

Main Points of Proceedings of the 892nd Radio Regulatory Council Meeting

1. Date

Wednesday, February 9, 2005 16:00 to 18:35PM

2. Venue

Ministry of Internal Affairs and Communications conference room (conference room No. 1002, 10th floor).

3. Participants (honorific titles omitted)

(1) Committee member of the Radio Regulatory Council

Yasuhiko YASUDA (Chairman), Junichi HAMADA, Kashiko ODATE, Hatsuko UKIGAWA

(2) Hearing examiner of the Radio Regulatory Council

Taku KIYASU

(3) Secretary

Masao OKAMOTO (Assistant Director of General Affairs Division, Telecommunications Bureau)

(4) Ministry of Internal Affairs and Communications (hereinafter referred to as “the MIC” in this section)

ARITOMI (Director General of the Telecommunications Bureau), TAKEDA (Director General of the Radio Department), OGASAWARA (Councilor) and others

4. Contents of proceedings

(1) Concerning a ministerial ordinance plan to amend part of the Radio Law Enforcement Regulations (Inquiry No. 37 dated December 8, 2004)

Concerning the ministerial ordinance plan for the addition of regulations related to exceptions of the other communications party described in an aeronautical station license, the members of the Radio Regulatory Council deliberated on the protocol and written opinion (reference: opinions obtained at the 395th Radio Regulatory Council Meeting) submitted by the hearing examiner who presided over the procedure for the opinion hearing and replied to the effect that the ministerial plan was appropriate.

(2) Concerning a ministerial ordinance plan to amend part of the Radio Law Enforcement Regulations, the Radio Station License Procedure Regulations, the Radio Equipment Regulations, the Ordinance Concerning Technical Regulations Conformity Certification of Specified Radio Equipment, the Regulations Concerning Specific Frequency Change Support

Service, the Regulations Concerning Specific Frequency Termination Support Service and the Ordinance Concerning a Survey of the Use of Radio Waves, Etc. (Inquiry No. 3)

Because inquiry No. 3 is related to inquiry No. 4, a participant from the MIC dealt with inquiries No. 3 and No. 4 together, as well as questions and answers about both inquiries.

(3) Concerning a plan to amend part of the frequency allocation plan (Inquiry No. 3)

Since this matter is related to inquiry No. 3, a participant from the MIC dealt with it together with inquiry No. 3 as well as questions and answers about both inquiries.

Concerning inquiry No. 3: a hearing of opinions is obligatory pursuant to the Radio Law, and since inquiry No. 4 is related to inquiry No. 3, it was deemed appropriate to hold a joint hearing of opinions on these matters. Taku KIYASU was designated as the hearing examiner to preside over the procedure.

a. Explanation by the MIC

There are three main points in inquiry No. 3. The first point is to amend a relevant ordinance in the wake of the introduction of a registration system of a radio station based on the Law to Amend a Part of the Radio Law and the Wire Telecommunications Law (law No. 47 of 2004) enacted in the 159th Diet of 2004. This registration system is such that the advance examination procedure is condensed and the information necessary to supervise a radio station may be submitted after registration has been received. It also has the merit of permitting a radio station to be freely established anywhere within a registered area. The ministerial ordinance we are querying now stipulates the registration procedures and other matters which are ordinarily stipulated in a ministerial ordinance, pursuant to the Radio Law, such as radio stations which are the objects of registration and the term of validity.

The second point is to amend a relevant ordinance aimed at expanding the use of a 5 GHz-band, low-power data communications system, based on the results of the World Radio Communications Conference (WRC-03) and a partial response (November 2004) from the Telecommunications Council. The technical standards for the said system are stipulated in the current ministerial ordinance, but the purpose of this inquiry is to add frequencies so that the existing system and meteorological radar can be used together, to expand uses further and to adjust frequencies from 5,150 MHz to 5,250 MHz to meet international standards.

The third point is to amend an applicable ministerial ordinance in order to spread the special

measures applied in the recognized special deregulation zone nationally, as prescribed in Article 4 paragraph 10 of the Special Deregulation Zone Law (law No. 189 of 2002), based on the decision of the Special Deregulation Zone Promotion Headquarters and is, more specifically, to create a radio access system using the frequencies of 5, 22, 26 and 38 GHz bands accessible for uses other than a public service telecommunications business, whereas these frequencies were, if authorized in the special deregulation zone, limited to a telecommunications business unless otherwise authorized to be a local government. Concerning a radio access system using frequencies in the 5 GHz band, a system that increases antenna gain was authorized only in a special deregulation zone in the past, but this system will be spread nationally, based on the decision of the Special Deregulation Zone Promotion Headquarters and the use of this frequency band for relaying will also be authorized to provide services to isolated islands and mountainous regions.

