

**Telecommunications Council, Information and Communications Policy Committee**  
**Digital Content Trading Promotion Committee – Minutes of the First Meeting**

1 Date and Time: Thursday, September 28, 2006 12:45-14:00

2 Location: Conference Room A/B/C, Mita Kaigisho

3 Attendees (Honorifics omitted)

(1) Committee Members (including expert committee members)

Jun Murai (Chairman), Nagaaki Ohyama (Deputy Chairman), Mutsuya Asano, Tomoyuki Ikeda, Ryohei Ishii, Tsunetoshi Ishibashi, Yu Inaba, Gota Iwanami, Noriyuki Uei, Tetsuya Ohbuchi, Makiko Kawamura, Nobuhiko Sato, Kazuo Shiina, Mitsuo Sugawara, Yoshiyuki Seki, Shinji Takada, Nobuko Takahashi, Kazuo Takenaka, Shuichi Tago, Miwako Doi, Mario Tokoro, Miki Nagata, Ichiya Nakamura, Akio Nosaka, Hidetoshi Haeno, Toshio Fukuda, Yoshitaka Hori, Tatsumi Yoda (A total of 28 persons)

(2) Observers

Naoshi Okumura (Matsushita Electric Industrial Co., Ltd.), Makoto Kawase (Agency for Cultural Affairs), Tomoko Kohno (Sony Corporation), Shuji Nakamura (Mitsubishi Research Institute, Inc.), Yoshiji Nakamura (Japan Association of Music Enterprises), Tatsuo Matsuoka (Nippon Telegraph and Telephone Corporation), Kensuke Yasue (Mitsubishi Research Institute, Inc.)

(3) Secretariat

Ogasawara, Director, Contents Development Office, Information Policy Division, Information and Communications Policy Bureau

(4) MIC

Terasaki, Director-General for Policy Planning; Nakata, Deputy Director-General of the Information and Communications Policy Bureau; Katsuno, Deputy Director-General of the Information and Communications Policy Bureau; Sakamoto, Director, General Policy Division; Sato, Director, Information Policy Division; Minami, Director, Broadcasting Policy Division; Ohnishi, Director, Regional Broadcasting Division

**【Chairman Murai】** It gives me great pleasure to open this first meeting of the Digital Content Trading Promotion Committee under the Information and Communications Policy Committee of the Telecommunications Council, and thank you all for making time in your busy schedules to come here today. I am Murai, and I was appointed Chairman of this committee by Mr. Murakami, Chairman of the Information and Communications Policy Committee, at the September 4 meeting.

First, let me explain the purpose of this committee, based on Reference 1, “Establishment of

the Committee.” As I have just mentioned, the Chairman of the Information and Communications Policy Committee decided to establish this committee on September 4, and the decision was reported to the Information and Communications Policy Committee the same day. Secondly, I’d like to clarify the purpose of this committee. This committee aims to study, discuss, and compile a report from an expert perspective on Consultation No. 3 of 2001 addressed to the Telecommunications Council on “Internet policy direction for the 21st Century,” which is provided as Reference 4 today, and Consultation No. 8 of 2004 on the “optimal utilization of terrestrial digital broadcasting and the roles of the administration toward its dissemination,” which is Reference 5.

The members of this committee listed in Reference 2 are appointed by the Chairman of the Information and Communications Policy Committee. I have been informed that Mr. Kacho, Mr. Kishigami and Mr. Nakajima cannot attend today’s meeting. Please also note that seven persons are attending as observers as you can see in the reference material provided on your desk.

Since this is the first meeting, I should ask the committee members and observers assembled here to introduce themselves, but, as you can imagine, introducing everyone may take up the entire meeting. Therefore, please refer to the order of precedence and the list of members provided, and allow me to start this meeting. Thanks for your understanding on this.

Now, since it is specified in the decision of the Information and Communications Policy Committee Chairman dated September 28 that the Chairman of this committee should appoint a Vice Chairman, I would like to appoint Mr. Ohyama to that position. Mr. Ohyama, do you accept?

**【Chairman Murai】** Now that he has agreed, I would like to officially appoint him Vice Chairman. Please give your support to him. Mr. Ohyama, would you briefly introduce yourself?

**【Mr. Ohyama】** I am Ohyama from the Tokyo Institute of Technology. I am honored to be appointed to the position of Vice Chairman, and will make my best efforts. I am aware that the mission of this committee is very challenging, and we may have difficulty finding out the major demands and good solutions to them. I therefore would like to ask every one of you for your cooperation so that we can come up with win-win solutions to pave the way to a better future.

**【Chairman Murai】** Thank you very much, Mr. Ohyama. Now, we need to make a decision on the disclosure of the proceedings of meetings of this committee. Since this committee is established under the Information and Communications Policy Committee, the parent committee will be responsible for press releases or disclosing summaries of minutes. Additionally, as you can see in Reference 3, Article 9 of the Standing Orders of the Telecommunications Council specifies that deliberation of general meetings and committee meetings should be disclosed in principle, this committee will follow the order. However, in cases where the rights or interests of a third party could be violated, I would like to consult with the Chairman of the parent committee or the

members of this committee to manage this committee appropriately, and I thank you for your cooperation in advance. If you find sensitive issues over publicly disclosing the meeting proceedings, please advise me so that I can take the necessary action.

As for the direction of our deliberations, the secretariat will explain the schedule later today, and I would suggest that, for each agenda, we organize as much information as possible to be the basis of our discussions so that we can share an understanding, and then proceed on to free discussion and exchange of opinion. Meanwhile, , Vice Chairman Ohyama and I will attend the Information and Communications Policy Committee meetings to reporting to the Information and Communications Policy Committee. Now, before starting our discussion, I would like to ask Mr. Terasaki, Director-General for Policy Planning from the Ministry of Internal Affairs and Communications, to make the opening remarks.

**【Director-General Terasaki】** Thank you, Chairman for your introduction. I am Terasaki, Director-General for Policy Planning of the Ministry of Internal Affairs and Communications. First of all, I would like to thank all of you assembled here today for agreeing to attend this committee despite your busy schedules. I'm extremely grateful.

