

Radio Regulatory Council—927th Meeting
Summary of Minutes

1. Date and Time

Wednesday, January 16, 2008; 15:00–

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

(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)

Tanaka (Director-General, Radio Department), Ogasawara (Director-General, Information and Communications Policy Bureau), Kawauchi (Deputy Director-General, Minister's Secretariat) and others

4. Agenda

- (1) Draft MIC Ordinances to Partially Amend the Regulations for Enforcement of the Radio Law, the Rules for Radio Equipment and the Ordinance Concerning Technical Regulations Conformity Certification etc. of Specified Radio Equipment, as well as Draft Partial Changes in the Frequency Assignment Plan
(Consultations No. 37 and No. 39 of November 14, 2007)

The Council deliberated on the 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 etc. of Specified Radio Equipment, as well as Draft Partial Changes in the Frequency Assignment Plan, with reference to the written statements and written opinions (see the Written Opinions from the 439th Radio Regulatory Council Hearing) submitted by the hearing examiner who presided over the inquiry procedure, with the result that the Council submitted a report stating that the subject Draft MIC Ordinances and the subject Draft Partial Changes are acceptable.

- (2) Draft MIC Ordinances to Partially Amend the Essential Criteria for Opening of Radio

Stations (Excluding Broadcasting Stations), the Regulations for Enforcement of the Radio Law, the Regulations for Procedures for Obtaining a Radio Station License, and the Regulations for Operating Radio Stations

(Consultation No. 1)

MIC gave an explanation as follows on the development of relevant MIC ordinances concerning partial amendment of the Radio Law and the Telecommunications Business Law, both of which are in the category of laws whose amendment requires the Broadcast Law etc. to be partially amended.

Since a hearing on this matter is obligatory under Article 99-12, Paragraph 1 of the Radio Law, the Council appointed Shuichi Nishimoto to preside over the hearing as examiner.

○ MIC's Explanation

Partial amendments were made to the Radio Law and the Telecommunications Business Law, both of which are in the category of laws whose amendment requires the Broadcast Law etc. to be partially amended. The said amendments were promulgated in December 2007.

The first objective of the amendments to the Radio Law and the Telecommunications Business Law was to expand the experimental radio station system, thereby making it possible to test the efficiency of the use of radio waves and to establish radio stations for the purpose of surveying demand for the use of radio waves. The second objective is to create a system for arbitration and mediation pertaining to radio stations for the purpose of settling disputes between radio stations. The third objective is to make it possible to allow entities other than licensees and registered entities to operate registered radio stations with regard to emergency communications. The fourth objective is to establish items that are not required to be submitted to the Radio Regulatory Council for consultation.

The portions pertaining to the first to third objectives are scheduled to come into force on April 1, 2008 and the portions related to the fourth objective are scheduled to take effect on December 18, 2007.

It will become necessary to develop related regulations as a consequence of the abovementioned legislative amendments. Therefore, the subject matter was submitted for consultation.

In this case, with regard to the aforementioned first point, the essential criteria for establishing radio stations (excluding broadcasting stations) will be partially amended in relation to expanding the current experimental station system.

As for the second point, related regulations will be developed for the purpose of formulating provisions regarding works and so on that are intended to be performed by radio stations covered by the arbitration and mediation system that are to be newly introduced.

As regards the third point, the Regulations for Enforcement of the Radio Law will be partially amended in relation to the introduction of a system for changing radio station operators.

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

(Consultation No. 2)

MIC gave an explanation as follows on the amendment of the performance criteria for ship radars and the Draft MIC Ordinances regarding the imposition of the obligation to install radio equipment in high-speed rescue boats mounted on ships.

Since a hearing on the subject matter is obligatory under Article 99-12, Paragraph 1 of the Radio Law, the Council appointed Shuichi Nishimoto to preside over the hearing as examiner.

○ MIC's Explanation

The subject matter concerns the development of related domestic regulations in keeping with changes in international conventions for maritime radio communications.

