

Telecommunications Business Sub-Council, Telecommunications Council
Study Group on a Comprehensive Legal System for Communications and Broadcasting
(16th Meeting)
Minutes of the Meeting

1. Date and Time

Tuesday, May 12, 2009; 17:00–18:20

2. Location

Special Conference Room 1, 8th floor, MIC

3. Attendees (honorifics omitted)

(1) Sub-Council Members

Yasuo Hasebe (Chair.), Shin Ito, Teruyasu Murakami, Tetsu Negishi, Makoto Ando, Kazuko Otani, Hitoshi Okada, Minoru Sugaya, Kazuteru Tagaya, Kazunori Miki Osada, Ichiya Nakamura, Masayuki Funada

(2) MIC Representatives

Yamakawa (Director-General, Information Dissemination Management Bureau), Sakurai (Director-General, Telecommunications Bureau), Totsuka (Director-General for Policy Planning), Kubota (Deputy Director-General, Information and Communications Policy Bureau), Sakamoto (Deputy Director-General for Information and Communications Policy Bureau), Takeuchi (Director-General, Telecommunications Business Department), Yoshida (Director-General, Radio Department), Yoshida (Director, Broadcasting Policy Division), Takeda (Director, Satellite and International Broadcasting Division), Hiraguchi (Director, Regional Broadcasting Division), Watanabe (Director, Radio Policy Division), Taniwaki (Director, Telecommunications Policy Division), Akimoto (Senior Planning Officer for Fusion Strategy)

4. Agenda

(1) Opening

[Hasebe] Now, it's time to open the meeting. I'd like to hold the 16th Meeting of Study Group on a Comprehensive Legal System for Communications and Broadcasting by the Telecommunications Business Sub-Council, Telecommunications Council. Thank you for joining the meeting today. I've heard that Murai, Kiyohara, Niimi, Kimurua, Kokuryo, Hamada, Fujiwara and Yamamoto are absent today on account of their business.

Well then, I'd like to expedite the proceedings to discuss the direction of reviewing the content discipline today. First of all, I'd like the secretariat to confirm today's documents.

[Akimoto] Let me confirm the documents at hand please. After the 1st page of the meeting program, I have document 1, a summary of the minutes of the previous meeting, and document 2 of 39 pages with a title of "Content Discipline in a Comprehensive Legal System for Communications and Broadcasting." Also, I have reference document 1 as the agenda to review, and reference document 2 as a summary of intermediate issues given in June 2008. That's all.

[Hasebe] As you see, everyone, document 2 is considerably voluminous one. First of all, I'd like to discuss and review page 1 to page 16 of the "discipline for ensuring constant media services."

Everyone, please listen to what the secretariat talks about on page 1 to page 16.

(2) Direction of reviewing content discipline

a) Media service coverage, basic concept of media services and discipline for ensuring constant media services

[Akimoto] I'm going to explain document 2. the content discipline has been discussed at the study group meeting before the previous one and the meeting held on April 2. At the latter one, issues were presented in a question form. In other words, we stated positively using affirmative sentences to make our position secure. The rest of the issues are described in a question form.

Then, please take a look at page 2 about media service coverage. Basically, we describe confirmation of the current system on the upper half of this page and how we maintain the discipline of a new legal system on the lower half. I'm going to mainly explain the shaded part on the lower half.

As for the media service coverage, it is defined that the broadcast characteristic coming from the act of "telecommunications transmission aiming to be directly received by public" will remain unchanged in a new legal system as well.

On the other hand, with respect to including communication similar to general broadcasting by Internet in the existing comprehensive legal system, we invited public comments on that issue last summer and also conducted hearings from more than 20 relevant business entities last fall. Consequently, we had many critical or conservative opinions and concluded in the document that there was no need to change the existing concept.

In the current comprehensive legal system, it is therefore appropriate to limit the media service coverage to the so-called conventional broadcasting and to separately address illegal or harmful information of public communication content as required.

Now let's go to page 4, "basic concept of consolidating or roughly categorizing content discipline" with regard to basic idea of media services. I'm going to explain the shaded part on the lower half. As for the content discipline, it is appropriate to consolidate or roughly categorize the current four acts relating to broadcasting in terms of common ground of broadcasting discipline.

On the other hand, Provider Liability Limitation Law is a civil liability limitation law that is different in discipline object or content from four relevant broadcasting laws. We think it is appropriate to discuss the advisability of consolidation or rough categorization while seeing the description of content discipline after consolidating or roughly categorizing four relevant broadcasting laws.

On that basis, we think it is reasonable to discuss consolidation or rough categorization of the entire legal system including transmission equipment discipline or transmission service discipline from a technical viewpoint of legislation. Let's go to page 5. This page shows how to set an object of media service discipline. Broadcasting plays an important role in cultivation, education, press, entertainment and advertising media, including healthy development of democracy to offering of specialized information from a national and regional point of view. If the media service coverage was limited to broadcasting, it would be difficult that such a function or role changes quickly.