I believe that the issues on content trading must be discussed from various perspectives, by people representing a wide range of parties, like the members assembled here today. Since organizing committee meetings participated in by such a wide range of members is unprecedented for the Ministry of Internal Affairs and Communications, I appreciate your cooperation. The secretariat will explain the meeting agendas later, and I believe the issues on which we are asking you to deliberate are related to content trading and will become increasingly critical. Nonetheless, I can easily imagine that some parts may be very difficult. In that sense, it must be necessary to take some time to discuss the issues carefully by giving due consideration to various standpoints, and doing so may cause hardship for Chairman Murai and Vice Chairman Ohyama. I would like to thank both in advance for accepting the tasks. We at the secretariat, would like to make our best effort to provide support to the running of the committee.

We have a long way to go, namely about one year until next July when we should compile our report. I would like to conclude my remarks by asking again for your cooperation in reaching better conclusions. Thank you.

**【Chairman Murai】** Thank you very much. Now, let's start deliberating on the agendas. First, Agenda 1. Since this is the first committee meeting, I would like to ask the secretariat to explain the purpose of the consultations and their backgrounds as reference for future discussion. Secretariat, would you please explain them to us?

**【Director Ogasawara】** I am Ogasawara, Director of the Contents Development Office under the Information Policy Division of the Ministry of Internal Affairs and Communications, and

serving as the secretariat for this committee.

Since my time is limited, I would like to briefly explain the background to the consultations and the issues we need to discuss, based on Reference 6 that includes some of the reference materials provided to the Information and Communications Policy Committee of September 4 for approval.

First, please look at Page 2 of Reference 6. The rules for digital content usage on Page 2 and the rules for content trading and the establishment of the trading market on the next page—these three are the key agendas we must discuss in this committee.

As for the rules for digital content usage, I suppose that the ‘copy once’ rule, which was covered in the third report compiled this August by the Study Group on the Promotion of Terrestrial Digital Broadcasting, would basically be the main issue. The point is what kind of rules should serve as the basic concepts for communication in general, for broadcasting, and for digital content traded for such communications. First of all, we should share a common understanding of the current rules, including rules for copyright protection. Then, based on an understanding of the current status of such rules in other countries, including the United States and Europe, we should discuss how to envisage the so-called rules for digital content usage. That’s the first agenda.

Now, please move on to the next page and find the issue of trading rules, which has been discussed on various occasions. With regard to so-called IP multicast broadcasting, retransmission of terrestrial broadcast content has been discussed on various occasions and a certain direction has emerged. So, the challenge for us is how to envisage other related issues. In addition, there is a growing need to discuss the issue of how to envisage the rules for handling copyrights when content created in the past is traded over the Internet or for broadcasting. I will elaborate on this later when I describe the background. The last agenda, the establishment of a trading market, which was also raised some time ago, means what kind of measures should we take in order to promote the provision of content for trading, including secondary use, on various occasions.

These three subjects are the major agendas. Now, I would like to briefly explain the background. Please look at the “Reference” section under Reference 6.

First, on the background to the deliberation on the rules for content usage, please look at page 5. One of the example of the rules for content usage is the ‘copy once’ rule for digital broadcasting. Regarding the ‘copy once’ rule, the Information and Communications Policy Committee has provided their recommendations in the third interim report on August 1 of this year. As you can see on page 5, they have made two proposals. One is on the ‘copy one generation’ rule, which is currently applied to all digital broadcasting programs. The report suggests that a study should be conducted with the aim of replacing it with EPN (encryption plus

non-assertion), known as a method to prevent content from being transmitted over the Internet or to allow copying only with encryption to protect against retransmission, and disclose the progress of the study as early as possible before December. At the same time, while both the second and the third interim reports referred to diverse audience opinions received on the ‘copy one generation’ rule, they also suggest that we need to study specific measures that the receiver side should take regarding some issues, including issues related to moving or backing-up, and publicize the study progress also at the earliest possible date before December. Please note, however, that they have also listed some points to be considered in studying the issues or publicizing the progress. You can find these points on pages 6 and 7.

Now, please look at items 1) and 2) framed by the dotted line on page 6. Item 1) states, from the very beginning of the sentence, that the ‘copy one’ generation rule is currently applied to all broadcasting programs. In the course of the discussions that lead to the third report, some people asked what the logical reasons is for applying the rule to “all cases”; for instance, in the case of (ii) where a measure other than the ‘copy one generation’ rule is adopted, what are the specific negative impacts expected to occur during the production process of broadcasting programs, or whether we should follow the example of the United States. We may need to proceed with discussion by considering these factors—that’s what item 1) covers.

With item 2), or specifically the issue of allowing copying with encryption to protect against retransmission, which was included in the recommendations, it is also advised that some right-owners who participated in past meetings as observers have expressed concerns about the points referred to under (i), (ii) and (iii). For example, (ii) points out that, if copying is allowed with protection against retransmission, in the case of media that comply with a certain scheme, restricting the number of media on which to make copies is technically difficult and so is limiting the number of copy generations. As of August 1, at least, the right-owners have expressed concerns over these issues.

Based on this background, the council has suggested that the broadcasters and the receiver manufacturers study the issues taking into account the various factors, and publicize their position.

Now please look at the additional factors in the underlined part on page 7. During the council discussions conducted before August 1, the study progress was disclosed by people representing a wide range of parties or reviewed by relevant parties while simultaneously various issues have been raised as listed in 1) through 4) under iii. Therefore, the council has also suggested that an occasion should be set up that a wide range of parties—not only the broadcasters and the receiver manufacturers but also copyright related business operators, consumers, and right-owners—can participate in. This meeting has been arranged partly in response to that suggestion.

In addition to the third interim report and the council recommendations, authorities other than the Telecommunications Council, for example the Council for Regulatory Reform and the Intellectual Property Strategy Headquarters under the government or the Cabinet Office have made several recommendations on the rules for digital content usage and the 'copy once' rule. We attached the relevant information on pages 8 and 9 for your reference.