Inquiry No. 4 is to amend a part of the frequency allocation plan in accordance with the second of the three amendments specified in inquiry No. 3, namely, to introduce a 5 GHz-band low-power data communications system and the third amendment therein, namely to spread the special measures applied in the recognized special deregulation zone nationally. More specifically, regarding the introduction of a 5 GHz-band low-power data communications system, a low-power data communications system using the 5,250 to 5,350 MHz frequencies will be used as a radio LAN for a low-power business and the 5,120 to 5,250 MHz frequencies, being used for a radio LAN at present, will be moved to higher frequencies by 10 MHz to adjust the system to those that are being used in foreign countries and the new frequencies will be authorized for use in airplanes.

Regarding the national spread special measures in the recognized special deregulation zone, the use of a radio access system using the frequencies of 5, 22, 26 and 38 GHz bands has been authorized for public services, broadcasting services and general businesses, in addition to a telecommunications business only in the recognized special deregulation zone, but this system will be made uniformly usable nationally.

b. Main questions and answers

- The amendment plan of a radio station in the 5 GHz-band radio access system is supposed to have arisen because there is a demand for it. What is the estimated demand if it is used nationally? A participant from the MIC replied to this question as follows: *“There are slightly less than 300 radio stations at present, but there is demand for it from the aspect of the 3dB increase of antenna gain and the establishment of radio stations by local governments*

themselves. The use of a radio station in the 5 GHz-band radio access system will be advanced, particularly in unprofitable areas such as mountainous regions.”

- The following occurs in the explanatory material. Regarding the amendment of the Radio Equipment Regulations in the wake of the introduction of a registration system for radio stations, technical standards for radio equipment in a radio station that is the object of registration will be established. Regarding the amendment of the ministerial ordinance on the Regulations Concerning Specific Frequency Change Support Service and the Regulations Concerning Specific Frequency Termination Support Service, payment standards for benefits to a registrant for its specific frequency termination support service will be established. Will these be newly established? A participant from the MIC replied to this question as follows: *“Regarding the former, the technical standards have already been established in the Radio Equipment Regulations, but the Radio Equipment Regulations will be amended in accordance with the national spread of the special measures applied in the recognized special deregulation zone. Regarding the latter, since only a licensee is subject to payment under the current calculation standards, registrants must also be subject to payment.”*

(4) Concerning the plan to amend part of the broadcasting frequency use plan (Inquiry No. 5)

Concerning a plan to amend part of the broadcasting frequency use plan, the MIC's explanations were given, and questions and answers were conducted as follows and as a result of deliberation, the members of the Radio Regulatory Council replied to the effect that the ministerial plan is appropriate.

a. Explanation by the MIC

The purpose of this inquiry is to reduce the influence of other relay stations and minimize the number of reception target households as part of the analog frequency change measures which are being implemented nationwide to introduce terrestrial digital television broadcasting smoothly. Frequencies will be changed where relay stations have influenced their use and part of the broadcasting frequency use plan will be amended accordingly.

More specifically, in the process of changing channels stepwise it has been decided that the same 48+ channel will be allocated to the Towa relay station (NHK) of Yamaguchi Prefecture and the Osaki relay station (NHK) of Hiroshima Prefecture adjacent to Yamaguchi Prefecture. As a result of a detailed survey of radio wave intensity, however, it has been found that there is a possibility of interference in about 4,000 households, so a 48-offset change will be made at the Towa relay station.

b. Main questions and answers

- Have you conducted any simulated interference before? A participant from the MIC replied to this question as follows: *“From simulation performed with a computer, a broadcasting company concerned and members of the MIC were of the view that there would be no interference, but as a result of a detailed survey of radio wave intensity, we have found that there is a possibility of interference and so we would like to make the said offset change for the Towa relay station in such a way that users will not be inconvenienced.”*

(5) Concerning approval of the amendment of the Nippon Hoso Kyokai (The Japan Broadcasting Corporation) Broadcasting Receiving Agreement

Concerning approval of the amendment of the Nippon Hoso Kyokai Broadcasting Receiving Agreement, a participant from the MIC gave the following explanation and after deliberation, the members of the Radio Regulatory Council replied to that effect that the said amendment is appropriate.