In the first place, as regards the amendment of the performance criteria for ship radars, the current situations are such that Article 2 of the Vessel Safety Law makes it obligatory to install radars in ships over a certain size, and that the technical conditions for these radars are specified in the Rules for Regulating Radio Equipment. In 2003, the International Maritime Organization (IMO) began a review of the performance criteria for ship radars with a view further ensuring navigational safety. Furthermore, a meeting was held in December 2004 by the Maritime Safety Committee of the IMO with regard to internationally standardizing the method of displaying targets in radar indicators for the

purpose of reducing the burden imposed on navigators during the operation of radars. A resolution to amend the performance criteria for ship radars was adopted at this meeting, with the result that it was decided that on and after July 1, 2008 this amendment apply when radars are installed on ships or when existing radars are replaced with new ones. In light of this it is necessary to develop related regulations in Japan as well. Such being the case, the Rules for Regulating Radio Equipment will be partially amended.

The second point pertains to the imposition of the obligation to install radio equipment in high-speed lifeboats mounted on ships. “Rescue boat” refers to a kind of lifesaving device mounted primarily on a car ferry serving as a passenger ship and capable of achieving a speed of 8 knots (8 nautical miles per hour). It is used for the purpose of going to the rescue of crew members who fall overboard and also assumes the role of preventing lifeboats or life rafts carrying passengers from becoming separated from one another when they are drifting. In the meeting of the Maritime Safety Committee of the IMO held in October 2006, it was made obligatory for a waterproof radio device which can be used hands-free and which operates on international VHF band frequencies to be installed as standard equipment on every high-speed rescue boat. Such being the case, the Regulations for Enforcement of the Radio Law will be partially amended for the purpose of developing related regulations in Japan

(4) Draft Partial Amendment of the Frequency Assignment Plan

(Consultation No. 3)

Frequencies for fixed radio communications for commercial broadcasting are planned to be changed and it is intended that frequencies be secured for fourth-generation mobile communications systems and others. MIC gave an explanation as follows on the subject Draft Partial Amendment, which was formulated as a result of the above. After conducting deliberations on the matter, the Council submitted a report stating that the Draft Partial Amendment is acceptable.

○ MIC’s Explanation

The 3,456 to 3,600 MHz frequency band is currently assigned to fixed radio communications for commercial broadcasting. However, the said fixed radio communications will be assigned with a different frequency band. In addition, the Frequency Assignment Plan will be partially amended as a consequence of securing frequencies for fourth-generation mobile communications systems and so on.

At present, the 3,456 to 3,600 MHz frequency band is used by television broadcasters to transmit broadcast programs from studios to transmitter stations and to relay stations via fixed radio communications as well as to transmit program materials such as news images from newsgathering sites to broadcasting studios, also via fixed radio communications. Incidentally, following the evaluation of the radio wave use status survey conducted in fiscal 2006, there was a call for fixed radio communications for commercial broadcasting assigned the 3,456 to 3,600 MHz frequency band to be assigned a different frequency band, since frequency bands 6 GHz and less are suited to mobile communication systems including fourth-generation mobile communication systems. Furthermore, the Telecommunications Council submitted a report on the technical conditions for the new frequency band for the said fixed radio communications.

The description of the changes is as follows: Frequencies of 3.4 GHz and above will be assigned to fourth-generation mobile communication systems and so on. Regarding the 3,456 to 3,600 MHz frequency band, the deadline for the end of commercial broadcasting fixed services is set for November 30, 2012. The start date for the use of the frequency band by mobile services for commercial telecommunications is set for January 1, 2010.

Furthermore, as regards mobile services for commercial broadcasting, this opportunity is taken to delete the assigned frequency band on the grounds that there is no radio station for the said services within that band.

- (5) Blanket Licenses for Specified Radio Stations Belonging to KDDI Corporation and Okinawa Cellular Telephone Company
(Consultation No. 4)

MIC explained this matter together with Consultation No. 5, since the two consultations were related.

- (6) Blanket Licenses for Specified Radio Stations Belonging to SoftBank Mobile Corporation
(Consultation No. 5)

MIC explained this matter as follows together with Consultation No. 4, since the two consultations were related. After conducting deliberations on the matter, the Council submitted a report stating that the blanket licenses are acceptable.

- MIC's Explanation

This matter pertains to the blanket licenses for specified radio stations belonging to KDDI Corporation and Okinawa Cellular Telephone Company as well as to SoftBank Mobile Corporation. In specific terms, the said blanket licenses are those for low-power repeaters for mobile radio communications.

Low-power repeaters, which will be introduced to solve the problem of mobile phone dead zones, are capable of providing mobile phone reception to remote or blocked locations. As regards the related regulations for the introduction of this system, the relevant report was received at the Radio Regulatory Council meeting held on November 14, 2007, and the said regulations were promulgated and put into force on December 27, 2007. On this occasion, KDDI Corporation and Okinawa Cellular Telephone Company as well as SoftBank Mobile Corporation filed applications for blanket licenses.