We think it is appropriate to define a purpose in a new legal system so that that such a function or role can be properly reserved and provided. To do so, the new legal system should be based on the purpose definition of Article 1, Broadcast Law, among the above-mentioned four relevant broadcasting laws. With respect to individual rules, it should be necessary to flexibly tailor broadcast or media service itself to the environment where content delivery services are diversified with the increase in broadband capability. With regard to how to flexibly address that matter, let's go to the next subject. Please take a look at page 12. The Basic Broadcasting Plan stipulated in Broadcast Law is introduced in the current situation part on page 12. In order to ensure diversity or multiplicity, the Basic Broadcasting Plan written in Ming script defines a numeric target in a broadcasting system on a target area basis according to a type of broadcast media, such as TV or radio, or to a type of entity, such as public or private broadcast. In particular, offering of regional information is reserved by defining a target area.

It is difficult that a function or role of broadcasting changes quickly in the new legal system. It is therefore necessary to securely ensure a certain degree of function or role in future. In this

document, we describe the need of a future framework like the Basic Broadcasting Plan because we think broadcast programs should not be transmitted only from Tokyo.

However, such a target or description should not be the same as at present and should be reviewed. In respect of what you should do, please go to page 14.

This point is to discuss whether to make a framework for ensuring broadcasting in the new legal system or not. As information communication becomes sophisticated, broadbandized and digitized, content distribution also has been more diversified. The function or role of broadcasting to be securely ensured as a system should be captured so that the people can widely enjoy the advantage of sophisticated broadcasting. This is one of important points. Moreover, there are some frequencies useful for broadcasting. Considering the necessity to ensure fair use of such frequencies and the neutral broadcast program compilation by the useful broadcasting frequencies, we think it is appropriate to determine broadcasting to be targeted for the Basic Broadcasting Plan in the document. Specifically, broadcasting should address the diversified or sophisticated information demands of the people on a national and regional basis in various approaches, including (1) healthy development of democracy, (2) improvement in cultural or educational standards and offering of entertainment, and (3) offering of specialized information. This is a primary point. The second point is that broadcasting should securely and properly play a significant role in eliminating reception interference and correcting inter-regional gaps.

In the document, we have adopted a framework to promote fair use of such frequencies that are advantageous to broadcasting. Being given this perspective, terrestrial broadcasting is completely included in the Basic Broadcasting Plan under the current law, for instance. To flexibly use radio waves, we discussed that radio stations for communication business reviewed at the meetings for transmission facility discipline should be enabled within a certain range. Please discuss and review the following sentences written in a question form: Is it acceptable to exclude broadcasting to be provided through flexible use of radio waves from the Basic Broadcasting Plan? Is it considered acceptable to exclude general satellite broadcasting from the Basic Broadcasting Plan?

Furthermore, the opposite descriptions are also provided in the document. Broadcasting to be securely assured is defined in the Basic Broadcasting Plan. Radio stations that implement broadcasting according to the Basic Broadcasting Plan should be allowed to use radio waves flexibly so that broadcasters can expand their business activity options and develop a new business tailor to users' demands within the range that the function and role of the broadcast are not obstructed. At the meetings of transmission facility discipline, we discussed the possibility of using broadcasting radio stations for the purpose of the telecommunications business, for example. We focus on the point of flexible use of radio waves.

Another point of discussion and review is the possibility of ensuring regional information while proceeding with discussions with regard to selective expansion of target broadcasting areas on a certain level.

Pages 15 and 16 show the introduction of the relations among the current frequency assignment plan, Basic Broadcasting Plan and plan for the available frequencies allocated to broadcasting. I omit this briefing because the document has been also submitted at the Sub-Council meeting held on April 2. That's it for my briefing of up to page 16.

[Hasebe] Thank you very much. Based on his briefing, I'd like you to exchange your opinions. I think the information given on page 14 and so on can be a key point, especially. Do you agree with me?

[Nakamura] I remember service layers were discussed toward integration at the previous meeting. The consolidation and rough categorization of four relevant broadcasting laws are mentioned on page 4 in this document. I think this is the best possible consolidation method, and acknowledge that it will be a significant step forward if the method is implemented. Page 14 shows the possibility of flexible use of radio waves by narrowing down and clarifying an object of the Basic Broadcasting Plan. I also think this is adequate. In such a case, with respect to other broadcasting media to be excluded from the Basic Broadcasting Plan, I consider that it will be an important point to take easing steps or issue a message, such as establishment of a broadcast program rule, decentralization of mass media, or making a difference between those things.

That's it for my comment.

[Hasebe] Thank you very much. How about his opinion?

[Murakami] I agree with him. I'd like to verify the descriptions at the previous part. Limiting the media service coverage to conventional "broadcasting" is described clearly at the bottom of page 2. I understand that public communication discipline is individually addressed as requested, without being discussed in the framework of this comprehensive legal system. For example, the services that distribute broadcasters' content to networks in U.S.A. will not be included in public communication as media services to be discussed in the comprehensive legal system. If so, I think broadcast content on the communication side have various degrees of freedom. In such a case, my view is that similar broadcast content on the Internet will have a significant degree of freedom in the content fusion that is one of various types of communication and broadcast fusion. Am I right?

[Hasebe] I think he has a confirmation request. Is it right?