○ Explanation by the MIC

This application is based on the provisions of Article 32 paragraph 3 of the Broadcast Law and it is an application for the introduction of a lump sum payment by credit card and for changes to the charging method when the cash balance in an account transfer is in debit.

Regarding the former aspect, those who have not paid or have delayed paying a viewing fee because debt collectors could not locate them despite visiting their homes many times, we normally send a viewing-fee bill, but nevertheless, there are many cases in which non-payment and delay in payment are not resolved. In order to decrease the incidence of these cases insofar possible, a lump sum payment by credit card will be added as a new payment method to enhance the convenience of those who have concluded a contract for the reception of NHK's broadcasting as well as the efficiency of viewing-fee collection.

Regarding the latter, when an automatic deduction from a viewer's bank account cannot be implemented on two consecutive occasions because of a lack of funds, a debt collector should visit the viewer concerned to collect future viewing fees. However, payment of a viewing fee for subsequent terms after the said two terms by means of an account transfer will be possible except in special cases, even if no new notification of an account transfer is submitted.

As a result of deliberation, the participants decided to approve the application as is because the change in the viewing-fee charging method will help improve convenience for those who have

concluded a contract for the reception of NHK's broadcasting, as well as the efficiency of viewing-fee collection.

(6) Concerning the opinion of the Minister of Internal Affairs and Communications with regard to the fiscal 2005 revenue and expenditure plan of Nippon Hoso Kyokai (Inquiry No. 7)

Concerning the opinion of the Minister of Internal Affairs and Communications with regard to the fiscal 2005 revenue and expenditure plan of Nippon Hoso Kyokai, a participant from the MIC gave the following explanation and the members of the Radio Regulatory Council replied, after a question and answer session, that the opinion was appropriate.

a. Explanation by the MIC

Fiscal 2005 business revenues (estimate) are 672,400,000,000 yen (a 0.9% drop from last year) and viewing-fee revenues (estimate) have dropped by 1.1% from last year. Business expenditures (estimate) are 668,700,000,000 yen (a 0.4% drop from last year) and business operation expenditure dropped by 1.3% from last year. The difference between business revenue and business expenditure is 3,700,000,000 yen. The viewing fee has remained the same for 15 years, since 1990. The number of reception contracts is estimated to be 36,920,000 as at the end of fiscal 2005 (end of March 2006).

The most important matter in the business plan is to recover the credibility that has been damaged by a series of scandals and NHK has decided to drastically reform the entire corporation, while intensifying the functioning of the Management Committee (making effective use of the secretariat, which was established on January 6, 2005). More specifically, NHK has set four objectives. The first objective is to enrich the public broadcasting service for viewers and to go back to the origins of public broadcasting by providing abundant, high-quality broadcast programs. In connection with the recovery of viewer confidence, because customer relations are very important, NHK will attempt to strengthen its link with viewers. In connection with the series of scandals, NHK wants to establish an advisory panel consisting of well-informed, independent personalities as a forum to hear their opinions on reforming the system and the organization, with the aim of regenerating NHK. The second objective is to introduce a system whereby NHK will announce something like a public commitment to its business operation and have viewers and external, well-informed independent personalities evaluate the degree of achievement of such public commitment. The third objective is to intensify the functioning of the compliance promotion office as a measure to address compliance activities, to create and verify a compliance action plan, to improve the ethical consciousness of staff members, to strengthen training with the aim of increasing awareness on

issues of public money, to strengthen the examination and audit systems and to promote information disclosure in a positive manner. The fourth objective is to simplify the visiting activities of staff members and local stalls and the procedures for changing a reception contract when viewers change their address for purposes of securing reception contracts and collecting viewing fees. The NHK also wants to strengthen ties with external enterprises and to improve the payment methods for the viewers' convenience in order to increase the number of reception contracts and improve the collection of viewing fees.