As regards the contents of the applications, an examination was conducted with respect to the following required items: (i) it shall be feasible to assign frequencies in accordance with the provisions of Article 27-4 of the Radio Law; and (ii) the Essential Standards for Establishing Broadcasting Stations as specified in the pertinent MIC Ordinance shall be complied with. As a result, the contents of the applications were judged to be in compliance with all required items. Consequently, the issue of granting licenses to the said companies is submitted for consultation.

- (7) Formulation of the Criteria for Entitlement to Freedom of Expression Concerning Broadcasting Stations and formulation of the Ordinance Defining Exceptions to the Criteria for Entitlement to Freedom of Expression Concerning Broadcasting Stations on the Approved Broadcast Holding Company's Subsidiaries, as well as Draft MIC Ordinances to Partially Amend the Regulations for Enforcement of the Broadcast Law and the Essential Criteria for Establishing Broadcasting Stations

(Consultation No. 6)

MIC gave an explanation as follows on the development of systems accompanying the enforcement of laws requiring partial amendment of the Broadcast Law etc. Subsequent questions and answers were as follows.

Since a hearing on this matter is obligatory under Article 99-12, Paragraph 1 of the Radio Law, the council named Shuichi Nishimoto to preside over the hearing as examiner.

a. MIC's Explanation

In recent years, right at the time when progress is being made with regard to the digitization of broadcasting and with regard to the so-called fusion of communications and broadcasting, various tasks have emerged in the area of broadcasting due to the following reasons, among others: Firstly, there arose demands for large amounts of funds such as for the development of terrestrial digital television broadcasting relay stations. Then it became necessary to improve efficiency because of the tough business environment characterized by intensified competition on so on. Such being the case, the government proposed to the 166th Ordinary Session of the Diet the “Bill to Partially Amend the Broadcast Law etc.” on the basis of the “Agreement between the Government and the Ruling Parties on Regulatory Frameworks for Communications and Broadcasting” (June 20, 2006) and the final report (publicly announced on October 6, 2006) of the “Study Group for the Development of Digitization and Broadcasting Policy” (chaired by Hiroshi Shiono, Professor Emeritus at the University of Tokyo). This bill was passed and became law in the 168th Extraordinary Session of the Diet. The resulting law was promulgated on December 28, 2007.

The main contents of the MIC ordinances to be formulated in connection with the enforcement of this law are as follows:

In the first place, it was stipulated in Article 7, Paragraph 2, Item 4 of the new Radio Law that “the Criteria for Entitlement to Freedom of Expression Concerning Broadcasting Stations that are specified in the pertinent Ministry of Internal Affairs and Communications Ordinance shall be complied with,” by way of an examination item independent of Article 7, Paragraph 2, Item 4 of the conventional Radio Law, for the purpose of further clarifying the legal basis for the principle of decentralization of mass media in the amended Radio Law. In conjunction with the above, the portion of “the Essential Criteria for Establishing Broadcasting Stations” which corresponds to the principle of decentralization of mass media will be stipulated as an independent MIC ordinance titled “Standards for Entitlement to Freedom of Expression Concerning Broadcasting Stations.” Incidentally, concurrent implementation of medium wave broadcasting (AM broadcasting) and television broadcasting in one and the same broadcast coverage area is allowed at present by way of exception to the prohibition on management of multiple broadcasting stations by one entity. In this respect, measures will be taken to similarly allow concurrent implementation of ultra-shortwave broadcasting (FM broadcasting) and television broadcasting.

In the next place, as a consequence of the fact that the approved broadcasting holding company system was introduced in the amended Broadcast Law, the “Ordinance Defining Exceptions to the Criteria for Entitlement to Freedom of Expression Concerning Broadcasting Stations on the Approved Broadcast Holding Company’s Subsidiaries” will

