Telecommunications Council, Information and Communications Policy Committee Digital Content Trading Promotion Committee 5th Meeting Minutes

1. Date: 10:30-12:00, Monday, November 27, 2006

2. Location: Large Conference Room, Mita Kyoyo Kaigisho (Japanese Government Conference Building)

3. Attendees (Honorifics omitted)

(1) Committee members (Including expert advisors)

Jun Murai (Chair), Mutsuya Asano, Tomoyuki Ikeda, Ryohei Ishii, Tsunetoshi Ishibashi, Yuu Inaba, Gota Iwanami, Yoshiyuki Uei, Tetsuya Obuchi, Naotaka Kacho, Makiko Kawamura, Junichi Kishigami, Nobuhiko Sato, Kazuo Shiina, Yoshiyuki Seki, Mitsuo Sugawara, Shinji Takada, Nobuko Takahashi, Shuichi Tago, Mario Tokoro, Miwako Doi, Fujio Nakajima, Miki Nagata, Ichiya Nakamura, Akio Nosaka, Toshio Fukuda, Yoshitaka Hori (27 members)

(2) Observers

Masahiro Kamei (Japan Electronics and Information Technology Industries Association [JEITA]), Makoto Kawase (Agency for Cultural Affairs), Yoshitaka Sugihara (Intel Corporation), Yuichi Tsubouchi (Japan Electronics and Information Technology Industries Association [JEITA]), Shuji Nakamura (Mitsubishi Research Institute, Inc.), Yoshiji Nakamura (Japan Association of Music Enterprises), Kosaku Hatanaka (Intel Corporation), Shuichi Fujisawa (Japan Broadcasting Corporation [NHK]), Keiya Motohashi (Japan Broadcasting Corporation [NHK]), Kensuke Yasue (Mitsubishi Research Institute, Inc.), Kazumasa Yoshida (Intel Corporation)

(3) Secretariat

Ogasawara, Director, Contents Development Office, Information Policy Division, Information and Communications Policy Bureau

(4) Ministry of Internal Affairs and Communications

Katsuno, Deputy Director-General, Minister's Secretariat; Sato, Director of the Information Policy Division

4. Agenda

(1) Trends in foreign countries including conditions of protection technologies (2)

○Based on Document 1, Mr. Kensuke Yasue, an observer, and Mr. Shuji Nakamura, an observer, explained matters such as trends of the use of content in foreign countries.

○Mr. Kazumasa Yoshida, an observer, explained content use technologies based on Document 2.

○ Re: Question (1): There is popular content, such as “White House” and “24,” which are televised at the beginning of free terrestrial commercial broadcasts.

○ Re: Question (2): The order of theatrical movie multi-use in Japan is as follows: First, the movies are released to theaters; six months later, package sales of DVDs, etc. are conducted; 12 months later, such movies are subjected to free terrestrial broadcasting; and thereafter, they are subjected to pay broadcasting. In the United States, package sales of DVDs, etc. are conducted as soon as theatrical movies are released to theaters; at almost the same time, such movies are subjected to pay broadcasting (premium pay television such as cable TV and satellite TV); and in the end, they are subjected to free terrestrial broadcasting. In the United States, therefore, significant recouping occurs due to package sales and pay broadcasts after the movies are released to theaters, and there are cases where the first cycle of multi-use is completed even if theatrical movies are not subjected to free terrestrial broadcasting. In Japan however, the business does not pay unless significant recouping takes place in free terrestrial broadcasting.

○ Re: Question (3): Movie producers invest huge amounts of money to produce movies. This is a risky business in that there is not necessarily any assurance that invested funds will be recovered. The movie business thus survives in such a way that completed masters are reproduced to make multi-use of movies as long as their lives last, thereby recovering invested capital. Movie producers, who are copyright holders, think that their normal business is hindered when pirate versions are made via acts of piracy as well as when copies are stored or viewed in homes. Copy guard is indispensable at all stages. If acts of reproduction are committed, it is vital for movie producers to collect charges for such acts.

○ Re: Question (4): Instances have not been found in any country, other than the United States, where methods of copy controls in broadcasting are specified by legal systems.

