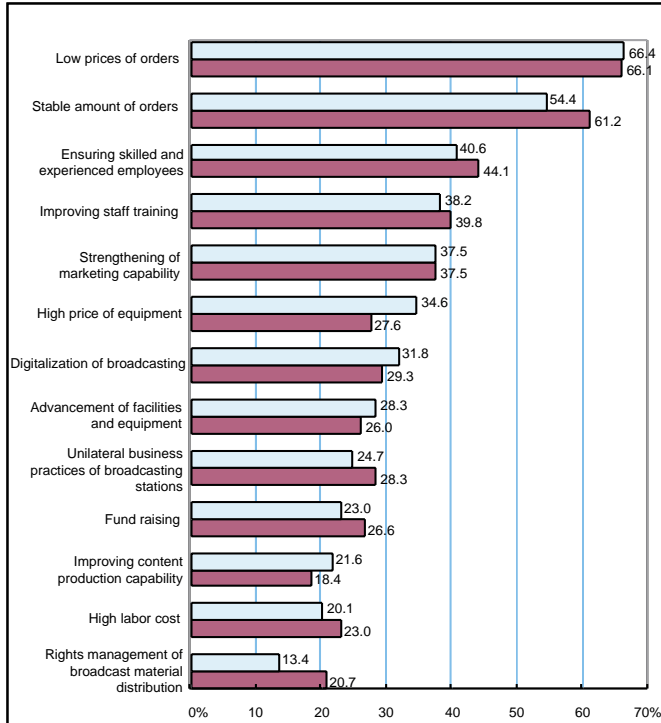
- Efforts toward the future* are mainly directed to "Hi-Vision programming production/technologies" (37.6%) and "Internet programming (pages)" (30.7%).
- * A total of producers replying "Planning to start a project within one year" and "Planning to start a project two or three years later"



5. Managerial problems

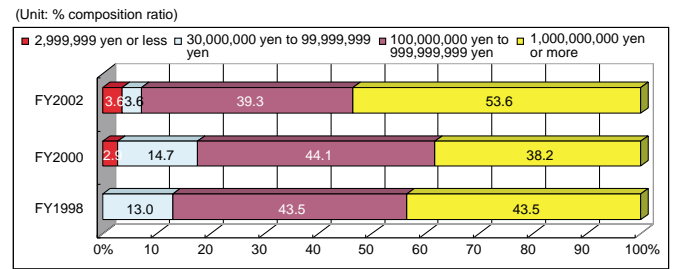
- Problems pointed out: Matters related to orders received indicate high concerns, such as "Unit order prices received are low" (66.4%), "Stable amount of orders" (54.4%); followed by matters related to human resources, such as "Ensuring skilled and experienced employees" (40.6%) and "Improving staff training" (38.2%).

(Unit: % composition ratio) (Upper bars: FY2003, lower bars: FY2002) (Multiple replies)



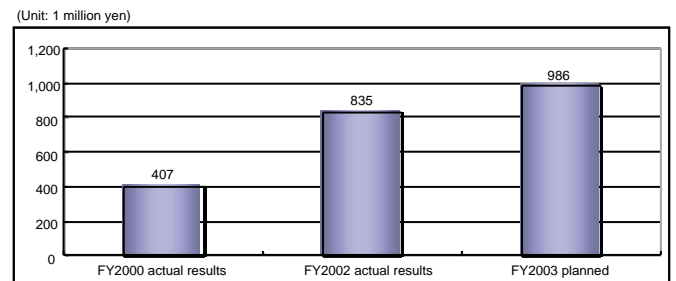
II. Cable TV broadcast programming suppliers (biennial survey)