[Akimoto] Basically, there is no rule on similar broadcast content in the Internet. I understand that secrecy of communication and freedom of expression will be esteemed rather than such a rule. However, I would say illegal information or harmful information has been addressed

separately since the 1990s. The possibility of continuing the approach to taking such an individual action is described in the document.

[Murakami] It's my understanding that when broadcast content becomes public communication content, public communication content discipline will be applied. Am I right?

[Akimoto] Yes you are.

[Tagaya] In such a case, that content is not handled as broadcast in terms of copy right Part of the content is blacked out like it has been actually done, in terms of portrait rights. Except for it, there is no rule at all, isn't there?

[Hasebe] In that respect, I think operators will develop business under their free initiative and differentiate their services.

[Sugaya] I think the expressions given on page 12 are acceptable with respect to the necessity of the Basic Broadcasting Plan. The last sentence of "However, objects and expressions should be discussed again" is described at the bottom of this page. So, I don't understand well how the present situation on page 16 changes. My concern is that the Basic Broadcasting Plan is basically applied to radio application. The plan has not been so far applied to wired application. In terms of the concern of how the Basic Broadcasting Plan is positioned when you consider a rule or framework for each layer. Looking at page 16, for instance, community broadcast and community FM appear at the bottom of VHF broadcast. As similar information, there is a local community broadcast in wire telecommunications services. I feel it is strange because the basic plan is applied to one but is not applied to the other.

Moreover, it's my understanding that a non-linear service, such as NHK on-demand service, is not included in the wire telecommunications services. How about my view?

[Hasebe] Sorry, please tell me your last question again?

[Sugaya] There are archive services or rerun services provided by NHK, such as NHK on-demand service. It's my understanding that such services are kept out of the discussion though many people watch them.

[Yoshida] The NHK on-demand service as you mentioned is not of broadcast type. In such a sense, it is out of the discussion.

[Sugaya] I see. If so, the service for retransmitting terrestrial broadcast, special satellite broadcast programs or part of general satellite broadcast programs might be included in cable broadcasting.

I think the retransmission service is a main service and the wire telecommunications services might have more linear services, such as retransmission of terrestrial broadcast or other satellite broadcast programs. I wonder how community broadcasting services are positioned under such circumstances. I feel this point is not cleared in the document given today and remains a matter of discussion.

[Hasebe] I see. Thank you very much.

[Tagaya] I understand that community broadcast is included in the Basic Broadcasting Plan as a broadcast on the left hand.

[Sugaya] This is a radio, isn't this?

[Tagaya] Yes.

[Susgaya] I'm not talking about radio. I'm saying cable TV broadcasters have many community broadcast programs.

[Tagaya] I see what you are talking about.

[Sugaya] Also, some cable TV broadcaster is operating community FM. I think you should sort out these categories more clearly.

[Tagaya] I agree. The Basic Broadcasting Plan is intended to regulate hardware and content made by it. Even though the content is used with the satellite telecommunications service or wire telecommunications on the right hand, it could be OK because it is regulated on the left hand. However, if cable TV is operated at its discretion in cable broadcasting, the only question will come out. In other words, probably, there will be the question that the Basic Broadcasting Plan is not applied to the voluntary broadcast part of cable TV.

[Nakamura] I focus on the opposite point of discussion when reading this part. As described on page 14, every terrestrial broadcast is covered by the Basic Broadcasting Plan. In the document, general satellite broadcasting is excluded from the plan but there is no problem about it. I think it is asked whether it is appropriate to include a community broadcast in the Basic Broadcasting Plan continuously if general satellite broadcasting is excluded as well as cable broadcasting.

[Sugaya] I think either of the matters is debatable.

[Hasebe] As Mr. Nakamura mentioned, this style of writing shows how flexibly the Basic Broadcasting Plan can be operated. I'd like you to understand it in such a direction.

[Tagaya] In the current systems, every broadcast is transmitted from terrestrial broadcasting networks. If a framework for distributing something like a home box office in U.S.A is run only in cable broadcasting, it will be discussed as a future issue. However, I think you don't have to incorporate it into the Basic Broadcasting Plan in the present situation.

[Hasebe] I think it's true that there some issues to solve. What do you think? Are there any questions about suggestions or raising issues from the secretariat? Thank you very much. I'd like to go to the discussions and review of corporate structure discipline and broadcast discipline. Please listen to what the secretariat explains on page 17 to page 25

b) Corporate structure discipline and broadcast discipline

[Akimoto] Before going to page 18, please take a look at page 19. In the current four relevant broadcasting laws, business types are defined by broadcast type. For terrestrial broadcasting, a company that wants to open a broadcast station acquires a radio station license first and then should be authorized as a broadcaster under the Broadcast Law. With respect to facility-/program-supplying broadcasters in satellite broadcasting, a facility-supplying broadcaster should acquire a radio station license under the Radio Law and a company that wants to do program-supplying broadcast business should be authorized under the Broadcast Law. A pair of the authorized program-supplying broadcaster and the facility-supplying broadcaster licensed under the Radio Law share broadcasting services.