The opinion of the Minister of Internal Affairs and Communications is as follows: in the fiscal 2007 revenue and expenditure budget, revenues from viewing fees fell below those of last year, having brought about a difficult situation in the process of recovering viewers' confidence that was damaged by a series of scandals. Various measures for regeneration and reform are included in the business plan in connection with planned future improvements from the viewpoint of the viewing fee representing a fair burden. A revenue- and expenditure-balanced budget is being steadfastly maintained. So, the fiscal 2005 NHK revenue and expenditure budget can be approved as being inevitable. The NHK's method of addressing each individual objective, namely, to return to the origins of public broadcasting and enrich abundant, high-quality broadcasting programs, to strengthen its disaster and emergency broadcasting system and to promote terrestrial digital broadcasting is appropriate on the whole.

Furthermore, we decided to have the following matters included in the opinion of the Minister of Internal Affairs and Communications.

A series of scandals occurred and led to the suspension of viewing-fee payments. (1) This is a serious and regrettable matter. (2) The NHK should not only promote various measures to regenerate and reform that are included in the fiscal 2005 revenue and expenditure budget, but also take necessary measures throughout the corporation to recover public confidence as soon as possible. (3) The MIC will monitor how the objectives and measures are implemented and will provide advice as to what should be done when necessary. The MIC enumerates eight points as matters for NHK's particular attention: addressing regeneration and reform, matters related to digital broadcasting, matters related to technical development and research studies, matters related to international broadcasting, concluding more reception contracts and matters related to information disclosure.

b. Main questions and answers

- The NHK states in its fiscal 2005 budget that viewing fees will fall by 1.1% compared to last

year. How did they estimate this? A participant from the MIC replied to this question as follows: *“There were 113,000 payment suspensions and refusals as at the end of November 2004 and 397,000 as at the end of January 2005. This number will increase to between 450,000 and 500,000 by the end of this fiscal year and the decline in the number of reception contracts has also been calculated from a specific estimated number.”*

- It seems that this year’s opinions are harsher than those expressed previously. Have the words *“inevitable”* and *“truly regrettable”* been used in the past? A participant from the MIC replied to this question as follows: *“The word “inevitable” was used when the viewing fee was revised, but the phrase “truly regrettable” has not been used before.”*

- Regarding the MIC’s provision of necessary advice, what kind of advice do you have in mind? A participant from the MIC replied to this question as follows. *“Our basic policy is to observe how the objectives and measures will be implemented. What actions should be taken will be considered carefully after ensuring that progress is occurring. We will begin with a clean slate.”*

- Does any country, other than Japan, with a viewing-fee system conduct broadcasting without imposing a penalty for non-payment of the viewing fee? A participant from the MIC replied to this question as follows: *“Italy, like Japan, employs a viewing-fee system without criminal punishment or penalties for late payment. We do not know the exact number of reception contracts concluded in Italy, but it is similar to that of Japan. Other countries do have sanctions for late or non-payment of viewing fees.”*

(7) Concerning the establishment of standard agreement clauses for a paid broadcasting service related to digital broadcasting by artificial satellite and other matters (Inquiry No. 8)

Concerning the establishment of standard agreement clauses for a paid broadcasting service related to digital broadcasting by artificial satellite and other matters, the MIC’s explanations were given and a question and answer session was conducted, as set out below. After deliberation, members of the Radio Regulatory Council replied to the effect that the establishment of standard agreement clauses is appropriate.

a. Explanation by the MIC

When providing paid broadcasting services by artificial satellite, broadcasters must submit agreement clauses and obtain approval from the Minister of Internal Affairs and Communications, or use the same standard agreement clauses as those stipulated by the Minister of Internal Affairs and Communications, and must provide services according to the said agreement clauses. Standard agreement clauses will be established to take into consideration the Personal Information Protection Law, which came into effect on April 1,

2005.

An outline of the new agreement clauses contains new stipulations about the protection of personal information and, in particular, identification of the services used, the provision of personal information to third parties, supervisory obligations for persons handling personal information and similar issues will be stipulated in detail. On matters other than the protection of personal information, the contents of the agreement clauses should be such that they cover the entire satellite broadcasting spectrum; the reduction of, or exemption from, payment of a viewing fee for subscribers who have suffered a significant natural disaster, will also be stipulated.

The existing standard agreement clauses for paid broadcasting services related to digital broadcasting by communications satellite will be revoked upon enactment of the above standard agreement clauses.