As you can see on page 8, the Intellectual Property Strategy Headquarters set out their "Intellectual Property Strategic Program 2006" this July. Under the section titled "Adopting Protection Systems with Due Considerations to Users" in the program, they are making a suggestion by taking an example of the 'copy once' rule. Please look at a) that says, "as represented by a review of 'copy once'." Albeit conditionally, by using the expression, "as represented," the Intellectual Property Strategy Headquarters recognized the possibility that setting such protection systems may virtually restrict usage. Moreover, they also suggest that future discussions on copy protection systems should be participated in by representatives of a broad range of parties and the study process should be open to the public to bring transparency to the deliberations, in order to reach conclusions by the end of 2006, as you can see in the third line from the bottom. Additionally, the Ministry of Education, Culture, Sports, Science and Technology and the Agency for Cultural Affairs have been participating as observers, as the relevant ministry or agency.

Now, please go to the next page and find the recommendations from the Council for the Promotion of Regulatory Reform, which is also an organization under the Cabinet Office. For this interim report dated July 31 this year, the objections, for example those within the government, are provided under "objections" in the reference material. Regarding that point, for instance, the third line from the top specifically states "the current 'copy once' rule protects copyright in a one-sided manner, and does not allow the audience to optimize the value of content." It further suggests that decision-making process for various systems within a certain framework should be reviewed in the future, and an occasion for open discussion should be provided to reflect the opinions of the audience.

These are the portions related to the issues of usage control and usage rules of digital content. Now, I would like to move on to page 10, and introduce some recommendations on the trading rules related to IP multicast broadcasting provided by government bodies other than the Telecommunications Council.

Handling of IP multicast broadcasting under the Copyright Law on page 10 is an excerpt from the recommendations included in the reference material provided at the Council for Cultural Affairs on August 24. As specified under "Basic Concepts," the recommendations direct that simultaneous retransmission of broadcasts should be handled in the same way as wire diffusion as soon as possible. They also suggest that independent IP multicasting should be continually

reviewed, and issues to be considered in that process are listed under (i) and (ii).

Other than the Council for Cultural Affairs, some opinions and recommendations provided by the Intellectual Property Strategy Headquarters are covered in page 11, followed by those by the Council for the Promotion of Regulatory Reform. The latest move is the “Intellectual Property Strategic Program 2006” dated June 8 in the box at the bottom. In the first two lines, it suggests to treat simultaneous retransmission of terrestrial broadcasts by IP multicasting in the same manner as ‘wire diffusion’ under the Copyright Law, as well as to continue discussion on independent broadcasting through cooperation among the related ministries and agencies. The program also suggests that, in putting these measures into practice, the GOJ should be careful to ensure that creators will be sufficiently rewarded, and states that the GOJ will encourage IP multicasting operators to independently create broadcast content and also provide creators with opportunities for content creation.

Next, page 12 lists the recommendations on IP multicasting by the Council for the Promotion of Regulatory Reform. The interim report referred to in the second box suggests that simultaneous retransmission should be handled as ‘wire diffusion’ while responses to independent broadcasting should be continued.

These are the recommendations by other government bodies regarding IP multicasting. Now let’s turn to page 14 for the trading rules for IP multicasting. Since the beginning of this year, several recommendations have been announced by the Liberal Democratic Party (LDP), or the government, or as agreement between the government and the ruling parties, regarding the transmission of content, including so-called previously-broadcast programs, over the Internet.

First, please look at the rightmost box and find MIC’s “Report by the Panel on Frameworks of Communications and Broadcasting,” which had been meeting until June this year. In the middle, it refers to NHK’s program archives, saying that they should become available via broadband, and necessary rights handling should be carried out. In the meantime, in the leftmost box at the bottom, the recommendations by the DLP say that the restrictions on NHK’s Internet use should be eased while measures to facilitate copyright handling should be studied for previously-broadcast programs, for many of which the copyright-owners are unknown. In the middle box, the agreement between the government and the ruling parties points out that necessary action should be taken to make the program archives available via broadband as a paid service.

These briefly explain the backgrounds to the three agendas, namely content usage, trading, and the establishment of a trading market for content, and we are asking you to deliberate on these agendas considering the various recommendations I have listed. With this, I conclude my brief report on the agenda of this committee and the background of why we have requested you to deliberate on these agendas.

**【Chairman Murai】** Thank you very much. Any questions or comments will be accepted during the later Q&A session for agendas 1 and 2. Now, the secretariat will explain today's agenda 2 and the future schedule.

**【Director Ogasawara】** I would like to explain the draft schedule, based on Reference 7, "Immediate Meeting Schedule."

As the first meeting, today is an opportunity to introduce the agenda of this committee, which have just been mentioned, and the future schedule, and to listen to your opinions on these.

As for the schedule for the second meeting and onward, we would like to decide and announce it as early as possible since we are aware that all members are very busy. We are planning to hold four meetings, the second meeting through the fifth, in October and November, mainly to organize issues that serve as shared understanding or the basis for discussion, as the chairman has pointed out earlier.

In the second meeting, the secretariat would like to clarify the rules and current status of content usage. As you know, the rules for content usage involve a lot of factors related to copyright protection. And, as you might also know, the Council for Cultural Affairs of the Agency for Cultural Affairs has been discussing various legislative issues related to the Copyright Law, and it is not the purpose of this council to discuss the shape itself. We will primarily focus on introducing the current status, or ongoing discussions on the current status, which both the committee members and our side should know as the basis for discussion, and providing a Q&A session on the current status of the rules. Then we would look at the rules for content usage in other countries, which have been repeatedly pointed to. For example, regarding the broadcast flag rule in the United States that does not actually exist as a system, we aim at understanding the facts as to what kind of discussions have been or will be made, and what the situation in Europe is.

