

Radio Regulatory Council Summary of Minutes (924th Meeting)

1. Date and Time: Started at 15:00, Wednesday, November 14, 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 (Assistant Director of the General Affairs Division of the Telecommunications Bureau)

- (4) MIC Representatives

Masuda (Minister for Internal Affairs and Communications), Sato (Senior Vice-Minister for Internal Affairs and Communications), Suzuki (Vice-Minister for Policy Coordination), Terasaki (Director-General of the Telecommunications Bureau), Ogasawara (Director-General of the Information and Communications Policy Bureau), Kawauchi (Deputy Director-General of the Information and Communications Policy Bureau), and others

4. Minutes of the Meeting

- (1) Draft Partial Change in Frequency Assignment Plan

(Consultation No. 31 of September 12, 2007)

Partial changes in the Frequency Assignment Plan accompanying the completion of digitization of terrestrial television broadcasting were deliberated. The deliberations were based on the written statements and the written opinions (see the Written Opinions from the 433rd Meeting of the Radio Regulatory Council) submitted by the hearing examiner who presided over the opinion hearing procedure, with the result that a report stating that the above-mentioned partial changes are acceptable was submitted.

- (2) Revocation of the certification for broadcasting work commissioned to World Independent Networks Japan Inc.

(Consultation No. 35 of September 12, 2007)

Revocation of the certification for broadcasting work commissioned to World Independent

Networks Japan Inc. was deliberated. The deliberations were based on the written statements and the written opinions (see the Written Opinions from the 434th Meeting of the Radio Regulatory Council) submitted by the hearing examiner who presided over the opinion hearing procedure, with the result that a report stating that the above-mentioned revocation is acceptable was submitted.

- (3) Matters such as propositions concerning formal objections to the arbitration ruling on the consent for retransmission to which the Oita Cable Telecom Co., Ltd. and RKB Mainichi Broadcasting Corporation are the parties.

(Propositions No. 6 to No. 21)

With respect to an application for arbitration filed by four cable television broadcasters in Oita Prefecture, an arbitration ruling was made on the consent for retransmission in accordance with the provisions of the Cable Television Broadcast Law, with four broadcasters in Fukuoka Prefecture as the broadcasters pertaining to the above-mentioned application. Each of the four broadcasters in Fukuoka Prefecture raised formal objections to the aforementioned arbitration ruling. MIC gave the following explanation on the pertinent formal objections. Subsequently, a question-and-answer session was held as follows.

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.

a. MIC's explanation

The Cable Television Broadcast Law stipulates that when any cable television broadcaster is to retransmit any broadcast of any other broadcaster, the first above-mentioned broadcaster shall obtain the consent of the second above-mentioned broadcaster. It is also stipulated that in cases where the first above-mentioned broadcaster requests the second above-mentioned broadcaster to hold discussions regarding the pertinent consent and where such discussions result in failure, then the first above-mentioned broadcaster may apply to the Minister for Internal Affairs and Communications for arbitration. If the second above-mentioned broadcaster does not consent to retransmission after being given an opportunity to submit a written opinion, the Minister for Internal Affairs and Communications shall, after holding consultations with the Telecommunications Council, hand down an arbitration ruling that the second above-mentioned broadcaster shall give consent to retransmission, except where there is any justifiable reason against the consent. When the parties concerned are notified of the pertinent arbitration ruling, it shall be deemed that the pertinent discussions are concluded satisfactorily based on the provisions of the pertinent arbitration ruling.

In the case of the arbitration regarding the pertinent formal objections, the four cable television broadcasters of Oita Cable Telecom Co., Ltd.; CTB Media Inc.; Cable Television Saeki Co., Ltd. and Oita Cable Network Corporation applied to the Minister for Internal Affairs and Communications for arbitration with the aim of requesting that RKB Mainichi Broadcasting Corporation; Kyushu Asahi Broadcasting Co., Ltd.; Television Nishinippon Corporation; and Fukuoka Broadcasting Corporation, which are broadcasters in Fukuoka Prefecture, should each give consent to the retransmission of terrestrial digital broadcasts.

In conducting the pertinent arbitration in accordance with the procedures specified in the Cable Television Broadcast Law, a consultation was conducted with the Telecommunications Council and written opinions were submitted by the second above-mentioned four broadcasters. In addition to the above, opinions were solicited from Oita Prefectural Government, and hearings from broadcasters in Oita Prefecture were conducted in the Telecommunications Council.