be formulated by way of criteria for entitlement to freedom of expression applicable to relevant subsidiaries. In specific terms, any approved broadcasting holding company may be allowed to cause multiple general broadcasters to become subsidiaries under the following conditions, among others: (i) the broadcast coverage areas of terrestrial broadcasters who are subsidiaries shall, in principle, not overlap; and (ii) the number of terrestrial broadcasters who are subsidiaries shall, in principle, be 12 or less. In making calculations regarding broadcast coverage areas, in the case of any broadcaster whose broadcast coverage area consists of the large areas of the Kanto region, the Kinki region, and the Chukyo region, calculations will be made in such a way that the number of prefectures in a large area is regarded as the number of broadcasting stations. Namely, the number of key stations in the large Kanto region will be converted to seven, the number of sub-key stations in the large Kinki region will be converted to six, and the number of broadcasters in the large Chukyo region will be converted to three. If the upper limit of stations is set at 12, it will be possible, for example, to place under the umbrella a total of 12 stations, all of which are local stations, or to place a maximum of five local stations under the umbrella of key stations, the number of which is converted to seven. In this respect the number of stations of any broadcaster that concurrently performs radio broadcasting and television broadcasting is converted to one. Furthermore, the number of BS broadcasting stations will be counted separately from that of terrestrial broadcasting stations, and a broadcaster having a maximum of one station will be allowed to become a subsidiary. In the case of CS broadcasting stations, a broadcaster with a maximum of two transponders will be allowed to become a subsidiary.

Finally, it was stipulated in Article 52-35 of the amended Broadcast Law that with regard to the retention of voting rights of any approved broadcasting holding company by one entity, restrictions shall be imposed on voting rights that are in excess of the standard retention rate (the rate specified by the pertinent Ministry of Internal Affairs and Communications Ordinance within the limits of between one-tenth and one-third). As a consequence of this fact, a provision that the standard retention rate shall, in principle, be 33%, which is closest to one-third, will be newly provided in the Regulations for Enforcement of the Broadcast Law. However, if the said entity is a broadcaster or the like whose broadcast coverage area is one that overlaps the broadcast coverage area of a terrestrial broadcaster which is a subsidiary of any approved broadcasting holding company, then the said rate will be 10%. Furthermore, in order that instances of deviations due to the fact that multiple companies hold stocks separately will be prevented, it will be so arranged that entities forming parent-subsidiary or fraternal relationships or that have made agreements to jointly exercise voting rights or that have formed partnerships will be regarded as entities in a special relationship with the said entity, and that the voting rights

will be treated in such a way as to be included.

b. Key Questions and Answers

- With regard to the explanation that the number 12 would be set by an amendment made in relation to the subject in question, a question was asked about the extent of prospects for improvement in the management of broadcasters, who are constantly exposed to fierce competition and the like. MIC gave the following answer: The intention behind the current amendments to the Broadcast Law and the related MIC ordinances is to help improve the management environment within which broadcasters operate. How the approved broadcast holding company system will be utilized is ultimately up to the broadcasters themselves, but there are various possibilities. In connection with this, it is considered that the number 12 allows significant flexibility for utilization and it will be possible to adopt business management patterns that are compatible with the realities of individual enterprises, based on various combinations.
- With regard to the prohibition on management of three business types, a question was asked as to whether no newspaper company whatsoever can be founded under any approved broadcast holding company. MIC answered that the prohibition of management of three business types is strictly a restriction imposed in one and the same broadcast coverage area and therefore a newspaper company located in a broadcast coverage area that is different from the coverage area of a television broadcaster or a medium wave/ultra-shortwave broadcaster that is a subsidiary of an approved broadcasting holding company, can be made a subsidiary.
- A question was asked as to whether a newspaper company is included in the “one entity” that is the stockholder of an approved broadcasting holding company and whether restrictions are imposed on the basis of the standard voting right retention rate of 33%. MIC answered that this provision applies, in principle to, to all entities and therefore newspaper companies are also subject to restrictions based on the standard voting right retention rate of 33%.

(8) Draft MIC Ordinance to Partially Amend the Regulations for Enforcement of the Radio Law and Draft Partial Changes in the Basic Broadcasting Plan and the Plan for the Available Frequencies Allocated to Broadcasting

(Consultation No. 7)

MIC gave an explanation as follows on the development of systems accompanying the simultaneous relicensing of broadcasting stations in fiscal 2008.

Since a hearing on this matter is obligatory under Article 99-12, Paragraphs 1 and 2 of the Radio Law and Article 53-11, Paragraph 2 of the Broadcast Law, the Council appointed Shuichi Nishimoto to preside over the hearing as examiner.