1. Breakdown by capital



2. Average sales amount of broadcast programming business per company

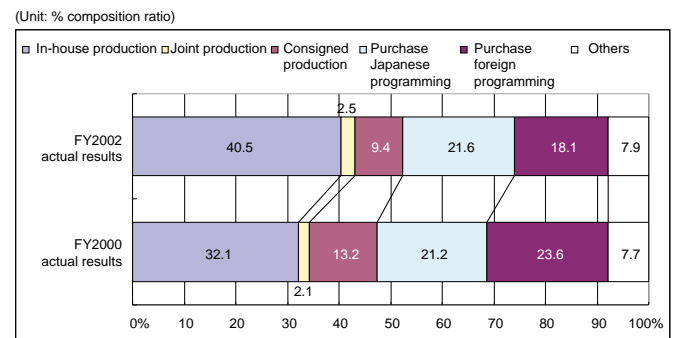
- FY2002 actual average sales amount per company was 835 million yen (105.2% increase over previous fiscal year).
- FY2003 planned average sales amount per company was 986 million yen (18.1% increase over previous fiscal year).



3. Purchase and supply of programming

(1) Methods to purchase programming

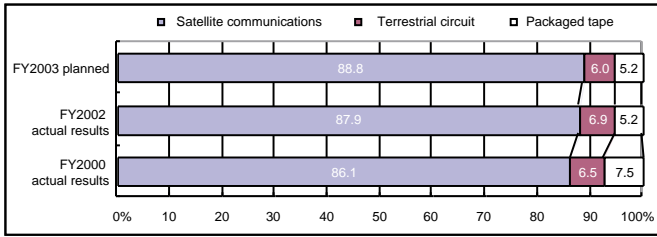
- With respect to methods to purchase programming, upper three items constitute 80% of all methods; namely "In-house production" (40.5%), "Purchase Japanese programming" (21.6%) and "Purchase foreign programming" (18.1%).



(2) Methods to supply cable TV broadcast programming

- Cable TV broadcast programming was being supplied mainly via "satellite communications" (87.9%) in FY2002 and 88.8% of these are to be delivered via satellite in FY2003 plan.

(Unit: % composition ratio)

