

Radio Regulatory Council Summary of Minutes (922nd Meeting)

1. Date and time: Started at 15:00, Wednesday, September 12, 2007
2. Location: Conference Room 1002, 10th Floor, Ministry of Internal Affairs and Communications
3. Attendees (honorifics omitted)

- (1) Members of the Radio Regulatory Council

Mitsutoshi Hatori (Chair), Takeo Inokuchi (Vice-Chair), Kashiko Kodate,
Junichi Hamada

- (2) Hearing Examiner of the Radio Regulatory Council

Shuichi Nishimoto

- (3) Secretary

Shuji Ishida (Deputy Director, General Affairs Division, Telecommunications Bureau)

- (4) MIC representatives

Terasaki (Director-General of the Telecommunications Bureau), Tanaka (Director-General of the Radio Department), Ogasawara (Director-General of the Information and Communications Policy Bureau), and others

4. Minutes of the Meeting

- (1) Draft MIC Ordinances to Partially Amend the Regulations for Enforcement of the Radio Law and the Rules for Regulating Radio Equipment

(Consultation No. 23 of July 11, 2007)

The subject MIC Ordinances that pertain to the introduction of high-gain FWA systems related to broadband wireless access systems, the expansion of areas where registered stations for 5 GHz band wireless access systems can be established, and the advancement of DSRC systems, were deliberated based on the written statements and the written opinions (see the Written Opinions from the 430th Radio Regulatory Council Hearing) submitted by the hearing examiner who presided over the opinion hearing procedure. As a result, a report containing the following opinion was submitted. The subject MIC Ordinances are acceptable for the most part. In this connection, it is appropriate for the method of specifying the allowable value of the specific absorption rate in human heads pertaining to broadband wireless access systems to be revised in MIC Ordinance to partially amend the Rules for Regulating Radio Equipment by considering use patterns.

(2) Proposition concerning a formal objection to type designation carried out on broadband power line carrier communication equipment

(Proposition No. 4)

The Minister of Internal Affairs and Communications carried out type designation on broadband power line carrier communication equipment, as publicly announced in MIC Notices No. 349 and No. 439 of 2007. Subsequently, a formal objection was filed against this type designation and was mooted on September 12, 2007. MIC gave the following explanation on this formal objection.

Since a hearing on this matter is obligatory under the Radio Law, the Council named Shuichi Nishimoto as the hearing examiner presiding over the hearing procedure.

○ MIC explanation

In the past as well, formal objections were filed against type designation performed on broadband power line carrier communication equipment and mooted at the Radio Regulatory Council. The subject formal objection is similar to formal objections respectively mooted on March 23, 2007; May 16, 2007; and July 11, 2007. This time, type designation regarding broadband power line carrier communication equipment was publicly announced in the Official Gazettes of June 20 and August 1, 2007. In this regard, a formal objection was newly raised to seek the nullification of these instances of type designation.

In the first place, the formal objection discussed under Proposition No. 4 was filed on August 6, 2007. The number of petitioners is 115, which is the same as under Propositions No. 1 to No. 3.

The formal objection is to the type designation publicly announced in the Official Gazettes of June 20 and August 1, 2007, for a total of 15 instances.

The purpose of filing the formal objection is the same as for Propositions No. 1 to No. 3. Just as in the case of the preceding formal objection, the document submitted in regard to Proposition No. 4 does not include any description of evidence.

MIC assessed the objection based on the documents and found it appropriate, except for the petitioners' qualifications to file an objection; the certification of the qualifications of the representative, etc.; the addresses of the petitioners, which are to be entered in the document; and the date when the petitioners learned of the action to which the objection was filed. MIC

decided to suspend its assessment of the petitioners' qualifications to file the objection. This is because MIC intends to demand clarification on that matter during deliberations at the Radio Regulatory Council. As for the certification of the representative's qualifications, etc., the addresses of the petitioners that are to be entered in the document, and the date when the petitioners learned of the action against which the objection was filed, MIC called for the correction of the deficiencies. Since the corrected document has not been submitted, MIC is suspending its assessment process. However, since the matters awaiting correction are unlikely to affect deliberations, MIC proposes that the objection be deliberated at the Radio Regulatory Council, pursuant to Article 85 of the Radio Law.

