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Results of the First ASEAN+3 Telecommunications and IT Ministers Meeting

-- Results of the First ASEAN + 3 (Plus China, Japan and Korea) Telecommunications and IT Ministers Meeting (TELMIN) --

The first ASEAN Plus China, Japan and Korea (+ 3) Telecommunications and IT Ministers Meeting was held on August 4, 2004, in Bangkok, Thailand. This meeting was attended by Senior Vice-Minister TABATA Masahiro of MPHPT, as well as the ministers in charge of information and communications technology (ICT) from 10 ASEAN Member Countries, China and Korea.

The ministers reached a common recognition of importance to strengthen collaboration with ASEAN, Japan, China and Korea for developing ICT in the ASEAN region.

Senior Vice-Minister TABATA also had a bilateral meeting with Mr. Virgilio L. Peña, Chairman of the Commission on Information and Communications Technology (CICT) of the Republic of the Philippines, during which they exchanged views on strengthening the relationship between the two countries across the entire ICT field, including the penetration of broadband access. At this meeting, notes on cooperation in the ICT field were exchanged by the ministers.

[Outline]

1. To date, the ICT ministers from 10 Member Countries of ASEAN has been holding the "ASEAN Telecommunications and IT Ministers Meeting (ASEAN TELMIN)"; this time, the first "ASEAN + 3 Telecommunications and IT Ministers Meeting" has added to the ASEAN TELMIN framework.
2. At ASEAN TELMIN + 3, toward development of telecommunications and IT in the ASEAN region, discussions were made on measures, etc. for

promoting preparation of broadband platforms, capacity building, etc., subsequently the ministers reached a common recognition that cooperation between ASEAN and China, Japan and Korea should be further strengthened.

3. At ASEAN TELMIN + 3, Senior Vice-Minister TABATA, in line with the "Asia Broadband Program," introduced Japan's cooperative efforts to develop ICT in the ASEAN region, and stressed the significance of strengthened collaborative ties between ASEAN and the three countries, Japan, China and Korea.
4. Furthermore, Senior Vice-Minister TABATA had a separate meeting with Mr. Virgilio L. Peña, Chairman of Philippine CICT, during which they exchanged views on strengthening the relationship between the two countries across the entire ICT field, including the penetration of broadband access and the digital divide. At this meeting, notes on cooperation in the ICT field were exchanged by the ministers.

Note: ASEAN (Association of Southeast Asian Nations) is a regional organization for development cooperation. Its 10 Member Countries are Brunei Darussalam, Cambodia, Indonesia,

Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

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Results of Public Comments on Draft Amendment to "Guidelines on the Protection of Personal Information in the Telecommunications Business" and Interim Report from "Study Group Concerning Information Privacy in the Telecommunications Business Field"

Taking into consideration findings from the "Study Group Concerning Information Privacy in the Telecommunications Business Field" (Chair: Prof. HORIBE Masao, Chuo University), MPHPT announced results of public comment procedures during June 28 through July 27, 2004, on the draft amendment to the "Guidelines on the Protection of Personal Information in the Telecommunications Business." Through the procedures, MPHPT received comments from 11 persons.

The Study Group has, paying due consideration to these comments, compiled an interim report "Interim Report from 'Study Group Concerning Information Privacy in the Telecommunications Business Field' -- the amendment to the 'Guidelines on the Protection of Personal Information in the Telecommunications Business'."

Based upon the interim report, MPHPT issued a notice on the amendment to the "Guidelines on the Protection of Personal Information in the Telecommunications Business" on August 31, 2004.

[Outline of the interim report]

1. Background of the report

The "Guidelines on the Protection of Personal Information in the Telecommunications Business" (the "Current Guidelines") amended in 1998 has played an important role of protecting personal data held by telecommunications carriers as ones stipulating basic matters concerning protection of personal data in the telecommunications business field.

In 2003, however, circumstances surrounding protection of personal data in the telecommunications business field in Japan are to change drastically, for instance, as exemplified by the Law Concerning the Protection of Personal Information, a law governing personal information protection in the private sector, which was enacted and will come into force from April 2005. In addition, with criminal cases of personal data leakage in the telecommunications business field as a turning point, it is required that legal frameworks covering protection of personal data held by telecommunications carriers be reviewed.

Taking into consideration such circumstances, the Study Group compiled the draft amendment to the Current Guidelines after careful deliberations upon the amendment. The draft amendment was released and public comments thereon were invited. This report was compiled after such public comment procedures and necessary modification.

