

Radio Regulatory Council—926th Meeting
Summary of Minutes

1. Date and Time

Friday, December 21, 2007; 10:00–

2. Location

Conference Room 1002, 10th Floor, Ministry of Internal Affairs and Communications

3. Attendees (honorifics omitted)

(1) Council Members

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 (including Secretariat Representative)

Terasaki (Director-General, Telecommunications Bureau), Tanaka (Director-General,
Radio Department) and others

4. Agenda

(1) Authorization of Plan for Establishment of Specified Base Stations Using 2.5 GHz Band
Frequencies

(Consultation No. 42)

WILLCOM, Inc., Open Wireless Network Corporation, Wireless Broadband Planning K.K., and ACCA Wireless Co., Ltd., in that order, applied for authorization of plans to establish specified base stations using 2.5 GHz band frequencies (hereinafter, “Establishment Plans”). The issue of authorization of the Establishment Plans was submitted for consultation. In the first place, deliberations were conducted on the written requests which were submitted by Open Wireless Network Corporation, SoftBank Mobile Corporation, and e-Access, Ltd., and which were dated December 18, 2007, December 20, 2007 and December 20, 2007, respectively. As a result of the deliberations, the following were decided upon, among others:

- 1) Deliberations should be conducted behind closed doors from the point of view of protecting applicants’ legitimate rights such as the right to maintain secrecy with regard to their business management.

- 2) Since four hearings have already been conducted, no further opinions should be solicited.
- 3) Examination documents should be positively disclosed to the extent possible without causing damage to legitimate profits of applicants or the like.
- 4) Ensuring the equality of MVNOs and entities that have Establishment Plans authorized should be regarded as requests.

Subsequently, as shown below, MIC gave an explanation and deliberations were conducted.

○ MIC's Explanation and Deliberations

In explaining the subject matter, for the purpose of helping the council members to conduct fair deliberations, it was decided that the applicants be referred to as Company A, Company B, Company C and Company D, and that the anonymity of the carriers related to the applications be preserved.

Comments on the applicants' Establishment Plans are as follows:

In the case of the plan of Company A, the degree of compliance with the comparative examination criteria prescribed in the Base Station Establishment Guidelines is higher than those of the other applicant companies with regard to the following points: (1) More extensive base station deployment plan with earlier execution date, (2) Ability to smoothly maintain base stations, (3) Financial foundation required for starting and operating specified base stations, (4) Plans to develop and introduce technologies for ensuring efficient use of radio waves, and (5) Promotion of entry of MVNOs. On the other hand, the degree of the said compliance is considered to be somewhat lower in terms of the novelty of entry, since Company A is an existing carrier.

The plan of Company B is judged to be superior to those of the other applicant companies in that the said company ensured fair treatment among MVNOs by establishing a setup whereby other telecommunications carriers are only provided with networks. On the other hand, it was concluded that no particular superiority was noticed in terms of the other comparative examination criteria items.

As regards the plan of Company C, the following items were appreciated, and it was concluded that the degree of compliance of the said items with the comparative examination criteria was judged to be higher: (1) More extensive base station deployment plan with earlier execution date, (2) Ability to smoothly maintain base stations, (3) Financial foundation required for starting and operating specified base stations, (4) Plans to develop and introduce technologies for ensuring efficient use of radio waves, and (5) Past positive contribution to technical methods.

As for the plan of Company D, the degree of compliance with the comparative examination criteria was judged to be higher from the point of view of the novelty of entry into business in light of the fact that the said company, which is an ADSL operator, formulated plans for taking the initiative to conduct business as the major shareholder in such a way as to utilize the know-how and so on of third-generation mobile telephone operators. On the other hand, it was concluded that the degree of compliance with the comparative examination criteria was lower than that of the other applicant companies in terms of more extensive base station deployment plan with earlier execution date and that no particular superiority was noticed in terms of the other items.

On the basis of these findings, the issue of authorization of the Establishment Plans of Company A and Company C was submitted for consultation.

Major deliberations pertaining to the said consultation are as follows:

- It was decided that in the official document announcing the comparative examination findings, scores be included for reference.
- Taking into account the discussions held so far, it was decided that MIC be requested to give consideration to the following items, among others, in authorizing the Establishment Plans, and that this matter be stated in the report:
 - (1) Those authorized to establish the said stations shall be urged to promote the implementation of the items contained in the authorized Establishment Plans.
 - (2) Those authorized to establish the said stations shall be urged to promote the implementation of the items related to the plans for promoting the use of radio communications facilities by other telecommunications carriers.
 - (3) Those authorized to establish the said stations shall be instructed to deal in good faith and in a cooperative manner with those wishing to apply for licenses for fixed regional bands, including by providing related information.
 - (4) Those authorized to establish the said stations shall be required to give appropriate explanations of items (1) to (3) above, and whatever action is deemed necessary shall be taken if the progress of the said items is delayed.

As a result of conducting deliberations on the subject matter, it was concluded that it is acceptable to authorize the Establishment Plans of Company A and Company C. Subsequently, MIC explained that Company A, Company B, Company C and Company D were WILLCOM, Inc., Open Wireless Network Corporation, Wireless Broadband Planning K.K., and ACCA Wireless Co., Ltd., respectively. The Council submitted a report stating that MIC's draft conclusion of the subject consultation is acceptable.

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