In this case, each of the four broadcasters in Fukuoka Prefecture, which are the parties to the pertinent arbitration, raised four formal objections on October 12, 2007, resulting in a total of 16 formal objections being filed, with the aim of requesting that the arbitration ruling to which the four broadcasters are the parties should be cancelled.

The reasons for the formal objections asserted by all formal objection raisers were almost in common. It was asserted, for example, that the criteria pertaining to arbitration as shown in a statement made at the Diet when the Minister Arbitration System Regarding the Consent to Transmission was established were nothing more than the minimum necessary requisites for cable television broadcasters when making studies on consent to retransmission, and that judgment as to whether or not to give consent must be passed by comprehensively taking various factors into account.

Based on the above, a formal examination was conducted at MIC, with the result that all items were “appropriate.” These formal objections will therefore be mooted at the Radio Regulatory Council.

a. Key Questions and Answers

- A question was asked about how many instances of arbitration arose in the past in regard to consent to retransmission. The reply stated that there was one instance each in 1987 and 1993, resulting in a total of two instances occurring in the past, and that at present, applications for 17 instances are filed in the Chugoku Region and applications for 10 instances are made in the

Kanto-Yamanashi-Nagano-Niigata Region.

- When the arbitration ruling that consent should be given to retransmission was given, it was stated that “specific facts which suggest that the intent of broadcasts will be impaired or distorted are not noticed” in broadcasters’ assertions. A question was asked about where such criteria are shown. The reply stated that these criteria were used in two past instances of arbitration after the amendment, in 1986, of the Cable Television Broadcast Law by which the Minister Arbitration System was introduced.
- A statement was made that information was received on the state of studies made in meetings of “the Study Group on Broadcast Retransmission by Cable Broadcasters” held under the sponsorship of the Director-General of the Information and Communications Policy Bureau, and that it was heard that there was a move to perform simultaneous retransmission of broadcasts on IP television as well. In this connection, the making of a report on these matters was requested, since they are related to the propositions concerning this case. The reply to the request stated that such a report would be made after separately holding consultations with the Secretariat of the Council.

(4) Draft MIC Ordinances to Partially Amend the Regulations for Enforcement of the Radio Law, the Rules for Regulating Radio Equipment, and the Ordinance Concerning Technical Regulations Conformity Certification for Specified Radio Equipment

(Consultation No. 37)

MIC gave the following explanation on the Draft MIC Ordinance for Matters Such as Technical Standards for Broadcasting Business Systems.

Since a hearing on Consultation No. 37 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’s Explanation

In the first place, in the case of radio stations used by broadcasters for broadcasting purposes, 3.5 GHz band frequencies are currently used for STLs (Studio to Transmitter Links), which relay broadcast programs to transmitting stations from studios other than those of broadcasting stations, TTLs (Transmitter to Transmitter Links), which relay broadcast programs from parent stations to relay stations and further to subordinate stations, FPU (Field Pick-up Units), which transmit broadcast programs from coverage fields etc. to the nearest base stations, and TSLs (Transmitter to

Studio Links), which perform uplinking from such base stations to studios. In the future, however, this frequency band is intended to be used for fourth generation mobile communication systems, and a transition is therefore scheduled to be made to the 6.5 GHz band and the 7.5 GHz band. Such being the case, the related MIC Ordinances will be amended to specify the technical standards for STLs, TTLs, FPU, and TSLs in the pertinent frequency bands.

The second point is that in cases where broadcast programs are relayed to outlying islands, it is necessary to transmit such programs over long distances without them being relayed by intermediate stations. In such cases, it is difficult to perform transmission by microwaves, and therefore, a system whereby UHF band frequencies are used for TTLs is intended to be introduced. In this conjunction, technical standards for TTLs will be newly established.

The third point is that in connection with the spread and expansion of HDTV broadcasting, it becomes necessary to relay HDTV broadcast materials with as little delay as possible. For this purpose, the millimeter wave bands, the 42 GHz bands, and the 55 GHz bands, all of which permit broadband high-speed transmission, are intended to be used for FPU, and the introduction of a system using such FPU is planned. In this conjunction, the Rules for Regulating Radio Equipment will be amended for the purpose of newly establishing technical standards for FPU.

Furthermore, the fourth point is that antenna power for mobile wireless systems used by broadcasters for communication work is currently specified in terms of peak envelope power. However, the real-zero single-sideband (RZ SSB) modulation method is expected to become widespread on a large scale from now on. Therefore, considering this, a change is intended to be made so that the above-mentioned antenna power will be specified in terms of average power. In this conjunction, the related MIC Ordinances will be amended.