The agenda on "Status of Content Protection Technology" for the fourth meeting is based on the opinions repeatedly voiced at the Study Group on the Promotion of Terrestrial Digital Broadcasting. That is, discussion cannot go any further if the committee members does not share an understanding as to what we can do and what we cannot do under the current 'copy one generation' rule. Therefore, we thought that we might need to reconfirm these already-discussed points, and chose the agenda, "Status of Content Protection Technology."

It is reasonable to expect that, during the course of introduction and confirmation of the current status of various issues at the upcoming three meetings, we will have questions or assignments. Therefore, we set aside the fifth meeting for handling those things all at once. We will establish a common understanding, as I have just mentioned, through the second through fifth meetings by December, the timeline to publicize the status of discussion. We expect the committee members to conduct discussions based on the progress of the study, since this

committee is comprised of representatives of various parties, who have diverse perspectives on the rules for content usage over the Internet or digital broadcasting. In this context, we drafted the schedule as follows: The meetings within this year will focus on the rules for content usage. Next year, after January, the rules for content trading, IP multicasting, or distribution of previously-broadcast programs over the Internet will be discussed, for example, in January and February, followed by discussion on the establishment of a content trading market in March and April, so that the last two month before July can be spent on discussing how to compile reports. That's all for the schedule.

**【Chairman Murai】** Thank you very much. Now, I would like all committee members to discuss freely, based on the explanations provided so far. Yes, please...

**【Mr. Shiina】** I'm Shiina, Director of the Japan Council of Performers' Organizations. The third interim report states that it is desirable to change, or more precisely discuss about changing from the 'copy once' rule to EPN. Various other recommendations also demand a review of the 'copy once' rule. I would like to confirm that the change to EPN is not an assumption for open discussion, or an occasion where representatives of a wide range of parties assemble to discuss, which has been repeatedly mentioned today.

**【Chairman Murai】** It is of course apparent that open discussion on occasions like this should proceed by receiving various opinions and new ideas, rather than based on pre-assumed conclusions. However, considering the history of the past discussions and various public comments we have received, it seems to be very important to proceed with our discussions by referring to the opinions, based on the history of past discussions. If you look at the composition of this committee, you will find a greater number of members than any committees established in the past. During past discussions, people repeatedly claimed that representatives from the industries that relate to the issues should be included to have a proper discussion. In response to that, we asked these busy people to be committee members. Therefore, I would ask you to carry out discussion by considering the historical background, or past discussions, aiming at having open discussion without presuming any conclusions. Are there any other comments?

**【Mr. Shiina】** I attended the meeting before the third interim report was issued, and also reviewed how the discussion had been evolved, but I still have one question. On page 6 of the reference material, it says, "With 'EPN,' the original content can be copied to a media that complies with the content protection technology, and further from the media onto another media that complies with the technology." In other words, it expresses right-owners' concerns about copying content from a device onto DVD, from which a second generation, third generation, fourth generation, and so on will be created. I would take this opportunity to ask whether such copying is technically possible or not, since it seems to be a critical point and the past council discussions did not clarify it completely.

**【Chairman Murai】** Is it right that your question is about the practicality of the EPN technology?

**【Mr. Shiina】** Yes.

**【Chairman Murai】** Sharing our understanding of the technologies, like the one that has just been explained, is very important. As broadcasting will switch from analog to digital, properly understanding what kind of capabilities or functions these technologies can offer is sometimes very difficult, but it is very important to understand them. In the discussions in this committee, I would therefore like to ensure that members do understand these matters. Additionally, since the past Study Group on the Promotion of Terrestrial Digital Broadcasting experienced discrepancies between the engineering terminology and the general public's vocabulary, I will try my best to do the necessary coordination wherever needed. It is indeed a very important point, and thank you very much for your advice.

**【Mr. Shiina】** I would appreciate it if someone will elaborate on this point, because this is the beginning of the meeting.

**【Chairman Murai】** Can anyone explain the EPN issue? The background to this question is that some discussions in past committee meetings started based on the assumption that EPN allows limitless copying, and it resulted in that being expressed in the reference material. Are there any comments?

**【Mr. Seki】** If we are going to focus on that topic, I would like to raise another question. It was explained that with EPN content is copied with protection against retransmission, and therefore will not be transmitted over the Internet. I would like to clarify how it is technically secured that the content will not be transmitted over the Internet.

**【Chairman Murai】** I assume that you would like to obtain accurate knowledge of EPN, or more specifically whether it has a retransmission protection functionality or whether it allows as many copies to be made as possible, such as a third generation and onward. Can any of the vendors explain these points?

**【Mr. Tago】** I would like to explain EPN. EPN allows multiple copying. However, since it is protected against retransmission, copies will be encrypted. Accordingly, the encryption requires the copy recipient to have a license that corresponds to the encryption. EPN itself is an encoding rule, or rather EPN represents what the rule specifies. It is an encoding rule that defines, "Technically, you should do it this way." Therefore, regarding the question as to whether multiple copying is technically possible, it is correct to understand that EPN is a rule that allows it.

As for the second question, I am not sure if I remember correctly, but the mechanism is that the copy will be basically encrypted, and the DTCP rule set up prevents the user from transmitting the data over the Internet. Is that right?

**【Mr. Tokoro】** We should use a diagram to explain the mechanism. Verbal explanation may cause

misunderstandings and lead to further misunderstandings...

**【Chairman Murai】** As Mr. Shiina has pointed out, the questions are whether copying is technically possible, and what kind of copies can actually be made. In addition, the expression, “transmission over the Internet” is very technical. The issue is, if we pick up encrypted data over the Internet, whether or not the data can be replayed. As it is encrypted, it can be basically traded but not replayed; it is virtually locked. However, there are various interpretations regarding to what extent it prohibits transmission. In other words, we may need to have the EPN technology explained from wide-ranging perspectives, including the fact that virtually limitless copying is possible and what we can no longer do if EPN technology is adopted, for example how the right-owners’ rights can be secured. I think these points need to be clarified, even if there will be some repetition, and I would like to ask the vendors to prepare a presentation.