As for broadcast on telecommunications services, the services of telecommunications carriers are used in whole or in part to conduct broadcasting, irrespective of wire or radio. This is legally stipulated because it is expected to share the services for broadcasting.

For cable TV broadcasting, there is a matching structure that provides cable TV broadcast business by placing facilities. If a channel lease system is used, it becomes possible that another cable TV broadcaster use cable TV broadcasting facilities to implement broadcasting. This is a separate structure. In the current situation, matching and separation are individually stipulated under the law.

Please confirm this part and go to page 18. As a discipline in a new legal system, please take a look at the second item of “Is it appropriate to expand management options of a broadcaster in the new legal system.” One condition of “taking institutional measures so that broadcast to be covered by the Basic Broadcasting Plan can be implemented without interference” is added to this item. We keep in mind that we should maintain a discipline imposed upon facility-supplying satellite broadcasters, such as a discipline that services must be provided for authorized broadcasters.

Taking these measures, we keep the system in mind that broadcasters can choose matching or separation. In the document, we think it is appropriate to expand options.

For your reference, page 20 summarizes the past opinions of the National Association of Commercial Broadcasters in Japan with respect to corporate structures.

Please look at page 22, which shows the broadcast discipline. In the new legal system, broadcasting has a great social impact in terms of its transmission characteristics, that is, transmission operation aiming at direct reception by the public. And radio broadcasting uses limited sparse frequencies and undertakes a certain function or role. Therefore, nobody can eliminate a broadcast discipline completely. It is necessary to keep such a discipline continuously. However, if the discipline is applied to a new broadcast to be implemented through flexible use of radio waves, we will discuss its rationality.

How you discuss rationality is described on page 23. Before that, I'd like to confirm the current system on page 24 or later. Although this is the document submitted to the Sub-Council on April 2, please let me confirm the document, in just cast. This table shows the outline of the broadcast discipline from Article 3, Broadcast Law to Article 52-27. The discipline that is applied to every broadcast is the freedom of compilation of broadcast programs. Broadcast program standards, public security, good morals/ manners, political impartiality, broadcast news without distorting facts, and the point of issue to be classified are also applied to every broadcast.

Please go down the table. In Article 4, the system for correction/cancellation broadcasting is also applied to every broadcast.

Moreover, the discipline given in Article 6, Broadcast Law is applied to every broadcast, which means that other broadcasters' consent shall be obtained whenever their broadcasts are retransmitted.

The next is a candidate broadcast based on the political fairness of the broadcast program standards. There is a discipline that any broadcasters must do a campaign broadcast for elective public office under the same conditions when there is a request from other candidates if any. Nevertheless, some broadcast program standards are not applied to a certain broadcast which is pointed out by a cross mark. The shaded part indicates the difference in broadcast type, particularly. The point of discussion is whether the difference is rational or not.

Please take a look at page 25, which explains the principle of harmonization of broadcast programs, falling under Article 3-2 (1), Broadcast Law. According to this provision of the Law, any broadcaster shall, in compiling the broadcast programs for television broadcasting, maintain harmony among the broadcast programs, except those provided in accordance with a special business project, by providing a general cultural or educational program, as well as news and entertainment programs.

In addition to the four categories of culture, education, news and entertainment, the MIC Ordinance has two more categories of advertisement and others. According to the license procedure rules based on the Radio Law, an application form shall be submitted. Also, broadcast time and rate shall be verified. Due to the voluntary and autonomous content discipline, what category individual broadcast programs are classified is left to the judgment of a broadcaster.

Please look at the words balloon to verify results. Some broadcasters classify a shopping program into "culture," "entertainment" and "others."

After confirmation, please go to page 23 Broadcast program disciplines. The broadcast program standards enclosed in the box are considered necessary. For other broadcast program disciplines, it is appropriate to reconfigure individual broadcast program disciplines according

to the direction based on the functions or roles of broadcasting media. With regard to a new broadcast to be implemented through flexible use of radio waves, broadcast program discipline tailored to it should be discussed and reviewed.

Specifically, please take a look at the concept example, a direction mentioned below is possible. The first item is described keeping terrestrial broadcasting in mind, which is covered by the Basic Broadcasting Plan. As for the broadcasting expected to play a function or role in “forming the current social foundation,” “improving cultural and educational levels,” and “providing entertainment,” the first sub-item indicates that all of the present broadcast disciplines are basically maintained focusing on the principle of harmonization and broadcasting in the event of a disaster. Based on the principle of voluntary and autonomous broadcasting, broadcasters should disclose their broadcast program rate by themselves so that the expected functions or roles of broadcasting can be fully exerted.

In response to the increasing recognition of social issues to recent shopping broadcast programs, it is considered that harmonization among broadcast programs can be reserved, while discussing whether such shopping programs are included in advertisement broadcasting or not.

The next item indicates the description focusing mainly on special satellite broadcasting, which is covered by the Basic Broadcasting Plan. Playing a role in forming the foundation of the present society” is entrusted to the voluntary will of each broadcaster. In terms of loosening up unnecessary disciplines when the entire broadcasting media plays a function or role mainly in providing specialized information in order to keep various broadcast programs, the review of such broadcast disciplines is suggested.