○ MIC's Explanation

In this case, it is intended to develop the regulations pertaining to the relicensing of the broadcasting stations and broadcasting satellite stations belonging to NHK, the University of the Air Foundation and general broadcasters, whose licenses are scheduled to expire on October 31, 2007.

The big difference with conventional relicensing lies in the fact that as regards terrestrial analog television broadcasting, Article 7 of the Regulations for Enforcement of the Radio Law stipulates that the validity period of a license shall be five years for a broadcasting station or a broadcasting satellite station, whereas Article 9 of the said Regulations stipulates cases where a period of less than five years may be set as the validity period of a license. In the case of the relicensing to be performed this time, terrestrial analog television broadcasting is scheduled to be terminated by July 24, 2011. Therefore, the validity period of the next license will be a term less than five years, as counted from October 31, 2008. Consequently, the validity period will be shortened. Besides, it was decided that BS analog television broadcasting be terminated by 2011. However, the exact termination date has so far not been specified. Such being the case, it will be stipulated that the said termination date be July 24, 2011, which is the same as for terrestrial analog television broadcasting. Subsequently, the validity period will be shortened similarly to the case of terrestrial analog television broadcasting.

Furthermore, a system for calling for new broadcasters that to engage in terrestrial broadcasting, as well as a comparative examination method, will be introduced. This is because the "Three-Year Program for Promotion of Regulatory Reforms and Opening-Up to Public Sectors" (decided upon by the Cabinet on March 31, 2006) specifies as follows: "From the point of view of promoting competition in terrestrial broadcasting, the procedures for calling for new broadcasters shall be clarified. Namely, in dealing with competing applications, a clearer and more transparent comparative examination method shall be introduced whereby, for example, examination items shall be scored, and licenses will be awarded upon the basis of such scores. In addition, the results of decisions will be

publicly announced together with the particulars of examination.”

The first point of the amendments in this case is as follows: The license validity period is intended to be shortened in the partial amendment of the Regulations for Enforcement of the Radio Law, and, therefore, Article 9, Item 2 of the said Regulations will be amended so that the period up to July 24, 2011, which is the expiration date of the frequency allocation specified by the Plan for the Available Frequencies Allocated to Broadcasting, will be specified as the said license validity period.

The second point is official notification to the effect that applications for relicensing and new licensing pertaining to terrestrial broadcasting stations will be accepted. The said official notification concerns radio stations that are to be officially notified of the period of acceptance of applications for relicensing and new licensing pertaining to terrestrial broadcasting to be filed in connection with the introduction of comparative examinations related to terrestrial broadcasting stations. Thus the provisions for relicensing radio stations to conduct terrestrial broadcasting will be deleted, provided that the said radio stations are not required to file applications within the officially notified period stipulated in Article 6-4 of the Regulations for Enforcement of the Radio Law.

The third point is matters such as partial simplification of the official notification procedures pertaining to satellite broadcasting stations. It will be so arranged in Article 6-4, Item 9 of the Regulations for Enforcement of the Radio Law, that if a radio station is already established for an already launched satellite, and if a publicly notified license is applied for the said radio station, and if a broadcasting station for the said satellite is intended to be newly established, then official notification will not be required for the said broadcasting station.

It is stated in the Basic Broadcasting Plan that terrestrial broadcasting will be changed over to digital broadcasting early enough and smoothly. In the partial changes in the said Plan, the changeover timing is expressly stated as being July 24, 2011, which is the termination date of terrestrial and BS analog television broadcasting. Moreover, the statements in the said Plan, which focus on analog broadcasting, will be reworded to make digital broadcasting the focus.

Furthermore, from the point of view of developing an environment where present-day viewers of analog broadcasts will be able to view digital broadcasts without disruption, it will be so arranged that by 2010, digital broadcasts can be received in areas equivalent to those where analog broadcasts are currently received, and that broadcasters will conduct, as

much as possible, broadcasting that utilizes the features of digital technologies, prompting a full-scale transition to digital broadcasting.

With regard to the Plan for the Available Frequencies Allocated to Broadcasting, development of regulations is intended to be carried out in connection with the amendment of the Basic Broadcasting Plan. Such development includes the deletion of regulations for analog broadcasting and the like for which hardware and software are in agreement with those for satellite broadcasting, which has already been terminated.

(9) Others

MIC reported on the status of the study underway by the Study Group on Broadcast Retransmission by Cable Broadcasters and on the trends of IPTV.

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