2. Contents of the draft amendment to the Current Guidelines

It is appropriate that the Guidelines after the amendment shall employ terms and definitions as consistent as may be with the "Law Concerning the Protection of Personal Information" and include the following provisions:

- i) Expressly defined security management measures to be taken by telecommunications carriers
 - a) Management of access to personal information

- b) Restrictions on taking personal information out of the office
- c) Measures for preventing illegal access
- ii) To give a necessary training course to employees
- iii) To designate a person in charge of handling personal information
- iv) Development and disclosure of a privacy policy (a declaration of a telecommunications carrier or ISP on guidelines for handling personal information)
- v) To appropriately and swiftly process complaints concerning handling of personal information
- vi) Upon leakage, etc. of personal information, to take such measures as a notice to the person concerned, release of facts thereof, etc.

3. Henceforth, MPHPT is, based upon the interim report, requested to i) amend the Current Guidelines, ii) appropriately inform telecommunications carriers of the amended Guidelines, and iii) take measures necessary for ensuring proper handling of personal information in operations of telecommunications business. Each telecommunications carrier is, in line with the amended Guidelines, expected to properly handle personal information so as to respond to higher expectations of Japanese nationals and users for proper handling of personal information.

Basic Framework for Protecting Personal Information in the Broadcasting Field

Since May 10, 2004, MPHPT has been holding the "Study Group on Protecting Personal Information in the Field of Broadcasting and Satellite Broadcasting in the IT Era" (Chair: Prof. FUNADA Masayuki, College of Law and Politics, Rikkyo University). The Study Group has been deliberating upon i) a framework for protecting personal information so that individuals can feel secure in concluding a subscription contract and viewing/listening broadcasts, and ii) a framework for developing and operating a more attractive satellite broadcasting system.

MPHPT invited public comments concerning a "basic framework (a draft) for protecting personal information in the broadcasting field" from July 2 through 30, 2004, and received a total of 56 comments from 12 persons. Taking these comments into consideration, MPHPT compiled a basic framework for protecting personal information in the broadcasting field.

1. The Study Group of MPHPT has compiled a "basic framework for protecting personal information in the broadcasting field," describing a basic concept concerning protection of personal information, such as desirable guidelines for protecting personal information in the broadcasting field.
2. Furthermore, upon compilation of the "basic framework for protecting personal information in the broadcasting field," MPHPT invited public comments concerning a "basic framework (a draft) for protecting personal information in the broadcasting field" from July 2 through 30, 2004, and received a total of 56 comments from 12 persons.
3. With specific characteristics and the reality of the broadcasting field as a backdrop, the "basic framework for protecting personal information in the broadcasting field" describes: i) basic concepts, considering usefulness

of personal information in the broadcasting field, concerning protection of personal information, ii) "guidelines (draft) for protecting personal information of viewers/listeners" containing duties, etc. for broadcasters, etc. who handle personal information of a given scale of viewers/listeners, etc., including basic compliance requirements on handling of personal information of viewers/listeners, etc., and iii) explanations, etc. on the Guidelines and intentions of the provisions thereof.

The Study Group will continue to deliberate upon a security management measure, procedures for processing complaints/individual access, roles to be expected to play by organizations, etc. of relevant industries and compliance with laws and regulations governing broadcasting.

Taking this framework into consideration, MPHPT disclosed guidelines for protecting personal information in the broadcasting field in August 2004.

Basic Framework for Protecting Personal Information in the Broadcasting Field

Outline

Background

1. Increase in the number of personal information handled in the broadcasting field
 - Number of reception contracts of NHK: 38.16 million
 - Number of household subscription to cable TV: 24.68 million
 - Number of total subscribers to SKY PerfecTV! and SKY PerfecTV! 110: 3.69 million
 - Number of reception contracts of WOWOW: 2.52 million
 - Number of registrations for interactive services: 1.87 million
 - Number of color TV units: approx. 80 million

2. Increase in number of criminal cases of personal information leakage
 - BS-i Inc. case: announced in June 2004
 - JAPANET TAKATA Co., Ltd. case: announced in March 2004
 - Number of inquiries concerning malicious fictional bills (fraudulent and deceptive bills) (National Consumer Affairs Center of Japan): from 2,505 (during April 2000 through April 2002) to 162,391 (during April 2002 through April 2004)
3. Enactment of the "Law Concerning the Protection of Personal Informa-

tion"

- Promulgation of the "Law Concerning the Protection of Personal Information" and partial enforcement thereof (May 2003)
- Additional resolutions (May 2003) House of Representatives: "...with respect to areas, including information and communications, where Japanese nationals are requesting the protection of personal information at a higher level, the Government shall consider an individual law as soon as possible in order to protect personal information which is especially required that appropriate handling of personal information be strictly implemented."