○ Re: Question (5): In regard to EPN, there are no restrictions on copy generations or on numbers of copies, if D-PA approved devices and media support protection methods are used. As of November 1, 2006, 11 protection methods are approved by D-PA. For example, CPRM is approved as a protection method for DVDs. A non-supporting device is defined as a DVD recorder, a DVD player, a DVD drive, or DVD player software that does not support CPRM. In the case of EPN, there is a misunderstanding that no restrictions are imposed on copying. However, there are certain limitations, such as it being impossible to copy content via the Internet, and it being impossible to copy content unless secure devices and media, both of which support approved protection methods, are used.

○ [Remarks on devices that do not support protection methods] In the case of DVD recorders, for

example, the domestic market has products equipped with digital tuners and products equipped with only analog tuners. If the products equipped with digital tuners do not support protection methods, it is impossible to perform digital videotaping. Therefore, all of this type of product supports protection methods. Almost all products equipped with only analog tuners support protection methods as long as judgment is made from market ranking. This type of product is capable of reproducing so-called digital broadcasts that are videotaped by CPRM devices and then copied to DVDs. On the other hand, observation of DVD player market rankings shows that about half of such players on the market do not support protection methods. It is my understanding that some of the DVD drives and PC software products saved on DVDs support CPRM devices and others do not.

○ Re: Question (6): The situation where it is not permissible to transmit broadcasts on the Internet in a viewable state is not limited to EPN. This situation is common to EPN and COG. The same answer applies to cases where copy control information subjects EPN broadcast programs to encrypted recording and saves them on media and to cases where such information subjects COG broadcast programs to encrypted recording.

○ Under the TR-B14 Broadcast Operating Rules, terrestrial digital receivers are prohibited from having a function whereby received broadcast programs are capable of being output in such a way as to permit retransmission to the Internet. Therefore, for example, it is impossible to perform the following series of operations after an EPN or COG broadcast program is received by a receiver: encryption of the program; recording of the encrypted program onto a built-in hard disk; and the use of receiver functions to transmit the recorded program to the Internet.

○If broadcast programs are subjected to encrypted recording and saved on media like DVDs, and if, for example, it is possible to use OS functions or the like of PCs to access videotaped files on media, it is not physically impossible to transmit such files to the Internet. However, videotaped files are subjected to encrypted recording and saved on individual media. It is therefore impossible to play back and view those files in such a way that they are disconnected from the original media. Consequently, it is impossible to transmit the files to the Internet in a viewable state.

○ Re: Question (7): Basically, the B-CAS method, the enforcement technology based on scrambling, and the copy control technology differ greatly from one another. Encryption is performed strictly for implementing enforcement aimed at imposing copy restrictions. Receivers are therefore capable of receiving terrestrial broadcasts even if encryption is terminated.

○ Re: Question (8): Neither of the main body of the Radio Law or of the Broadcast Law, any cabinet order for the Radio Law or the Broadcast Law, or any MIC ordinance for the Radio Law or the Broadcast Law says that broadcasters should have established the “Broadcast Operating Rules” that were formulated by ARIB. Neither do they state that these rules, as they are, should be turned into

technical regulations under the Radio Law. In other words, the government neither obligates broadcasters to establish the Broadcast Operating Rules nor requires broadcasters to assume accountability for these rules.

○The term “approval” is mentioned in viewpoints related to D-PA and ARIB. In terms of public administration, nothing whatsoever is stipulated in regard to the act of such approval. ARIB and D-PA are public utility corporations. In this respect, under certain circumstances, there are cases where these corporations’ articles of incorporation, which specify the corporations’ competence, are required to be submitted to the Ministry of Internal Affairs and Communications, which is the competent government agency, for approval. In this connection, the articles of incorporation of either ARIB or D-PA make no mention of the Broadcast Operating Rules. Therefore, no administrative agency whatsoever commits any act of “approval” with respect to ARIB or D-PA. Essentially, except where articles of incorporation are involved, there are no restrictions in cases where any change is to be made to the Broadcast Operating Rules at the discretion of ARIB and D-PA. No administrative agency whatsoever imposes any restrictions, either in cases where the Broadcast Operating Rules are to be formulated under individual contracts between broadcasters and device manufacturers, or in cases where arrangements for changes to these rules are to be made. These entities are quite free to do so.