(3) Proposition concerning formal objection to type designation carried out on broadband power line carrier communication equipment

(Proposition No. 5)

The Minister of Internal Affairs and Communications carried out type designation on broadband power line carrier communication equipment, as publicly announced in MIC Notice No. 146. Subsequently, a formal objection was filed against this type designation. MIC gave an explanation as follows on this formal objection, which was mooted on September 12, 2007.

Since a hearing on this matter is obligatory under the Radio Law, the Council named Shuichi Nishimoto as the hearing examiner presiding over the hearing procedure.

○ MIC explanation

The content of this formal objection pertaining to broadband power line carrier communication equipment consists of three items. The first item concerns the nullification of the type designation that was carried out on the CNC-1000 broadband power line carrier communication equipment manufactured by Hikarinetworks Co., Ltd. and that was announced in the Official Gazette of March 19, 2007. The second item pertains to the correction of the documents that served as the grounds for this type designation. These documents include MIC Notices No. 519 and 520, as well as the technical criteria for broadband power line carrier communication equipment as specified in Article 46-2, Paragraph 1, Item 5 of the Regulations for Enforcement of the Radio Law. The third item is a request to the effect that no similar type designation be carried out based on the above-mentioned technical criteria until such time as they have been corrected. MIC assessed the objection based on the radio Law and the Law of Administrative Tribunals. As a result, MIC rejected the second and third items, and proposed that the first item alone be deliberated under Proposition No. 5.

One petitioner who is an individual filed the formal objection discussed under Proposition No. 5 on May 15, 2007.

The purpose of filing the objection was to seek the nullification of the type designation carried out on the pertinent broadband power line carrier communication equipment. The reason for seeking the nullification is as follows. The pertinent petitioner actually used the pertinent equipment, with the result that the value of the leakage electric field as observed on the equipment exceeded the level assumed in Article 46-2, Paragraph 1, Item 5 of the Regulations for Enforcement of the Radio Law by 20 dB or more, thus indicating that the equipment does not meet the pertinent technical criteria.

MIC assessed the objection based on the above and found it appropriate, except for the petitioner's qualification to file an objection. MIC decided to suspend its assessment of the petitioner's qualification to file the objection. The reason for this decision is that the petitioner, who declares himself a broadcast viewer/listener, is also a licensee of an amateur radio station. There is therefore a possibility that facts regarding specific profits will become clear from now on; consequently, MIC intends to demand clarification on that matter during deliberations at the Radio Regulatory Council.

(4) Draft MIC Ordinance to Partially Amend the Regulations for Enforcement of the Radio Law and the Rules for Regulating Radio Equipment

(Consultation No. 29)

MIC gave the following explanation on the Draft MIC Ordinance pertaining to the introduction of low-power repeaters for mobile telephones and PHSs as follows, and a question-and-answer session was subsequently held.

Since a hearing on Consultation No. 29 is obligatory under Article 99-12, Paragraph 1 of the Radio Law, the Council named Shuichi Nishimoto as the hearing examiner presiding over the hearing procedure.

a. MIC explanation

A repeater for mobile telephones and PHSs means a relaying device that relays radio waves transmitted from base stations for mobile telephones and the like, in cases where it is difficult for radio waves to reach such telephones and the like. In recent years, a large number of illegal relay stations have been created that have not obtained radio station licenses, resulting in cases

where interference is suffered. As a consequence of the above, studies of technical requirements were made at the Telecommunications Council starting in January of this year, and a report was received in July of this year. The related MIC ordinances will be amended based on this report.

b. Key questions and answers

- A question was asked as to what the difference is between licensing and registration. MIC answered that radio stations are, in principle, subjected to licensing, and that from the point of view of simplifying the licensing procedures, devices such as mobile telephones are subject to blanket licensing and devices like low-power repeaters discussed under Consultation No. 29 are subject to registration.