**【Mr. Shiina】** May I ask one more question? It has just been mentioned that as many copies can be made as is possible by being encrypted in accordance with the standard. I would like to make sure that this means players that comply with the standard, or devices compatible with the method, will be released and spread, and such devices will be able to replay the data. That point is still not completely clear, and I just want to confirm it.

**【Mr. Tago】** Your understanding is right.

**【Mr. Shiina】** All right. Thank you.

**【Mr. Tago】** Since you can pass on the key to decode the data.

**【Mr. Shiina】** I see.

**【Chairman Murai】** Well, we should stop this discussion at this point, and would like to have another opportunity to explain the issue in detail. Are there any other comments? Yes, please.

**【Ms. Kawamura】** I am Kawamura from the consumer group, Shufuren (the Japan Housewives’ Association). As I expected more people would raise their hands and I may have a chance to speak much later, my thoughts are not perfectly organized. I would like to have some points clarified in future committee meetings, although some may overlap with what Director Ogasawara has mentioned. Regarding the logical reason for applying the ‘copy one generation’ rule in the excerpts from the report, under item 1) in the lower box on page 6, I am concerned about specific negative impacts on the program production process caused by lifting the ‘copy one generation’ rule, which I have pointed out at another committee I participated in as an observer. Instead of a vague expression, such as “it will cause some problems,” I would like to hear specific opinions directly from the actors, performers, or any other right-owners about the economical impact or the reason why it affects production. Or whether the negative impacts are on the reward they receive or on themselves. If such right-owners are not necessarily present here, I would appreciate it if they could be invited to this meeting, so that I can hear their opinions directly. If they include foreigners, I would like to listen to their opinions as

well—that's what I hope for.

The other point is (iii) under item 2) in the lower part, to which the secretariat referred. As a consumer, I would like to stress that establishing new rules should not be excluded from our options. I think 1) and 2) are connected with each other. Although everyone takes the 'copy once' rule for granted, I would like to clarify what exactly the 'copy once' rule intends to prevent. In other words, for what reason was the 'copy once' restriction adopted? Does it aim to prevent private recording, or the existence or creation of pirate versions? Since this is an open committee discussion, I try not to say things that may cause any trouble, but my question is whether the 'copy once' rule can really prevent pirated copies. The 'copy once' rule mainly restricts private recording that is allowed for people of good will under the Copyright Law. And I wonder if it can prevent malicious people from earning money from pirated copies. I really hope that point will be clarified. If the rule is not to restrict private recording, the number of times may not necessarily be once. If it aims to restrict private recording, it should be once. If it does not mean to restrict private recording but limitless copying like hundreds or thousands of copies, then it should not necessarily be once. Therefore, as mentioned in 2), we can create new rules. Although I am not familiar with the technology, protecting only the quality of high-vision broadcasting can be one of the options. I would like to have clear explanation on these, and the aim of the 'copy once' rule for consumers. And I don't think the 'copy once' rule is the only option to that end. I would like to hear complete explanations on these points. That's all.

**【Chairman Murai】** Thank you very much. As for the first point regarding the opinions of right-owners, we may be able to hear their opinions during the course of our discussion as this committee is attended by many members who are right-owners. The secretariat can also make arrangement to create opportunities to invite other parties.

The second point has been discussed for some time. We need to clearly understand what the 'copy once' technology means and what kind of functions it provides. I would like to have these points elaborated like in the case of EPN so that we can establish a shared understanding to proceed with discussions. Are there any comments from the secretariat?

**【Director Ogasawara】** On the 'copy once' restriction, some issues to consider for management or management procedures have been suggested. We would like to contrive ways to better organize future discussions after October, as the Chairman has just instructed, by considering these issues fully.

**【Chairman Murai】** Are there any other comments? Yes, please go ahead.

**【Mr. Fukuda】** I am Fukuda from a private broadcaster, TV Asahi Corporation. We have adopted the 'copy once' rule, supposedly to secure quality content. There was a question about the cost--we have taken on considerable costs in adopting the 'copy one generation' rule. Since some have pointed out that sufficient explanation has not been given, we will try to give a convincing

explanation in the future.

As for the opinion that foreign parties should explain overseas examples, I don't think we should directly connect US cases with Japanese cases. Our discussion will not advance if we do not have as detailed a reference and explanation as possible on the issues, including how the US laws have been established because of such-and-such a background, whether Japan has or does not have legislative restrictions, or how the restriction has been technically imposed, and further share an understanding to the maximum extent possible on the directions of the audience's rights and the right-owners' rights. I hope this committee will proceed with discussions by sharing a fundamental perspectives on the issues, including to what extent the audience has the right to copy, or whether we should get through by imposing restrictions on the right-owners' rights.

**【Chairman Murai】** Thank you, Mr. Fukuda. Yes, Ms. Kawamura, please go ahead.

**【Ms. Kawamura】** Excuse me, but I talked about inviting foreigners, not because I wanted them to explain overseas cases, but because the names of overseas right-owners have been frequently cited when we discussed the grounds for adopting the 'copy once' rules in Japan. I wanted to invite the representative advocates and hear opinions directly from them, rather than just listening to references to them. I didn't mean overseas cases, but overseas copyright-owners related to Japanese broadcasters.

**【Chairman Murai】** I think both points are very important. Overseas cases have been referred to in past discussions, and have been explained a good many times. As mentioned by Mr. Fukuda, we have noticed during these processes that overseas situations, as well as the meanings, or cultural meanings and business models of TV broadcasting, especially terrestrial TV broadcasting, differ between countries. And accordingly, it has become the common understanding that we need to consider these factors in our discussion. The point is that we must be aware of a shared recognition, and we asked for in-depth descriptions of various overseas cases so that we can understand the basic positions of the audience and the right-owners in each case. In the meantime, what Ms. Kawamura said was that we should listen to Hollywood people regarding what they are really demanding because some have referred to Hollywood cases in past discussions, saying, for example, "It should be like this because the people in Hollywood say so." In other words, what she meant is: if there is a main character that has a decisive role in the discussion, we should make the necessary arrangements to hear from that person directly. I would like to run this committee in a way that satisfies her request.