○ Re: Question (9): In the handling of the following items, among others, the ARIB and DTCP rules come under categories of different fields: casings that have “integrated tuners” for video recorders which are currently put on sale and which support terrestrial digital broadcasting in Japan; the meanings of “move”, “backups” and “number of media that are copied.”

○Casings with “integrated tuners” that are currently sold in Japan are not specified in the DTCP rules. Memory devices in which hard disks are integrated with DVDs are strictly subject to the ARIB rules. However, if external machines are connected to casings that have “integrated tuners,” then the DTCP rules apply.

○In Clause 2.23, Article B-4 of the Agreement handout, a “move” is defined as the movement of a content from a licensed product where a source function is located to a place where a sink function is located. The sink function and the source in a move are respectively specified in Clause 3.1, Article B-7 and Clause 3.1, Article B-13.

○For the handling of items such as “backups” and “number of media to which copies are made,” please see Clause 2.2.3, Article B-7. It is stated that it is possible to back up data. If I remember correctly, in regard to the number of media that are copied, Clauses 2.2.1 and 2.2.2 of Article B-6 state that it is permissible to copy up to two media at first, and that it is permissible to copy up to three media if a device with a newly issued license is used.

○When copy-one-generation is subjected to DTCP, a no-more-copy state occurs and content is copied to a different medium. In other words, when DTCP is applied, the copy-one-generation state turns into a no-more-copy state, and it should therefore be understood that one generation is formed.

○When a content sent by a broadcasting station in a copy-one-generation state is received on a hard disk and stored, a no-more-copy state occurs. It is therefore necessary to perform a move when the received content is transferred to another medium under the DTCP rules. My understanding is that this is what is stipulated in the ARIB Broadcast Operating Rules.

○I presume that the PVR provisions of the DTCP rules contain such stipulations (regarding current COG). I would like to ask if this presumption is correct. Built-in hard disks, as well as devices which are the same as PVRs but which are not called PVRs, are manufactured in such a way as to meet both the pertinent stipulations and the Broadcast Operating Rules. In this sense, the content of the above-mentioned stipulations and that of the Broadcast Operating Rules are supposed to be the same. I would like to confirm this point.

○The encoding rules for DTCP cover copy-never, copy-one-generation, copy-free, and EPN in such a way that no distinction is made between cases where a hard disk and a DVD are contained in the same casing and cases where IEEE 1394 interfaces are traversed. It was mentioned that EPN is all that can be selected, but it seems that this is wrong. In the case of copy-one-generation involved in DTCP, two copies can be made if the media are different, and up to three copies can be made if another certificate is obtained. According to the provisions of the DTCP rules, the currently conducted process is not COG.

○What is called copy-one-generation, as referred to in generalities at present, differs from the copy-one-generation involved in DTCP.

○Items involving IEEE 1394 interfaces are restricted by DTCP. Therefore, for example, there is the copy-one-generation rule that only up to two copies can be made when an external device is connected and that the maximum number of copies that can be made is three. However, devices integrated with casings are not subject to this rule. The fact that products in the same casing move in accordance with the method specified in ARIB TR-B14 means that in regard to products in the same casing, different products are supposed to be capable of being manufactured even if DTCP is not modified, provided that the ARIB rules are changed.

○Before proceeding to the EPN scheme, which involves copy-free as a matter of fact, writes should be performed under the copy-once scheme, for example, in the case of products in the same casing, and the number of simultaneous copies should be limited to two or three, for instance. I presume that there is an intermediate method whereby, if paths are involved, only one copy can be made to the same medium, but generally up to three copies can be made. It is inappropriate to insist on EPN without explaining the

above. That is, consumers are deceived. I would like to request that the relevant rationality be explained.

○With regard to the intermediate method distinct from the EPN method, a counterargument was previously made to the effect that it would be undesirable if the convenience of tuners alone were improved.

○If the copy-one-generation involved in DTCP is adopted, the current practice will be restricted by the present method of copy-one-generation. I feel that this will lead to a situation where methods improved in the future will become better, but current practices will remain what they are now.

○JEITA requested that operations be changed so that all aspects would be covered by EPN. However, prior to submission of the Third Report, JEITA submitted the opinion that it would probably be satisfactory to concurrently adopt COG in some aspects where a somewhat convincing and reasonable explanation could be made for the use of COG. On our part, we requested that operations be changed on the grounds that EPN is the best from the viewpoint of viewers' convenience.