Last, the fifth point is that, in regard to the regulations for the polarization of radio waves for satellite broadcasting, the Rules for Regulating Radio Equipment will be amended for the purpose of clarifying polarization categories for narrowband broadcasting satellite stations and for broadband broadcasting satellite stations.

(5) Preliminary license for the broadcasting satellite station belonging to Broadcasting Satellite System Corporation

(Consultation No. 38)

MIC gave the following explanation on the preliminary license for the broadcasting satellite station for which an application was filed by Broadcasting Satellite System Corporation. As a

result of deliberations, it was reported that the application is appropriate.

○ MIC's Explanation

The design life of the BSAT-2 series satellites currently used for BS digital broadcasting will expire in 2011. In this connection, applications for licenses regarding the broadcasting satellites that will newly start to be operated were invited from August 1 to September 14, 2007, with the result that one company, Broadcasting Satellite System Corporation, filed a license application.

At present, there are the following three broadcasting satellites related to BS broadcasting. BSAT-2c is actually used for Channels 1, 3, 13, and 15; BSAT-2a is a backup for Channels 5, 7, 9, and 11; and BSAT-3a, which has just been in use since November 2007, is in actual use for Channels 5, 7, 9, and 11, and is used as a backup for Channels 1, 3, 13, and 15. In and after 2011, BSAT-3b, for which a preliminary license will be given this time, will not only succeed BSAT-2c to be operated in actual use for Channels 1, 3, 13, and 15, but also will be operated as a backup for Channels 17, 19, 21, and 23, which will newly become usable in and after 2011. Furthermore, BSAT-3c, for which a preliminary license application was similarly filed, is scheduled to begin to be operated in actual use for Channels 5, 7, 9, and 11, and in actual use for Channels 17, 19, 21, and 23. BSAT-3a, which is currently in actual use for Channels 5, 7, 9, and 11, will be operated as a backup for Channels 5, 7, 9, and 11, and as a backup for Channels 1, 3, 13, and 15.

The license application pertaining to this case was deliberated upon according to radio laws and regulations, with the result that the above-mentioned application was judged acceptable. Therefore, a consultation will be conducted about giving a license.

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

(Consultation No. 29 of September 12, 2007)

The subject Draft MIC Ordinance pertaining to the introduction of low-power repeaters for mobile telephones and PHSs were partially revised. Subsequently, the revised Draft MIC Ordinance was deliberated upon based on the written statements and the written opinions (see the Written Opinions from the 431st Meeting of the Radio Regulatory Council) submitted by the hearing examiner who presided over the opinion hearing procedure, with the result that a report stating that the above-mentioned revised Draft MIC Ordinance is acceptable was submitted.

(7) Draft MIC Ordinance to Partially Amend the Essential Standards for Opening Radio Stations
(except Broadcasting Stations)

The purpose of the subject Draft MIC Ordinance is to establish provisions whereby, when any designated base station is to be opened after the plan for opening the said station is approved, the said station shall be opened in accordance with the stipulations of the guidelines for opening designated base stations in the category of the said station. The above-mentioned Draft MIC Ordinance was deliberated upon based on the written statements and the written opinions (see the Written Opinions from the 432nd Meeting of the Radio Regulatory Council) submitted by the hearing examiner who presided over the opinion hearing procedure, with the result that a report stating that the above-mentioned Draft MIC Ordinance is acceptable was submitted.

- (8) Proposition concerning formal objection to type designation disposition made on broadband power line carrier communication equipment

(Proposition No. 22)

The Minister for Internal Affairs and Communications carried out type designation on broadband power line carrier communication equipment, as publicly announced in MIC Notice No. 524 of 2007. Subsequently, a formal objection was raised to this type designation. 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's Explanation

In the past as well, formal objections were raised to type designation disposition made on broadband power line carrier communication equipment and were mooted at the Radio Regulatory Council. The subject formal objection is similar to formal objections mooted on March 23, 2007; May 16, 2007; July 11, 2007; and September 12, 2007; respectively. This time, type designation regarding broadband power line carrier communication equipment was publicly announced in the Official Gazette of September 18, 2007. In this regard, a formal objection was newly raised for the purpose of seeking to nullify this type designation.

In the first place, this formal objection was raised on September 27, 2007. The number of formal objection raisers is 115, just as in the case of Propositions No. 1 to No. 5.

The disposition pertaining to the formal objection consists of the 11 instances of type designation disposition publicly announced in the Official Gazette of September 18, 2007.