**【Ms. Nagata】** I'm Nagata from a consumer group, Tokyo Chifuren (Women's Organization in Tokyo). I have served as a member of the Telecommunications Business Division of the Telecommunications Council, and am participating in this committee for the first time today. I have participated in the Study Group on the Future Direction of Satellite Broadcasting, from the perspective of consumer protection. However, I am afraid I did not correctly identify the 'copy

once' issue before the third interim report was publicized. Therefore, I assumed that I was invited to be a member of this committee as a representative of people in Japan who need to cope with digitization by 2011, or who have not done anything and are still not aware of this issue. Since some have pointed out the perspectives that we should take in future discussions, although I'm sorry for those members who have already had enough of discussion and for those expert members, I would appreciate it if the relationship between the 'copy once' rule and B-CAS, and the mechanism behind them could be reviewed afresh at some point. I would like to understand what the broadcasters' fair share of the cost is, which has just been mentioned on the 'copy once' issue, as well as the expected burden on the audience, before I join the discussion. I would really appreciate hearing a description of these.

**【Chairman Murai】** So, you would like to know the relationship between B-CAS and copyright, and the relationship between it and the current technology, is that right?

**【Ms. Nagata】** Exactly. Since I have read somewhere that the data with 'copy once' signals are handled by B-CAS, or something like that, I would like to have that point explained.

**【Chairman Murai】** It's one of the very critical points. Yes, Mr. Ohyama, please go ahead.

**【Mr. Ohyama】** I think it is very significant to have this opportunity for representatives from a wide range of parties to discuss openly, but I am afraid the basic concept remains to be discussed. Taking an example of software, new personal computers used to come with bundled software. When our research laboratory bought a second PC or someone bought one, they had to purchase another license as well. There used to be lots of such incidents. Although the situation has improved little by little, I have recently noticed similar things in today's agenda; I have looked at everything, not only terrestrial digital, but also satellite broadcasting and recordings on DVDs, and noticed that they all come with B-CAS cards—every device I bought came with a card, and I don't need so many of them. That's one of the things I really felt.

Now, what I would like to stress is that, although the issue of the relationship between B-CAS and the 'copy once' rule has been pointed out, I think the very concept of providing a license or approval for devices is basically wrong. It should be owned by the individual. In other words, there must be two parties: the original right-owners and people approved by the right-owners. Approval is not supposed to be given to devices. I have reiterated at the Telecommunications Council that this point has undoubtedly not been solved because the technologies are not mature. It may be the time, however, to comprehensively reconsider various issues, including the point I have just mentioned. Of course, the 'copy once' rule may be in use because we are still in the transitional phase where the environment has not been fully developed or sufficient services are not provided. It can be positioned in that context. Or the discussion can be directed to EPN. Nevertheless, I think we need to recognize that approval should be given to individuals, and, given this new opportunity to discuss how approval should be provided, we should establish this

firmly.

I discussed these aspects in depth with officials from the Agency for Cultural Affairs some years ago. We concluded at that point that, although it's impossible to cope with an N:N relationship between the right-owners and the recipient for use approval with conventional paper-based procedures, it would become quite possible, considering the remarkable advancements in ICT technologies, including network technology. Meanwhile, although it is not directly related to this meeting, I have been working in the medical field and therefore know that patients will be able to see their medical records and receipts in the near future. In that case, terrestrial digital receivers can serve as very good display devices, but it is devices that they authenticate, not individuals. And if so, it is not practicable. Therefore, there should be discussions about device authentication that check the safety of devices as well as about personal authentication. Considering these factors, we should establish an environment where the rightful person can access the right content with a safe device. I am not sure how many years it will take, but we should think a step ahead. I think this is probably the most critical point in the New IT Reform Strategy, for which I have been working with Chairman Murai. In that context, I admit that 'copy once' technology does exist right now, but if EPN has not been decided on, we should reconsider the 'copy once' issue from a comprehensive perspective, and draw a roadmap again after looking ahead to the future. Things may develop all at once. I'm not sure how we should do it, but I would like to suggest that we should have open or fundamental discussions in that manner.

**【Chairman Murai】** Thank you very much. Does anyone have any comments? Yes, please...

**【Mr. Yoda】** There were various discussions about the 'copy once' rule, and I found them very interesting. Prior to the ongoing discussion of the 'copy once' issue, Director Ogasawara explained the three points on page 14 in the Reference section. How to make content usable and how to develop an environment where the owners or the right-owners can provide approval more easily seem to be very important subjects for this meeting. We generally use the term "right-owner" for all kinds of right-owners, but performers, or to recognize the existence of performers as well as right-owners is important. Performers may be the most important. The key is how to develop an environment that facilitates performers approving the use of their content. This cannot be bound by laws or systems in the country. Speaking from my experiences over the years in the record industry, when people try to develop an environment to facilitate provision of content, people always discuss if it is possible to assess whether the copying action is a sound or video recording for private use, or aimed at uploading the recorded image or content to distribute to the general public indiscriminately—and I think it's impossible. Therefore, when we need to solve the issue as reasonably as possible, the 'copy once' rule is brought to the fore as one solution. And EPN is another very important option. Additionally, most challenges in

establishing an environment are caused by the difference between the software side and the hardware side. How to organize it, or how to coordinate software and hardware is critical, and I don't think the two sides can easily come to a compromise.

Meanwhile, considering consumer interests, we want to use content at any rate, or content should become freely available. Although some people claim that we have the right to record sound or images for private use, there is no way to make it sure if it is really a recording for private use, as I have just mentioned. Therefore, the 'copy once' rule is a very important ongoing issue. If we fail to look at the reality or the real situation from an overall perspective, we cannot get out of the 'copy once' discussion once we get into it.