(5) Draft MIC Ordinance to Partially Amend the Essential Standards for Establishment of Radio Stations (except for Broadcasting Stations)

(Consultation No. 30)

MIC explained as follows on the Draft MIC Ordinance to Partially Amend the Essential Standards for Establishment of Radio Stations (except for Broadcasting Stations), which pertains to measures to ensure appropriate operations in light of the intent of the Establishment Guidelines, even after establishment plans are approved, with regard to broadband mobile wireless systems.

Since a hearing on Consultation No. 30 is obligatory under Article 99-12, Paragraph 1 of the Radio Law, the Council named Shuichi Nishimoto as the hearing examiner presiding over the hearing procedure.

○ MIC explanation

On July 11, 2007, a report on the establishment guidelines for specified base stations for broadband mobile wireless access systems was received from the Radio Regulatory Council. The Minister of Internal Affairs and Communications will approve establishment plans for which approval applications are filed in accordance with these guidelines. However, there is a possibility that changes that do not comply with the establishment guidelines will be made after establishment plans are approved. Therefore, the Essential Standards for Establishment of Radio Stations (except for Broadcasting Stations) will be amended so that such changes cannot be made in connection with assessment regarding licensing and relicensing of radio stations (except for broadcasting stations).

(6) Draft Partial Change in Frequency Assignment Plan

(Consultation No. 31)

MIC explained the Draft Partial Change in Frequency Assignment Plan associated with the completion of digitalization of terrestrial television broadcasting as follows, and a question-and-answer session was subsequently held.

Since a hearing on Consultation No. 31 is obligatory under Article 99-12, Paragraph 2 of the Radio Law, the Council named Shuichi Nishimoto as the hearing examiner presiding over the hearing procedure.

a. MIC explanation

Digitization of terrestrial television broadcasting will be completed in 2011. Due to that, frequencies will be vacated. In connection with radio spectrum reallocation, a partial report was received in June of this year from the Telecommunications Council with regard to the “Technical Requirements for Efficient Use of VHF/UHF bands.” The Frequency Assignment Plan will be partially changed based on this report.

To outline the changes, arrangements will be made to realize the following. The UHF bands from 90 MHz to 108 MHz and from 205 MHz to 222 MHz can be used in “broadcasting,” including multimedia broadcasting for mobile objects; the frequency band from 170 MHz to 205 MHz can be used in “customer owned and maintained communications” that are capable of broadband communications for purposes such as the realization of a safe and anxiety-free society; the frequency band from 730 MHz to 770 MHz can be used in “electrical communications” such as by mobile telephones, for which it becomes necessary to secure frequencies due to increased demand; and the 10 MHz widths in the frequency band from 710 MHz to 730 MHz can be used in the “intelligent transport systems (ITS),” which is required for the realization of a safer road traffic society.

b. Key questions and answers

Why the changes regarding the frequency bands from 710 MHz to 730 MHz and from 730 MHz to 770 MHz, which are to be used for vehicles moving on land, will be made in 2012, that is, one year later than the changes regarding the other frequency bands, was questioned. MIC gave the following answer. “The frequency bands in question are used for performing simultaneous broadcasting involving digital broadcasting and analog broadcasting, and analog

broadcasting is scheduled to be withdrawn from the pertinent frequency band in July 2011. As regards digital broadcasting, the one-year period from July 2011 to July 2012 will be spent in making a changeover to 710 MHz or less, and the changes regarding the frequency band from 710 MHz to 770 MHz are therefore scheduled to be made in July 2012.”

(7) Authorization of Japan Broadcasting Corporation’s business of providing broadcast programs to Mobile Broadcasting Corporation

(Consultation No. 32)

MIC explained the authorization of Japan Broadcasting Corporation’s business of providing broadcast programs to Mobile Broadcasting Corporation as follows, and a question-and-answer session was subsequently held. After conducting deliberations on the matter, the Council submitted a report stating that the subject business is acceptable.

a. MIC explanation

Mobile Broadcasting Corporation is the first satellite digital broadcaster for mobile objects in Japan to use 2.6 GHz band frequencies to provide voice services, music, and images via satellites.