Based on the above, MIC conducted an examination, with the result that all items were judged “acceptable” except for the verification of the formal objection raisers’ qualifications to raise formal objections and of the representatives’ qualifications. The formal objection raisers’ qualifications to raise formal objections are put on hold, since MIC is contemplating requesting explanations to be made in the course of examination in the Radio Regulatory Council. Furthermore, the submission date of the letter of proxy attached to the written formal objection is expressed as between April 29, 2007, and May 18, 2007. It was judged that this date was too early for purposes of entrusting the subject formal objection. A request was therefore made for a revision to be made. However, the revised document has not yet been submitted, and, therefore, examination is put on hold. Nevertheless, the item for which revision is requested is not one that will cause any substantial hindrance to examination. Such being the case, the subject formal objection will be mooted at the Radio Regulatory Council in accordance with the provisions of Article 85 of the Radio Law.

(9) Draft Partial Changes to the Frequency Assignment Plan

(Consultation No. 39)

In conjunction with the amendment of the related MIC Ordinances in Consultation No. 37 as explained earlier, the introduction of the following systems is intended: UHF band fixed wireless systems that relay broadcast programs; and 42GHz band mobile wireless systems that transmit broadcast program materials. In this connection, a partial change of the Frequency Assignment Plan is intended. MIC gave the following explanation on the Draft Partial Changes to the Frequency Assignment Plan.

In this regard, since it was judged appropriate to hear opinions together with Consultation No. 37, it was therefore decided that opinions be heard together with Consultation No. 37 in accordance with Article 99-12, Paragraph 2, of the Radio Law. In this connection, the Council named Shuichi Nishimoto as the hearing examiner presiding over the hearing procedure.

○ MIC’s Explanation

In the first place, this case pertains to changes related to UHF band fixed wireless systems that relay broadcast programs. The Frequency Assignment Plan will be partially changed so that broadcasting UHF band frequency radio waves currently transmitted to households will also be made capable of being used for fixed wireless systems for broadcasters that relay broadcast programs. In this regard, in the footnote pertaining to the frequency portion from 585 MHz to 710 MHz, continued use for fixed wireless business is permitted. This footnote will be deleted, since no

fixed station that is opened in accordance with the footnote exists at present.

Next, this concerns 42 GHz band mobile wireless systems that transmit broadcast program materials. Currently, with regard to the frequencies in the 41.5 GHz to 42 GHz band, mobile services are permitted as primary business under ITU's Radio Regulations. The 41 GHz to 42 GHz band is intended to be used for mobile wireless systems that transmit broadcast program materials, and the introduction of these systems is planned this time. With regard to this band, secondary distribution will be switched to primary distribution for purposes of broadcasting services, thus the Frequency Assignment Plan will be partially changed to exclusively secure the band.

(10) Cancellation of the approval of the plan to open a designated base station using 2 GHz band frequencies

(Consultation No. 40)

Approval of the plan to open a designated base station using 2 GHz band frequencies was given to IP Mobile Co., Ltd., but this approval was cancelled. The MIC gave the following explanation on this cancellation. Subsequently, a question-and answer session was held as follows.

Since a hearing on Consultation No. 40 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's Explanation

On November 10, 2005, IP Mobile Co., Ltd. obtained approval of its plan to open a designated base station using 2 GHz band frequencies, with the aim of providing data transmission services. This approval was given after conducting an examination in accordance with the Guidelines for Opening Designated Base Stations.

However, on October 30, 2007, IP Mobile Co., Ltd. applied for cancellation of the approval on the grounds that the funds required for the pertinent business had so far failed to be raised. In this regard, the above-mentioned company has not opened the aforementioned designated base station as yet, and it is judged that there is no prospect of this station being opened in the future. It is considered, therefore, that this instance falls under the case where "the designated base station pertaining to the approved plan fails to be opened in accordance with the said approved plan although there is no justifiable reason" as stated in Article 27-15, Paragraph 1, of the Radio Law. Consequently, the issue of cancellation of the approval of the plan to open the designated base station will be submitted for consultation.

b. Key Questions and Answers

- A comment was made that it was presumed that careful examination had been conducted before approval was given. In this connection, a question was asked as to whether great changes occurred in the circumstances regarding fund-raising. The reply stated that the initial application for approval was submitted to the Radio Regulatory Council for consultation after MIC conducted a careful examination and a report stating that the application for approval is acceptable was received, and thus MIC gave approval. The cause of the application for cancellation of the approval was considered to be that IP Mobile Co., Ltd. was unable to duly receive the financing that had been scheduled to be provided.

(11) Other

MIC gave a report on the review of the Action Plan for Radio Spectrum Reallocation and on the hearing by Radio Regulatory Council members regarding the approval of the plan to open a designated base station using 2.5 GHz band frequencies.

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