I am in the position of a right-owner, but at the same time, I am serving as chairman of the Japan Business Federation's Working Group on the Entertainment Content Industry, which is a group of content owners, users, and the broadcasting/telecommunications industry. Therefore, I am always seriously troubled by the issue. When we consider how to significantly enhance Japanese content so that Japan can be a big content country, we need to facilitate the distribution of content in the content trading market with a well-developed environment, rather than favoring only one side. In the case where the 'copy once' rule is the solution, considering that the stance on the 'copy once' rule may differ between broadcasters and manufacturers, we should find a compromise point to bridge the gap on this occasion where all the relevant parties are assembled. That's what I feel.

**【Chairman Murai】** Thank you very much. Yes, go ahead.

**【Ms. Doi】** I am Doi from Toshiba, and I specialize on the human interface. I am a representative of manufacturers here in this meeting, but I am also in the position of a user in terms of interface. Therefore, I may make comments from various perspectives in the future. As stated on page 8 of the reference material and also pointed out by Ms. Kawamura, the focal point is that this is the first opportunity for both right-owners and actual consumers to debate how to use content for private use, private recording. The reason why there have been no occasions like this may be that consumers have recognized that paid services were in a sense operated based on a certain mechanism, and they have paid for it. Now that terrestrial digital TV is being introduced, people have come to realize that they have been watching TV free of charge and have never paid for it, except for NHK's reception fee, but a totally different new framework is going to be provided for the services that they have regarded in that way. For the first time at this point, they have recognized that copyrights exist there as well. That may be their honest feelings.

However, the fact that they have realized it is important. Since "Web 2.0" has become a hot topic in the world of the Web, more and more consumers generate information by themselves. In that sense, in the world of content, people must have been thinking about paid content only, not about free content, but consumer awareness has been changing. And when consumer awareness

is changing, we are provided with this occasion for the first time for the right-owners and the consumers to discuss face-to-face the definition of private recording, and envisage the shape of Japanese content by correctly understanding what we can do with the current technologies or what we want to achieve ultimately, saying, for example, “we must comply with it this time but hope to do that next time,” as Mr. Ohyama has said.

We must consider various difficult factors, such as the way things have been done, the way things need to be done in the future, and money, but I hope we can proceed with discussions that identify these factors clearly. Although we say it is free, the broadcasters of course gain profits from advertising. Then, who pays the advertisement fee? Ultimately, general consumers pay it as the cost is included in the price of the products they purchase. Therefore, it is still true that consumers are paying in one way or another. As Ms. Kawamura has pointed out, the mechanism of cost burden should also be reviewed on this occasion. I hope we can discuss rationally the histories and the future path to take, as well as how to distinguish private recording from cases involving only a few malicious copyright abusers, and if we cannot distinguish one from the other, what we should do, as Ms. Kawamura has pointed out.

When we talk to tax officials, they are suspicious of everyone, assuming that human nature is innately dishonest, but it is not an acceptable basis for discussion. We should assume that human nature is innately honest, since we live in a beautiful country, Japan. We are likely to have a heated debate, but we should always return to the assumption that general consumers are innately honest when they make private recordings. That’s one point we should never misunderstand. From the manufacturer’s point of view, we need to assess what we can do technically or will be able to do, by carefully considering various factors, including the cost burden. One very important point is that an opportunity to present issues and strike the best balance has been provided, and such discussion has started.

**【Chairman Murai】** Thank you very much. Any others? Yes, please...

**【Ms. Takahashi】** I’m Takahashi, a journalist on household economics. I am a member of the Telecommunications Council and the Information and Communications Policy Committee. Not this year’s report but the previous one originally sought to reach a certain conclusion on the ‘copy one’ issue by December 2005. However, the discussion had been prolonged before it was finally decided to continue intensive discussion by December this year with the participation of representatives from consumer groups. As the issue of content trading will be studied early next year, I would like to suggest that we should be conscious of the time frame in which to make productive discussion.

In doing so, I would like to confirm some points. Regarding the issues about the third interim report framed by the dotted line on page 6, Our discussions should focus on the points that were not clarified in the discussion that took almost a year. First, item 1), an explanation of the logical

reason for applying the ‘copy one’ generation rule to all broadcasting programs—this has not been provided so far, and therefore is strongly requested here. Why should the ‘copy once’ rule be applied to all, and what are the specific explanations of negative impacts that were pointed out by Ms. Kawamura?—these seem to be very important. As for item 2) below, many people have voiced very proactive opinions. I am referring to (iii) that says, “the encoding rule was changed in 2001 and EPN was added at that point.” It is also stated in the last part of the third line from the bottom that, although the past discussions have focused on the four rules, it may be technically possible to establish a new rule that is not included in the current rules. Since a change was made in 2001, I think another change is possible and we should discuss this point extensively straight away.

In addition, as has been pointed out with the topic on content trading, I would like to draw your attention to the issue of establishing a digital content trading market under III on page 3. Several members have pointed out the necessity for content market in today’s discussion. It is probably true that what is needed in the digital content field is global competitiveness. I participated in the discussion on establishing the Financial Instruments and Exchange Law at the Financial System Council as well as discussions on the Trust Law or the revised Trust Business Law, and always noticed the content issue. To figure out how to promote trading in the field of intellectual property, including content, is a great challenge for this committee. Compared with ordinary products, or other fields where trading has advanced, why has the content field not seen aggressive selling activities, such as selling programs to overseas buyers or aggressively selling rich content, namely high-quality content, or why has a syndication not been set up? I hope to have discussions that dig into these issues so that good content will be traded and we all become happy. Thank you.

**【Chairman Murai】** Thank you very much. Any other comments? Yes, please.

**【Mr. Nakamura】** My name is Nakamura. The establishment of a trading market has been raised as one agenda, and I think it is very important. As you can see in the agreement between the government and the ruling parties dated June 20, which specifies that development of the market should be accelerated, it is considered critical for the content market to expand to give improved convenience to users. Since broadcasting content occupies an important place in Japan, particularly in the video culture and economy, establishment of the broadcasting content market will be the key. There are many challenges to address, including how copyrights should be handled, how metadata should be organized, and how content should be assessed, but the background can be roughly divided into three areas.