As for other broadcasting out of the Basic Broadcasting Plan, the last item indicates the elimination of as many differences between broadcast programs as possible in order to standardize their levels.

That’s it for my briefing of up to page 25.

[Hasebe] Thank you very much for your briefing. In response to his briefing, I’d like you to exchange your opinions.

[Sugaya] As mentioned on page 23, I think the concept of classifying broadcast programs into two categories: one that is targeted by the Basic Broadcasting Plan and the other that is not targeted.

As for the community broadcast mentioned previously, I think there is a little gap between cable and radio broadcasts, and it should be unified.

I have one more thing to tell you. I agree about the necessity to disclose broadcast program harmonization and information. Moreover, as I mentioned about the consultative organization on broadcast programs, it think information disclosure will become very important whenever

the consultative organization on broadcast programs verifies all broadcast programs, including those which are not covered by the Basic Broadcasting Plan.

[Hasebe] Thank you very much. Anyone else?

[Ooya] I have comments on the concept of broadcast program standards on page 23. Though broadcast program standards are not described clearly, the first item refers to terrestrial broadcasting with regard to broadcasts targeted by the Basic Broadcasting Plan. It is assumed that broadcast program standards are naturally applied to terrestrial broadcasting. Mentioning about providing specialized information, the second item indicates that the Basic Broadcasting Plan is applied in terms of impartial use of limited frequencies. I think I can agree about the idea of introducing a flexible concept, such as distinguishing how to handle the principle of harmonization, on the assumption that broadcast program standards are basically applied. I'd like to ask the Secretariat to confirm that point. In my opinion, it is assumed the broadcast program standards should be basically applied to special satellite broadcast continuously. So, this is my question about confirmation on page 23.

I have one more comment on the second institutional measures of the new legal system on page 18, which are used to implement broadcasts to be targeted by the Basic Broadcasting Plan. I think the concept of broadcasters given on page 20 will serve as a very useful reference. In the sense of promoting the measures for ensuring the freedom of compilation so that broadcast program organization is not disturbed, those for keeping broadcasting in case of a disaster or an emergency, and institutional measures for maintain the concept of voluntary and autonomous content discipline, you should consider those institutional measures. This is my opinion.

[Hasebe] He asked a question on the first half. How about this question?

[Akimoto] As Ms. Otani pointed out, the document on page 23 was well considered on the assumption that broadcast program standards should be applied to every broadcast continuously. Is that OK?

[Funada] Whether or not a broadcast program is targeted by the Basic Broadcasting Plan, the plan is applied to all programs. And whether or not special satellite broadcasting or general satellite broadcasting is used, broadcast program standards will be applied to every broadcast program. Is that OK?

[Akimoto] The document was made in consideration of what he explained.

[Otani] Thank you for your confirmation.

[Hasebe] Mr. Funada, is there any question about that?

[Funada] I remember now that someone talked about a party broadcast at the previous Sub-Council meeting. Am I right? Although a specific subject is not preferable at this meeting, I just remember when I'm listening to Ms. Otani's question, because political impartiality is

required to apply the broadcast program standards to party broadcast programs by broadcasting on radio telecommunications service or general satellite broadcasting, especially.

[Akimoto] At the Sub-Council meeting held on April 2, we provided the document on satellite broadcasting to discuss how you recognize a party broadcast or religious broadcast in general satellite broadcasting, for example, when you were talking about it.

[Funada] OK. Though you focus on political impartiality, a question about how you handle it would remain. However, I think I should not discuss it any more today.

[Hasebe] Thank you very much. How about his opinion?

[Murakami] I have a question about classification of the principle of harmonization of broadcast program on page 25. Some of shopping programs are classified into culture and some into entertainment or others. Also, quiz programs are classified into entertainment or culture, though not into education, I suppose. Specifically, such programs are not classified consistently. The first item on page 23 contains two sub-items. I think not only a degree of harmonization but also classification standards should be disclosed in pairs in order to carry through the principle of harmonization of broadcast programs.

[Hasebe] Mr. Funada, please answer his question.

[Funada] I think the same issue should be discussed. However, I have a question about how realistic is the disclosure of classification standards as you mentioned. I think it is very admirable that the sentence of organizing the range of advertisement broadcasting on page 23 was submitted as a draft. As shown on page 24, advertisement broadcasting is identified under Article 51-2 as an advertisement program. If not so, is it identified as another program? I think this is a very important rule for the benefit of viewers or general consumers. If a shopping program was defined under 51-2, apparent hollowing could occur, because a shopping program is not defined as an advertisement broadcast program. Broadcasters have so far defined the principle of harmonization of broadcast programs freely because it is not appropriate that the government power defines education or culture. Consequently, however, a shopping program is categorized into culture or education other than advertisement. In my personal opinion, it appears to be obviously unusual. Setting aside the question of whether it should be solved at the Sub-Council or not, I commented that it was significantly questionable. I think the today's meeting is a step forward because this issue is disclosed in the document, and moreover, it should be further discussed from the consumer's point of view, especially, with regard to how it will be handled.

[Hasebe] Osada-san, do you have any comment?