○It became clear that the methods of terrestrial digital video recorders that are currently being sold are not the same as those for DTCP or those under international standards. In meetings of the Terrestrial Digital Broadcast Promotion Committee, device manufacturers made statements that could be interpreted as meaning that it was impossible to manufacture products because of the ARIB method. According to the explanation from the Ministry of Internal Affairs and Communications, no legal restrictions are imposed and, for protecting consumers, it is only necessary to change rules. Therefore, I would like to request that productive discussions be pushed forward.

○ In the case of COG in the original sense of the term, content remains on the pertinent hard disk after being copied to a maximum of three media.

○ It is absolutely certain that current products are manufactured in compliance with ARIB TR-B14. JEITA and broadcasters held discussions and reached conclusions, resulting in current products being adopted. Even if problems arise after consumers start using such products, neither JEITA nor broadcasters will be blamed. For example, ARIB TR-B14 specifies that the moment that any content is videotaped after being received by a receiver, a no-more-copy state shall be entered. Thus, when a source in a no-more-copy state is to be transferred over IEEE 1394 interfaces, there is no choice but to move the content from the receiver. Besides, in regard to the method including the timing of moves, ARIB's rules specify even matters not referred to by the DTCP rules. In this meeting, I hope that discussions will be conducted, as much as possible, on what is to be done from now on regarding current products manufactured with the consent of both JEITA and broadcasters.

○Review of copy-once is the mission of this meeting. It has become clear that what is called copy-once is not really copy-once, and that there are various methods. If TR is modified, casings with integrated tuners are capable of doing various things. It was mentioned that up to three copies could be made in cases where DTCP is involved. The device manufacturers then said that they do not necessarily mean that only EPN is feasible. I feel that this Committee should work out new rules based on those facts.

○ The phrase “Broadcast Operating Rules B14: D-PA” is written, but ARIB is in charge of TRs (technical reports). The Broadcast Operating Rules are formulated not by ARIB, but by D-PA and BPA.

○People from a rights holder group expressed the opinion that it is appropriate to put the protection status back to COG. However, we, on the part of a consumer group, have no intention at all of saying so. It seems that such a tendency is arising. We feel that this is very dangerous. We know that consumers’ understanding has not been obtained. Nevertheless, at present we do not feel that it would be satisfactory if the convenience of integral type devices is improved as a consequence of changing the Broadcast Operating Rules, or that it will be fine to put the protection status back to COG, thereby permitting three copies to be made.

○It turned out that COG as involved in DTCP is at least not a protection status accompanied by moves. What was referred to as COG in the explanations proved to be no-more-copy, and not copy-once. Rights holders cannot accept this when we think of culture. What we mean is that we should conceive different rules that do not involve EPN either.

○There are various people concerned, and they are going to begin discussions on what best be done from now on. We agree to this move. On this basis, we would like to be allowed to speak about user convenience.

○ As regards COG involved in DTCP, up to three copies of content can be recorded simultaneously if formats are different in a sink function. In the case of the Broadcast Operating Rules, if content is received at the same time, a total of three copies of the content can be recorded by the receiver after being received, provided that formats are different. That is to say, one copy of the content can be recorded on a hard disk, another on a DVD, and a third on an SD card. My understanding is that the way COG is handled under the ARIB rules is about the same as the way content sent under the DTCP rules is handled under the pertinent memory rules.

○ It was possible to confirm that, on the assumption that a no-more-copy state is entered at the stage of recording content on a hard disk, this state was discussed as an issue of copy-once. I know that the way of thinking in terms of technology is the same. It became clear that a decision was made as such and operations were therefore performed accordingly when the issue of copy-once arose, resulting in relevant discussions being held here.

○In some aspects, the EPN technology is mistaken as being related to copy-free. In this regard, repeated explanations were given about the concept of EPN and the definition of EPN in the sense that limitations can be imposed on devices that support protection technologies for equipment. Including the above, an overall understanding was obtained of the concepts of EPN and DTCP, as well as the operating rules in ARIB. In the course of this process, the current state of protection was called copy-once. I presume that you were able to understand these matters on a more or less comprehensive basis.

(2) Schedule of future studies

○Based on Document 3, Mr. Ogasawara, Director of the Contents Development Office, explained the schedule of future studies.

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