House of Councillors: "...with respect to areas, including information and communications, where Japanese nationals are requesting the protection of personal information at a higher level, the Government shall consider an individual law as soon as possible in order to protect personal information which is especially required that appropriate handling of personal information be strictly implemented. Upon full-scale enforcement of this Law, a concrete conclusion at least to some extent shall be reached."

Measures to be taken by MPHPT for protecting personal information in the broadcasting field

- Development of guidelines for protecting personal information in the broadcasting field (Guidelines stipulating matters for i) defining details of the "Law Concerning the Protection of Personal Information" and relevant regulations and ii) ensuring effectiveness of protection of personal information based on characteristics of the broadcasting field)
- Explanation on those guidelines
- Indication of security management measures, practical examples of various procedures for broadcasters, etc. (To be continued to be deliberated upon)
- Measures concerning roles to be expected to play by organizations, etc. of relevant industries (To be continued to be deliberated upon)
- Response in compliance with laws and regulations governing broadcasting (To be continued to be deliberated upon)
- Others (To be continued to be deliberated upon)

Characteristics of the broadcasting field to be considered upon development of the guidelines

1. Enormity of data volume of personal information handled
 - Penetration of broadcasting under the Broadcast Law
 - Obligation of a person installing a receiving unit to conclude a reception contract (personal information of a person who concluded a reception contract, personal information of a person who has not concluded a reception contract)

- Expansion of broadcasting services and interactive services, accompanied by contracts (personal information of persons who concluded reception contracts, registered persons of interactive services)
2. Penetration of broadcasting into national lives
 - Information obtained through broadcasting penetrating into national lives including those of households and individuals (information obtained through two-way services and tele-shopping interacting with broadcasting)
 - High-performance receiving units interconnected to networks → information obtained through functions of TV units that have already penetrated into Japanese nationals including households and individuals (information obtained through the use of IC cards, etc. without being recognized by viewers)
 3. Handling of information individually and directly relating to personal tastes and assets
 - Information relating to personal and individual tastes Records on broadcast programming watched by individual viewers
 - Information directly relating to personal assets Account numbers, credit card numbers, etc.
 4. Drastic development in technological innovations

- i) Specification of purposes to use such information and Restrictions on the use for purposes other than the purposes for which the information was collected
- ii) Appropriate collection
- iii) Ensuring accuracy
- iv) Considering security management measures
- v) Considering individual access

- High-performance and multiple functions of receiving units utilizing results of technological innovations including digitalization
- Advanced methods for threatening security of personal information accompanied by development in ICT

Note: With respect to press, authorship, etc., in accordance with the provisions of Article 50 of the Law Concerning the Protection of Personal Information, the provisions pertaining to business activities on companies handling personal information are waived.

Outline of the "guidelines for protecting personal information of viewers/listeners (draft)"

1. By clarifying duties, etc. for broadcasters, etc. who handle personal information of viewers/listeners, etc., including basic compliance requirements, the "guidelines for protecting personal information of viewers/listeners (draft)" aim at:
 - 1) Protecting personal rights and interests while considering utility of personal information (the Law Concerning the Protection of Personal Information); and
 - 2) Contributing to the sound development of broadcasting (the Broadcast Law, etc.).
2. Basic matters to be considered

According to the following matters, broadcasters, etc. shall make efforts to appropriately handle personal information of viewers/listeners, etc.

Companies handling information on viewers/listeners, etc.
 Note: Referring to Companies handling personal information who provide personal information databases, etc. on viewers/listeners, etc. for the use of their business

Persons who provide small-scale personal information databases, etc. for the use of their business

3. Obligations, etc. of companies handling information on viewers/listeners, etc.

- 1) Provisions on handling of personal information (except those related to complaint processing) (Articles 4 through 8)
- 2) Provisions on handling of personal information in possession (Articles 9 through 19)
- 3) Provisions on processing of complaints on personal information (Articles 20 through 26)
- 4) Provisions on handling of personal information (Article 27)
- 5) Provisions on development and announcement of basic guidelines (Article 28)
- 6) Provisions on announcement, etc. of facts, etc. concerning leakage, etc. (Article 29)

➡ To the extent necessary for enforcing the provisions of Chapter IV of the Law Concerning the Protection of Personal Information, there may be cases where the following measures are taken:

- Collection of reports by the Minister for Public Management, Public Affairs, Posts and Telecommunications (Article 32 of the Law Concerning the Protection of Personal Information)
- Advice from the Minister (Article 33 of the Law Concerning the Protection of Personal Information)

➡ Upon violation, there are the penal provisions that may apply to such cases:

- Recommendation from the Minister (Article 34 paragraph (1) of the Law Concerning the Protection of Personal Information)
- Order from the Minister (Article 34 paragraph (2) or (3) of the Law Concerning the Protection of Personal Information)

4. Others

- 1) Provisions on waiver of press, authorship, etc. (Article 30)
- 2) Provisions on effective date (April 1, 2005) (Supplementary Provisions Article 1)
- 3) Provisions on transitional measures (Supplementary Provisions Articles 2 through 5)
- 4) Provisions on consideration, etc. on review of the guidelines after one

year from the effective day (Supplementary Provisions Article 6)

Obligations, etc. of companies handling information on viewers/listeners, etc.