[Osada] In response to Mr. Funada's encouraging words, I'd like to say one word about it. For instance, when I read a magazine or something, I often have a question about whether this is identified as a PR subject or not. If a TV station took some benefits on introduction of a

product in broadcast programming, there would some part where we should look on it from a biased viewpoint. It is necessary to isolate such a program from an ordinary information program. However, nobody knows clearly where it is. I think this is a very big problem because it is really combined with the program perfectly. In my opinion, the range of advertisement broadcasting should be clearly sorted, though I don't know what field is appropriate for it. And the rate should be voluntarily disclosed.

[Hasebe] As Mr. Funada mentioned, I think it is significantly difficult to indicate a clear standard, but someone may show us an idea voluntarily. In particular, shopping programs are commercial expressions in terms of constitutional law. I also feel that there is something to consider about a concept of protecting freedom of expression, though you usually compromise on that matter entirely.

Mr. Negishi, would you make a speech please.

[Negishi] I have two things to say. In the document, it is recommended to a degree (rate) of harmonization. I think it is necessary to show more clearly what the purpose of disclosing a degree of harmonization is. I can understand that broadcasters intend to do by themselves according to voluntarism without making restrictions, or keep autonomy in other words. And the selection of viewers also comes into question, I suppose. I repeatedly talk again. I consider the necessity to show the purpose or effect of disclosure more clearly. What does "on this occasion" mean in the document? Does it mean what I mentioned above? The corresponding part of the second sub-item says "on this occasion, it is considered" Does it mean that that matter is considered under the principle of voluntarism or autonomy? Or do you think something different from it or beyond it, though there are a little bit tighter restrictions. This is my question.

[Hasebe] Anyone, please answer his question about "on this occasion."

[Akimoto] I'd like to answer his questions. With regard to what the purpose of disclosure is and why such disclosure is done according to the discipline of voluntarism and autonomy, as he pointed, out, we considered the institutional design of means of disclosure may be possible in terms of freedom of expression, voluntarism and autonomy as well as of protection of consumers in balance. That's why this discipline was adopted.

With respect to why disclosure is done, I go back to the box or the first item of the concept example for explanation. The first item is described keeping terrestrial broadcasting in mind, which is covered by the Basic Broadcasting Plan. As for the broadcasting expected to play a function or role in "forming the current social foundation," "improving cultural and educational levels," and "providing entertainment,"

We think it is required as institutional design to disclose to viewers what kind of broadcast program is provided under the discipline of voluntarism and autonomy in order to implement such a function or role, though this is an indirect technique.

Therefore, we adopted such descriptions. Are you satisfied with my answer?

[Negishi] What does “on this occasion” mean?

[Funada] I’d like to ask one thing, that is, the purpose or characteristic of disclosure. I think a sort of strong accountability is imposed on broadcasters. Although broadcasters say they can use freedom of broadcasting, I think they are required to explain why they classified this broadcast program into culture because they finally broadcast their programs for general consumers or general views as a role. As an expletive theory, I think the reason of disclosure is broadcasters’ social responsibility if asked.

[Hasebe] How about the explanation of “on this occasion”?

[Akimoto] I have just explained the possibility of such an institutional design for disclosure. The reason for using the word “on this occasion” is that we should consider how shopping broadcast programs are positioned or what category would or should be used for the programs, while organizing the relations with advertisement broadcasting in case of doing institutional design of disclosure.

[Negishi] I have some comments on what you mentioned, that is, the second item of the discipline of the new legal system given on page 18. I think it is basically very important for broadcasters to enable new development. Therefore, I feel it is appropriate to expand management options as mentioned here. There is another opinion that expanding options may cause negative effects or problems. I think it is necessary to verify whether expansion of management options is a real problem or not. If the expansion may actually cause such a problem, we should take measures against it. In my opinion, this is a preferable direction.

[Hasebe] Thank you very much.

[Nakamura] As for the same part on page 18, that is, management options, I think institutional design will become significantly tough if options for hardware/software matching/classification are introduced for both cable and radio. If institutional design is conducted in such way, I think this will be a big challenge of review as much as flexible use of radio waves. From an institutional viewpoint, this will be straightforward easing of regulations, thus allowing enterprises to expand their business strategies. As many reactions can be seen on page 20, in some cases, tightening of regulations or restructuring may be suggested reflexively. I think it will be necessary to make polite explanations and detailed design in order to eliminate the concerns of relevant industries.

[Hasebe] Thank you very much. Are there any other questions on this point of discussion?

Thank you so much.

I'd like you to discuss and review the standards for entitlement to freedom of expression. The Secretariat, please make briefings on pages 26 to 32.

c) Standards for entitlement to freedom of expression

[Akimoto] now, I'm going to start my briefing. Points of discussion are summarized on page 27. I'm afraid this subject may overlap that at the meeting before the previous one. First of all, I'd like to make a simple review of the summary of the current system. Then, I'm going back to page 27.