This matter concerns the application for authorization of the business whereby Japan Broadcasting Corporation provides Mobile Broadcasting Corporation with the following items for about eight hours per day: news; relay broadcasting of sports programs; other ordinary programs; and disaster information to be provided in emergencies and during disasters.

Mobile Broadcasting Corporation began broadcasting in 2004, and it is still in a start-up stage in that only four years have passed since this corporation started to provide services. Such being the case, if Japan Broadcasting Corporation provides broadcast programs to Mobile Broadcasting Corporation, then such will contribute to the spread and development of digital broadcasting services for mobile objects as well as to the progress and advancement of broadcasting and reception in Japan. Therefore, the business that the subject authorization is applied for is considered to fall under the category of a business that is particularly required for the progress and advancement of broadcasting and reception as specified in Article 9, Paragraph 2, Item 6 of the Broadcast Law. MIC found the subject business acceptable after conducting the required assessment of the application.

b. Key questions and answers

- A remark was made that the balance between the income and the expenditure as recorded in business accounting is designated as the broadcasting right fee paid to Japan Broadcasting Corporation. In this regard, whether it is right to presume that this fee is included in the expenditure on the supposition that Japan Broadcasting Corporation eventually pays the broadcasting right fee was questioned. MIC answered as follows. “When Japan Broadcasting Corporation sells a broadcast program, it is necessary to include a fluctuating factor consisting of an amount that cannot be finalized, for reasons of the treatment of copyright, in the cost. For this purpose, about 4 percent is added to the actual cost, and the resulting increased cost is referred to as a broadcasting right fee.”
- A question was asked as to whether all of the broadcast programs televised by Mobile Broadcasting Corporation are provided by Japan Broadcasting Corporation. MIC answered as follows. “Mobile Broadcasting Corporation is provided not only with broadcast programs of Japan Broadcasting Corporation but also with CS animation programs, among others, thus doing business. Japan Broadcasting Corporation’s business of providing broadcast programs under Consultation No. 32 was authorized after being submitted to the Radio Regulatory Council for consultation, and the provision of broadcast programs of other entities is carried out under contracts concluded between private sector entities.”

(8) Approval of program-supplying broadcasting services

(Consultation No. 33)

MIC explained this matter together with Consultation No. 34, since the two consultations were related to each other.

(9) Authorization of abolition of broadcasting stations belonging to Japan Broadcasting Corporation

(Consultation No. 34)

MIC explained this matter, together with Consultation No. 33 since the two consultations were related to each other, as follows, and a subsequent question-and-answer session was held. After conducting deliberations on the matter, the Council submitted a report stating that the subject services and the subject abolition are acceptable.

a. MIC explanation

As regards current BS analog broadcasting, broadcast programs are provided on the following four channels: BS 1, BS 2, and BS Hi-Vision of Japan Broadcasting Corporation,

and WOWOW. Under the Basic Broadcasting Plan, on which a report was received at the Radio Regulatory Council on June 1, 1999, the BS Hi-Vision mentioned above is scheduled to be terminated by November 30, 2007 at the latest. As a consequence of the above, Japan Broadcasting Corporation filed an application for the abolition of broadcasting satellite stations for BS Hi-Vision in accordance with the provisions of Article 43 of the Broadcast Law.

As regards the above-mentioned application, it was judged that no particular hindrance would be caused, since the subject abolition is already specified in documents such as the Basic Broadcasting Plan.

In this regard, after termination of BS Hi-Vision broadcasting, the following three companies are scheduled to make entry with one channel each: Nippon BS Broadcasting Corporation; Star Channel, Inc.; and world Hi-Vision Channel, Inc.