Between January 7, 2005 and February 4, 2005 we gathered 75 opinions, including detailed opinions, from six companies and took these into consideration in amending the standard agreement clauses.

b. Main questions and answers

- The explanatory material contained a provision that broadcasters must set forth agreement clauses and obtain approval from the Minister of Internal Affairs and Communications and certain other obligations. Does this mean that in addition to obtaining approval from the Minister of Internal Affairs and Communications, broadcasters must also submit additional material? A participant from the MIC replied to this question as follows: *“Broadcasters can elect to either obtain individual approval for agreement clauses from the MIC or they can use the standard agreement clauses. We will include stipulation about the observance of protection of personal information in the approval standards for individual agreement clauses and these are currently being prepared”*.

(8) Concerning a license for the base station and land mobile station belonging to Softbank BB Corp.

The MIC provided explanations about the license for the base station and land mobile station belonging to Softbank BB Corporation and a question and answer session was conducted as set out below. As a result of deliberations the members of the Radio Regulatory Council found the said license to be appropriate.

a. In December last year, Softbank BB Corp. applied for a base station and land mobile station for mobile phones using frequencies in a 800 MHz band.

The MIC examined the application in respect of the construction design conforming to the technical standards prescribed in Chapter 3, the construction design conforming with frequency allocation being possible and that the construction design conforms to the fundamental standards of the establishment of a radio station as prescribed in the applicable ministerial ordinance, based on the provisions of Article 7, paragraph 1 of the Radio Law.

With regard to an outline of the examination, because of the combination of transmission and reception that conforms to the frequency allocation plan and technical standards, there is no frequency that can be allocated and thus the application does not conform to the provisions of Article 7, paragraph 1, item 2 of the Radio Law. Furthermore, because there is no possibility of being able to use the frequencies required nationally at present, the application does not conform to the standards of having an appropriate plan for carrying out a telecommunications business, as prescribed in Article 3, item 2 of the Fundamental Standards for Establishing Radio Stations. If a radio station were to be established there is a risk that it may impede the operation of other existing radio stations. Thus, since the application does not conform to the standards of “not impeding the operation of existing radio stations” prescribed in Article 3 item 3 of the Fundamental Standards for Establishing Radio Stations, the application does not conform to Article 7, paragraph 1, item 3 of the Radio Law either.

Therefore, because the application does not conform to Article 7, paragraph 1, item 2 and 3 of the Radio Law, we decline to grant this applicant a license.

b. Main questions and answers

- In which frequency bands is the IMT-2000-related service of NTT DoCoMo and KDDI being conducted at present? A participant replied to this question as follows. “*NTT DoCoMo is operating its IMT-2000 service in a 2 GHz band and KDDI in both an 800 MHz band and a 2 GHz band*”.

- KDDI is using frequencies in the 800 MHz band for its IMP-2000-related service. Why is it not possible to use empty frequencies for the same purpose? A participant from the MIC replied to this question as follows: “*The future reorganization of frequencies in the 800 MHz band, including a frequency interval for the IMT-2000, has already been established in an applicable*”.

ministerial ordinance and the frequency allocation plan. Because it is not possible to allocate frequencies contrary to the frequency allocation plan, there is no possibility of the suggested frequency allocation suggested being implemented at present”.

- It seems that people do not stay up-to-date with this particular frequency allocation. Should you not supply them with more information in this regard? A participant from the MIC replied to this question as follows: *“There are certainly some matters that the general public does not understand and we will try to enhance their understanding. However, we explained the details to broadcasters concerned (and others) and then held a study meeting where they could state their opinions openly, so we believe that they understand this particular matter well.”*

- We suspect that the general public does not fully understand the issues that were discussed at the study meeting. They may get the impression that opinions were divided in the study meeting but that the MIC’s opinion prevailed. If you explain to the general public that the plan being promoted until 2010 will benefit them, they will accept it. A participant from the MIC replied to this view as follows: *“We select the subjects to be discussed in the study meeting according to the degree of importance, but this study meeting was intended to be a discussion space and not to usurp the purposes of advisory council meetings, including this Radio Regulatory Council meeting. We did not request the participants in the study meeting to draw any conclusions; Nicholas, we believe that the final decision is at the discretion of the Administration. We will continue to explain the contents of the plan to the general public whenever the opportunity arises.”*

(Responsibility for the wording: Secretariat of the Radio Regulatory Council)