One is increasing demand for the secondary use of broadcasting content, which is largely attributed to the spread of broadband and mobile phones. Another is, as some have already mentioned, development of a financial framework as a foundation for content trading mobility.

The key points are revision of the Trust Business Law in 2004 that allows trust of intellectual property rights, and the emergence of players in the trust business. The third may be growing demand from the shareholders of content companies. Transparency for corporate accounting and assets has been a general demand, and this seems to be of considerable importance. Even from the perspective of corporate internal control, the need to review accounting for content has been growing these days. Of course, establishment of a trading market should not be prompted by financial or accounting demands, but reviewed in terms of the considerable advantages to the industry and user convenience or national interests. However, establishment of such a market will ensure return on investment, and is likely to, for example, increase investment from outside and consequently promote exports and strengthen our global competitiveness. This will lead to enhancement of so-called soft power in the fields of cultural diplomacy and international politics, and contribute to promoting a broadcasting culture. From these perspectives, while the US has syndications that have been referred to, France has annual events for the trading of broadcasting programs and films, and Korea works on a government-private sector initiative aimed at establishing a global presence for Korean film production, we must consider how Japan should take initiatives in this field in terms of policy and government strategy. I hope this issue will be discussed sufficiently.

**【Chairman Murai】** Thank you very much. Are there any other comments? Yes, please go ahead.

**【Mr. Inaba】** I'm Inaba from TBS. I would like to present my opinion on COG ('copy one generation'). Some members said that specific negative impacts in cases where the COG rule no longer applies should be listed. We agree that specific examples should be provided, but we must also recognize that broadcasting is the most important media watched by everyone for over three hours a day, during the era of analog terrestrial broadcasting as well as after the transition to digital broadcasting has completed. Therefore, we would like to continue to provide interesting programs and enhanced programs via this important media. Now, regarding the specific negative impacts, some aspects can be grasped very specifically and quantitatively, for example, by how much the performance fee will need to be raised if COG is not applied, or whether we will need to pay more when we buy a film. But some aspects that cannot be measured in a quantitative manner—for instance, how the significance of the media as a kind of window to, or direct contact with people, could be affected over the long term by a body blow like this—should be emphasized in some ways. Changing communication or DRM for terrestrial broadcasting in accordance with technological advancement may be possible, but particularly in the case of terrestrial broadcasting, it is very difficult to change things once decided. The same applies to EPN, for example. Changing the current order means the new order will be used for a considerably long period once it has been adopted. Therefore, in addition to specific effects or negative impacts in the case where COG is not adopted, we should emphasize the possible

impact on the positioning of the media.

**【Chairman Murai】** Thank you. And my thanks go to you all for participating in this meeting, making time in your busy schedules and giving us your very valuable comments. The purpose of today's meeting is to provide fundamental explanations first, but we have already received valuable opinions. In addition, your opinions are of significant importance, as they are based on past discussions and will lead to future debates. I recognized that both the 'copy once' issue and the establishment of a content trading market are significant and critical challenges. While these important issues exist independently, there is debate over the current situation as a result of the historical background and the course of history itself, including the opinions of members. Moreover, people recognize that although technologies are changing very rapidly, the situations or the rules of the related authorities have also been changing very quickly, as you can see in the case of the Agency for Cultural Affairs mentioned earlier.

In addition, as the deadline for the to switch to digital communications in 2011 is getting closer, sharing understanding among people who represent a wide range of parties is very important. While some of the issues have been clearly explained today, some subjects remain to be elaborated on, and we need to clarify these issues as we go along. In proceeding with discussions at this committee, if we cannot share an understanding, which means we understand and explain each issue perfectly, gaining an understanding in the development of the overall initiative will become extremely difficult. Therefore, I believe it is important to carry out discussions to solve issues openly and from various perspectives.

The other thing to note is that several people have stressed that the world of digital communications is providing us with a new environment in that it has formed a truly global space, and therefore content will be the key to global competitiveness. Considering such a strong media power, discussions in this committee will greatly influence how confidently the next generation can live in the future world. In that sense, I would like to share with you the understanding that our discussion has a significant role and responsibility.

Regarding the overall direction of this committee, as I mentioned at the beginning, this committee is basically open to the public, and I would like to provide opportunities to listen to various opinions since this committee is comprised of a large number of members. I ask for your understanding on this. I will try to secure as much time as possible for individual discussion and hearing sessions in various forms in parallel, in order to improve the efficiency of discussion. I would appreciate your cooperation.

As for the mission of the committee, we have a very serious task, and some members have pointed out that these topics have been discussed for a long time. Therefore, we must facilitate discussion, and you may be requested to attend a committee meeting at short notice when the need arises. I very much hope that you can understand the situation and its background and

cooperate with us.

Lastly, I would like to reiterate that, amid the ongoing digitization, and against the backdrop of the formation of a global space, a very large, new power can emerge out of media or content trading. I would like all members of this committee to share this understanding of our mission. We may always need to find a landing point in order to drive the discussion with the aim of guiding this new power in the right direction. And to that end, I would like to conclude my remarks by asking you all to engage in proactive and vigorous discussion despite the short period of time provided to us. Are there any comments from the secretariat?

**【Director Ogasawara】** I would like to make my best efforts to contrive ways to effectively organize the future direction of this committee meeting, based on the opinions voiced today and the direction that has just been provided by the Chairman. As we have already e-mailed you, the next meeting will be held from 3:30 through 5:00 on Friday, October 6, probably in this same meeting room. I will inform you of the location separately, later. The third meeting will be held from 4:00 through 5:30 on Tuesday, October 24, possibly in this same room in Mita. The schedule for November onward has not yet been fixed, but we will notify you as soon as it is finalized. Mita Kaigisho may not be conveniently located in terms of train access. Please accept our apologies for any inconvenience—it is very difficult to secure a meeting room for 40 to 50 members at the Ministry of Internal Affairs and Communications. I hope you can understand the situation.

**【Chairman Murai】** Do any committee members have any comments? No? Then, I would like to close today's meeting. Thank you.