Please open page 28. This page shows a table of the standards for entitlement to freedom of expression concerning broadcasting stations. The upper box shows the main principle. Basically, as for terrestrial broadcasting, one cannot dominate two or more terrestrial broadcasters: As for satellite broadcasting, one cannot dominate broadcasters for a certain number of transponders: As for cable broadcasting, a terrestrial broadcaster with an overlapping business type cannot dominate broadcasters that operate cable television broadcasting.

What is dominance is described in Note 3. There are two cases where broadcast target areas are overlapped and where not overlapped. In the former case, exceeding 1/10 is considered dominant. In the latter case, there is a rule that it is impossible to hold voting rights of more than 1/5. There are individual exceptions. The figures given in the rule of mass media decentralization are defined under the MIC Ordinance.

Please go to page 29. This is also the document submitted to the meeting before the previous one, stipulating the number of broadcasting stations that can make a subsidiary under a holdings company by organizing the approved broadcasting holdings company system in order to expand management options due to the Broadcast Law and Radio law that were partially amended two year ago. As for terrestrial broadcasting stations, there is a provision that limits the number of broadcasting stations up to 12, which is found in the light-yellow shade at the lower-right corner of page 29. Individual key stations are provided in counting method. Special and general satellite broadcasting businesses are stipulated on a transponder basis.

Please go to page 30. The law did not have basis provisions concerning the principle of mass media decentralization. The standards for entitlement to freedom of expression are stipulated in the MIC Ordinance titled "Essential Standards for Establishing Broadcasting Stations."

When the Radio Law was amended two years ago, the basis for standards for entitlement to freedom of expression was stipulated in its Article 7 (2)-iv). The MIC Ordinance was made independent of the Essential Standards for Establishing Broadcasting Stations" and another MIC ordinance was published as the standards for entitlement to freedom of expression.

Next, please go to page 31. This document shows how frequently amendments have been made, picking up the major background of amendments of the Essential standards for Establishing Broadcasting Stations since September 1988. Amendments have been made frequently and continuously, sometimes twice or more a year.

Now go to page 32, please. This page introduces the ban on the dominance of so-called three businesses in the standards for entitlement to freedom of expression. As a rule, the dominance of three businesses including television, radio and newspaper is banned in accordance with the principle of mass media decentralization. However, it is allowed when exclusive distribution of news or information is not conducted. The provision of Article 4 of the current standards for entitlement to freedom of expression stipulates the “case where exclusive distribution is not conducted.” With regard to what this case means, discussions were made in the Diet.

Sorry to bother you, please go back to page 30 a little while. An addition resolution was put in the House of Councilors when the Broadcast Law was amended two year ago, With respect to cross-media regulations, so-called dominance of three businesses, the resolution means “the principle of mass media decentralization shall be comprehensively discussed in the legal system for communications and broadcasting so that the diversity of expression is not damaged by dominating multiple information media.” The confirmation and discussions of the current system concerning the principle of mass media decentralization were introduced on page 28 or later.

After that, please go to page 27 showing what to do in the new legal system. The first item of General shows that it is adequate to discuss easing of the principle of mass media decentralization within the range of not greatly affecting the assurance of “pluralism” or “diversity” in various content distribution markets as information communication becomes sophisticated, digitalized and broadbandized.

The second item clearly defines the basis of the standards for entitlement to freedom of expression in the Radio Law when its amendment was made two year ago because there was no basis for legally independent entrustment. Moreover, there is some opinion in the Diet that not only a basis but also specific information should be stipulated in the law. In addition to these suggestions, it is necessary to rapidly address environmental changes surrounding broadcasting with the sophistication of information communication. I’d like you to discuss and review how you should think this item.

Then, the specifics follow. With regard to specific standards for entitlement to freedom of expression, it can be considered to proceed with discussions on easing and flexible operation of the following matters on the basis of specific demands from broadcasters.

Basically, terrestrial broadcasting has unified standards, irrespective of media, such as TV and radio. However, there is a question about whether it is reasonable not to consider mass media type.

Moreover, we mentioned above that there was an exception that cross-media dominance, so-called dominance of three businesses is allowed. The MIC Ordinance stipulates that the dominance of three businesses is allowed unless exclusive distribution of news or information is conducted. The second point of discussion is also described, that the range of exceptional allowance is somewhat less than specific.

The last item shows a point of discussion on how we should consider the standards for entitlement to freedom of expression with respect to broadcasting not targeted by the Basic Broadcasting Plan.

That's it for my briefing on the standards for entitlement to freedom of expression.

[Hasebe] Thank you very much for your briefing. In response to his briefing, would you exchange your opinion please?

[Nakamura] Although there is an opinion that specific information on page 27 should be stipulated from the MIC Ordinance to the Law, I think we are forced to address this matter flexibly and agilely in the situation where a variety of broadcasting services will come out one after another. In the face of the present Diet status, it seems that law amendments on an annual basis are not allowed. Therefore, I think it is adequate to continue the current scheme for a while.

And the dominance of three businesses is described in the specifics. Although I understand there are some discussions that regulations for dominance of three businesses should be specified more clearly or applied more strictly, I think the situation also changes at the same time. For instance, I have to consider how you should consider three businesses relatively as media become more diversified and the Internet or mobile phone industry grows, or what you think about domestic operation in the situation where you have to establish future international relationship with one group of a media conglomerate that is as large as all commercial TV stations in Japan. I feel another place to discuss this matter should be provided separately, not at this meeting.