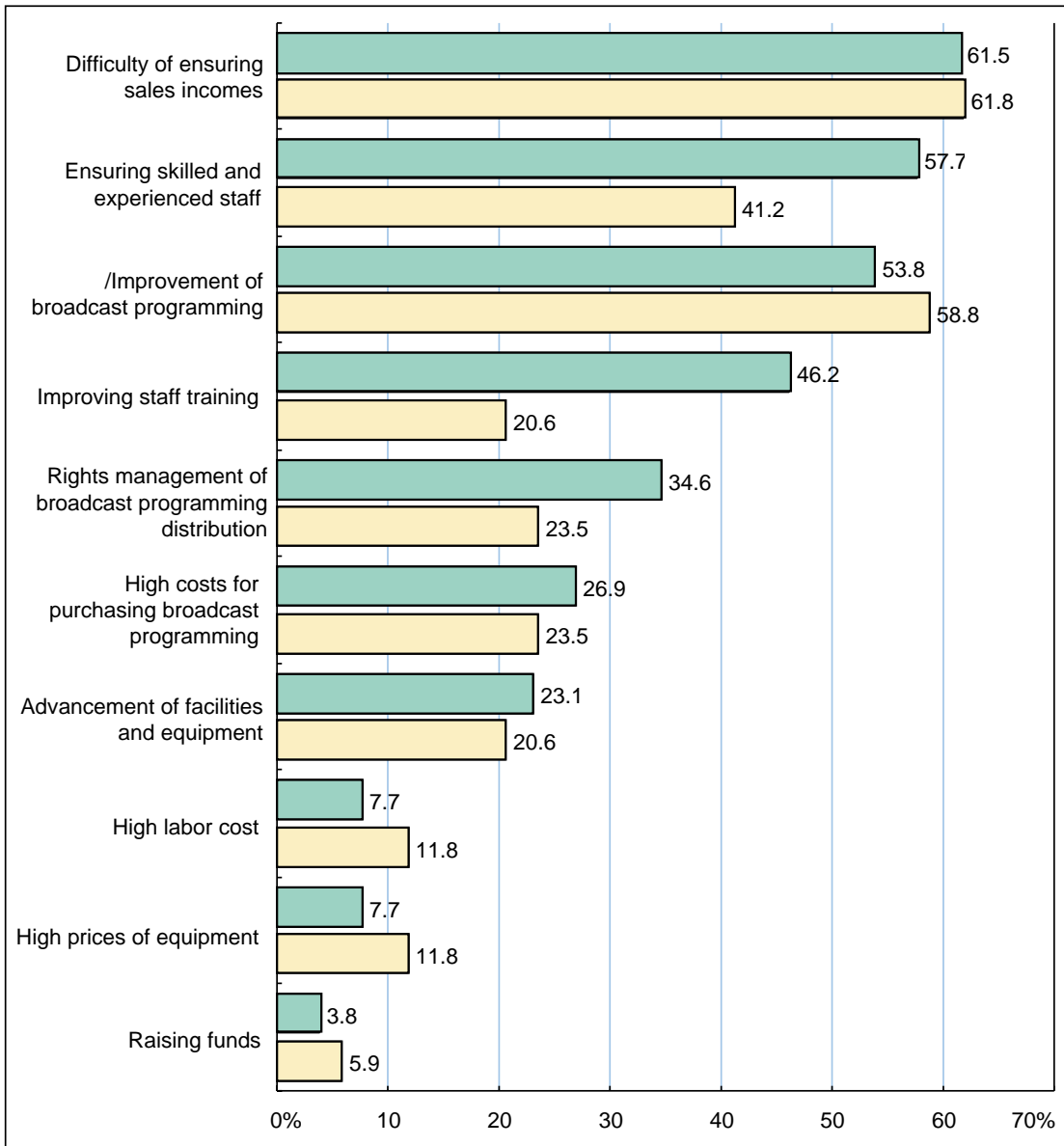


4. Managerial problems

- Of managerial problems, 61.5% are "Difficulty of ensuring sales incomes" and 57.7% are "Ensuring skilled and experienced staff."
- In comparison with the previous survey, companies saying "Ensuring skilled and experienced staff" and "Improving staff training" are increasing markedly.

(Unit: % composition ratio)

(Upper bars: FY2003, lower bars: FY2001) (Multiple replies)



Government-Private Sectors Coordinate Funding System to Be Established for ICT Ventures in its Infancy

-- Outline of Subsidization Scheme for Ventures --

I. Guidance to application

MPHPT will establish a Funding System from FY2004, under which MPHPT will, through the National Institute of Information and Communications Technology, deliver subsidies to ICT ventures that accept capital investments from private-sector venture capitals. Qualified applicants for the subsidization are to file application forms in accordance with the following guidance:

* Note: On April 1, 2004, the Communications Research Laboratory (CRL) and the Telecommunications Advancement Organization of Japan (TAO) will be reorganized into the "National Institute of Information and Communications Technology."

- (1) Time period for public invitation
- 1st period: April X* to May 25, 2004
 - 2nd period: July 5 to August 3, 2004
 - 3rd period: August 30 to September 28, 2004

* Note: The date will be decided after estab-

lishment of the Organization.

- (2) Address for filing application forms, inquiries and contact
- Business Promotion Division, Information and Communications Promotion Department,
 - National Institute of Information and Communications Technology
 - Banzai Building the seventh floor, 31-19, Shiba 2-chome, Minato City, Tokyo. zip: 105-0014
 - Telephone: +81-3-3769-6816 Facsimile: +81-3-3452-2691
 - URL: <http://www.nict.go.jp> (to be opened in April 2004)

II. Outline of this system

1. Qualifications, etc. for recipients to be subsidized

ICT ventures satisfying the following requirements:

- i) Not exceeding five years since its establishment

- ii) With paid-in capital of not exceeding one billion yen
- iii) Upon implementation of the subsidization system, it is certain that the applicant will accept investments, etc. (limited to cases where one single venture capital invests an amount of capital investment surpassing the amount of the subsidy in the venture) from the venture capital necessary for implementing the target project concerned.

(For details, please refer to MPHPT website at: <http://www.soumu.go.jp>)

2. Upper limit of subsidy

The subsidy will not cover all the costs as appropriate for the target project, but cover up to one half of the costs of the target project per fiscal year. When the amount surpasses 20 million yen, the upper limit shall be 20 million yen.