In the case of the three channels other than the channel for BS Hi-Vision broadcasting, current licenses for broadcasting satellite stations were obtained for broadcasting systems where hardware and software are combined. The design life of the currently used satellite will expire this year, and a successor satellite was therefore launched in August of this year. By taking the opportunity of this transition period, the current type of broadcasting system where hardware and software are combined is intended to be changed over to the facility- and program-supplying broadcasting service system of the type where hardware and software are separated. In this regard, an application for approval of program-supplying broadcasting services and an application for authorization of the abolition of broadcasting satellite stations were filed.

As regards the application for approval of program-supplying broadcasting services, assessments were made in accordance with Article 9-4, Paragraph 1 and Article 52-13, Paragraph 1 of the Broadcast Law, and in compliance with the Examination Standards Relating to the Broadcast Law, with the result that this matter is found acceptable in terms of all pertinent provisions.

With regard to the abolition of broadcasting satellite stations, it was judged that no particular hindrance would be caused, since this abolition is already specified in the Basic Broadcasting Plan.

b. Key questions and answers

- A question was asked as to what will undergo changes due to the transition where the broadcasting system of the type where hardware and software are combined is changed over to the program-supplying broadcasting service system. MIC answered as follows. “It is decided that the satellite launched as the successor be partially used for digital broadcasting, as digital broadcasting has already been changed over to facility- and program-supplying broadcasting of the type where hardware and software are separated from each other. If the current BS analog broadcasting portion continues to be of the type where hardware and software are combined, then it will be impossible to ensure fairness in cost burdens associated with the use of radio equipment and repeaters; and therefore, it is considered that the same type should be used for one and the same satellite.”

(10) Cancellation of approval of program-supplying broadcasting services of World Independent Networks Japan Inc.

(Consultation No. 35)

MIC explained the cancellation of approval of program-supplying broadcasting services of World Independent Networks Japan Inc. as follows, and a question-and-answer session was subsequently held.

Since a hearing on Consultation No. 35 is obligatory under Article 53-11, Paragraph 1 of the Radio Law, the Council named Shuichi Nishimoto as the hearing examiner presiding over the hearing procedure.

a. MIC explanation

In October 2003, World Independent Networks Japan Inc. obtained approval for program-supplying broadcasting services from the Minister of Internal Affairs and Communications and was broadcasting programs such as music. However, from November 1, 2006 until now, this company has suspended broadcasting. The reason for suspension provided in the Notice of Suspension from November 2006 to April 2007 is maintenance of systems. The reason for suspension, as stated in the Notice of Suspension from May 2007 and onward, is that judgment and approval regarding the acquisition of management rights were entrusted to the machinery of law, and the judgment results and approval were waited for. Nevertheless, the essential reason for suspension is that funds sufficient to maintain program-supplying broadcasting services were lacking. MIC made repeated demands for World Independent Networks Japan Inc. to resume broadcasting services at an early stage and submit a specific schedule up to the resumption of these services. No response has been received yet.

Article 52-24, Paragraph 2 of the Broadcast Law provides that the approval of any program-supplying broadcasting service may be cancelled in any case where the said program-supplying broadcasting service continues to be suspended for six months without any legitimate reason. Such being the case, MIC intends to cancel the approval of program-supplying broadcasting services of World Independent Networks Japan Inc. on the following grounds. The reasons for suspension as stated by this company do not come under the category of legitimate reasons, and the suspension period so far is 10 months.

b. Key questions and answers

- Whether it was impossible to make forecasts about the financial basis and future prospects at the time of deliberating the approval of program-supplying broadcasting services was questioned. MIC answered that since the propriety was noted based on information such as the results of the marketing survey conducted during the deliberation on the approval, MIC gave approval after this matter was submitted to the Radio Regulatory Council for consultation and the Council report was received.

(11) Others

MIC reported on the schedule regarding the approval of the Establishment Plans for Specified Base Stations Using 2.5 GHz Band and a subsequent question-and-answer session was held, as follows.

An applicant requested that opportunities for hearings be provided. MIC answered that it will consider meeting the request.

In addition, MIC reported on the income and expenditure states of private broadcasters in fiscal year 2006.

(Office responsible for the above wording: The Secretariat of the Radio Regulatory Council.)