[Hasebe] Thank you very much.

[Funada] It's hard for me to say something about this matter. However, if memory serves me correctly with regard to the current dominance of three businesses, I think this came into question first when Kakuei Tanaka was the Minister for Posts and Telecommunications for across-the-board licensing. I may be wrong, but at that time, Fuji Television Network, Inc. and The Sankei Shimbun Co., Ltd. were authorized and licensed, I guess. Considering the Kanto District, it is true that there are so many newspaper companies and TV broadcasting stations.

However, I think the word “exclusive” used in the document does not literally mean there is only one company, and it is used like it is undesirable that there are few dominant media from the beginning. In such a sense, I think the rule for dominance of three businesses is very significant in the situation where Japan will remain unchanged in the number of influential newspaper companies, especially. I suggest you should discuss its impact on media. At present, I can’t express myself in an ambiguous way of saying and it may be that my vector is opposite to Mr. Nakamura’s. However, I feel we should discuss that matter.

Considering local areas at the same time, there aren’t a significant number of TV channels. And I remember that a name-lending case occurred several years ago with a local influential newspaper company. I’m sorry about my ambiguous memories. An illegal thing was conducted in those days. Anyway, it was true that a local influential newspaper company owned many TV station’s shares. So I think it is necessary to point out that issue.

[Hasebe] Thank you very much. Are there any comments?

[Tagaya] As for the standards for entitlement to freedom of expression, I don’t know whether the name of “Basic Broadcasting Plan” is used as it is or not. I think a simple name should be better, such as a basic plan.

Anyway, I think the standards should be applied in terms of ensuring the freedom of expression or diversity in the case where a broadcasting station equipped with hardware produces broadcast programs using a frequency. This is a certain type of exclusive situation, I guess. On the other hand, I think partial matching of hardware and software is acceptable to some extent. As for broadcast programs not targeted by the Basic Broadcasting Plan, content is distributed in compliance with a certain type of market principles by making a mechanism for free distribution. Therefore, my conclusion is that there is no need to have impact upon such content.

[Hasebe] Thank you very much for your suggestion. Are there any comments?

I think most of you understand the Secretariat’s suggestions, if that’s it.

Thank you very much. Would you discuss and review both obligations to make an effort for successful reception across the board and discipline concerning open media content. Please listen to the Secretariat’s briefing on page 33 or later.

d) Obligations to make an effort for successful reception across the board and discipline concerning open media content

[Akimoto] As for the obligations to make an effort for successful reception across the board, I’d like to simply confirm the current system. There are two provisions: the one is to make an effort to successfully receive the terrestrial broadcasting targeted by the Basic Broadcasting

Plan within target areas across the board, and the other is that NHK shall take measures for receiving such broadcasting across the board in Japan. The document says these provisions are required to securely implement broadcasting targeted by the Basic Broadcasting Plan in the new legal system.

Please go to page 34, open media content. Please take a look at the shaded paragraph. To take action against illegal information, the Act on Secure and Safe Internet Use Environment for the Youth was established through lawmaker-initiated legislation and went into effect on April 1, 2009. Article 3 of the supplementary provision of this law stipulates “The Government shall review the status of enforcement of the law and shall take necessary measures based on the results.”

On the final report of the study group that has been held separately in MIC, it is decided as an issue to be tackled by 2011 to proceed with discussions about challenges concerning various legal measures. It is therefore necessary to see these challenges, that is, the status of enforcement of the Act on Secure and Safe Internet Use for the Youth, and proceed with the measures based on the results, not to make institutional improvements in the comprehensive legal system.

Page 37 shows a summary of relevant parts of the final report of the study group that has been held separately in MIC. This is for your reference.

Please go to page 38, describing the measures against harmful information. Based on the voluntary civil approaches that are the fundamental principles of the Act on Secure and Safe Internet Use for the Youth, the improvement in literacy of users, and the minimization of opportunities for the youth to view harmful information, it is decided to proceed with the challenges, such as introduction of filtering services, self-rating and support of development of sensing technology, by 2011. It is necessary to proceed with these challenges, not to make institutional improvement in the comprehensive legal system.

Page 39 is a reference document showing the fundamental principles and framework of the Act on Secure and Safe Internet Use for the Youth.

(3) Next Meeting and Closing

[Hasebe] Thank you very much. In response to his briefing, why don't you exchange your opinions?

Is the direction acceptable? I have no specific comment on that. I understand you've accept the direction.

So, I'd like to close today's meeting. We discussed transmission facilities, transmission services and content discipline twice each, including today's meeting. At the next meeting, I'd

like you to discuss a comprehensive direction of gathering and compiling individual points of institutional reform.

The next 17th meeting will be held at 4 p.m. on June 1, 2009, Monday.

Secretariat, do you anything to say at last?

[Akimoto] I'm going to tell you a place of meeting later.

[Hasebe] Now I close the 16th meeting of the Study Group on a Comprehensive Legal System for Communications and Broadcasting.