- 1) Provisions on handling of personal information (except those related to complaint processing) (Articles 4 through 8)
 - i) Specification of purposes to use such information and restrictions on the use for purposes other than the purposes for which the information was collected (Articles 4 and 5)

Upon handling of personal information, companies handling information on viewers/listeners, etc. shall clearly specify the purpose for use, and, in principle, shall not use the information, without consent from the person concerned, beyond the scope necessary for achieving the purpose.

[Examples of specified purposes for the use]

Allowed: Collection of charges for paid broadcasting services

Not allowed: Improvement of paid broadcasting services

Allowed: Provision of information on Internet access services

Not allowed: Provision of information on various services

- ii) Restrictions on collection (Articles 6 and 7)

Ban on collection of personal information beyond the scope necessary for business activities (records on broadcast programming watched by specific individuals, account numbers, etc. shall not be collected beyond the scope necessary for collecting charges, etc.). Ban on information collection through unlawful measures.

- iii) Upon collection of personal information, the purpose for which the information is being collected shall, in principle, be informed to the person concerned.

2) Provisions on handling of personal information in possession (Articles 9 through 19)

- i) Ensuring accuracy of data (Article 9)

Personal data (personal information comprising databases, etc.) shall be kept accurate and up to date.

ii) Security management measures (Articles 10 through 17)

- (i) Establishment of a security management director
- (ii) Development of security management rules
- (iii) Review of security management rules
- (iv) Control of entrance and exit of a place where records are kept (including limitations on persons who are allowed to enter the place)
- (v) Control of the use of computers for access
- (vi) Control of taking out data from the place (including limitations on methods to take out)
- (vii) Access control (including i. limitations on persons entitled to have access, ii. authentication, and iii. maintenance of access records)
- (viii) Prevention of losses, theft, etc.
- (ix) Measures for protecting unauthorized access
- (x) Encryption, etc. of records on broadcast programming watched by specific individuals, account numbers, etc.
- (xi) Supervision of workers
- (xii) Education, etc. of workers on sharing of responsibilities
- (xiii) Education, etc. of workers on appropriate handling of personal data
- (xiv) Establishment of standards for selecting consignors
- (xv) Appropriate selection of consignors
- (xvi) Supervision of consignors
- (xvii) Ensuring confidentiality at consignors through consignment contracts
- (xviii) Ensuring security management measures consignors through consignment contracts
- (xix) Ensuring standards for selecting re-consignors at consignors through consignment contracts
- (xx) Ensuring appropriate selection of re-consignors at consignors through consignment contracts
- (xxi) Ensuring supervision of re-consignors through consignment contracts
- (xxii) Review of consignment contracts

iii) Limitations on provision of personal data to a third party (Article 18)

Upon provision of personal data to a third party, in principle, consent from the person concerned shall be given.

[Exceptions]

- (i) Cases where required by law, including cases where the Minister request reports, etc.
- (ii) Cases where necessary for safeguarding a person's life, limb and property (when it is difficult to obtain consent from the person concerned)
- (iii) Cases where especially necessary for improvement of public health and sound nurturing of children (when it is difficult to obtain consent from the person concerned)
- (iv) Cases where requiring cooperation from the government,

including administrative instructions, etc.

- (v) Cases where the provision of information to a third party has suspended by a request from the person concerned, after a prior notice to said person of the personal information to a certain level
 - (vi) Cases where handling of personal data is to be consigned
 - (vii) Cases where a business is succeeded to through merger, etc.
 - (viii) Cases of shared use of personal data after a prior notice to the person concerned of the personal information to a certain level
 - iv) Setting forth the period for which personal data are kept and deletion after the period (Article 19)
- The period for which personal data are

kept shall be set forth and the personal data shall be deleted after the period has elapsed.

(The period of keeping records on broadcast programming watched by specific individuals, account numbers, etc. shall be minimal necessary for collecting charges, etc.)

3) Provisions on handling of personal information being kept (Articles 20 through 26)

When the person concerned has requested the disclosure, correction of personal information being kept, suspension of use thereof, etc., it is vital to meet the request by following given procedures, etc.

4) Provisions on processing of complaints on personal information (Article 27)