

Study Group on a Comprehensive Legal Framework for Communications and  
Broadcasting  
Summary of Minutes (14th Meeting)

1. Date and Time

Monday, August 27, 2007, 6 p.m. to 7:35 p.m.

2. Location

Special Conference Room 1, 8th floor, Ministry of Internal Affairs and Communications

3. Attendees (honorifics omitted)

Horibe (Chair), Tagaya (member), Nakamura (member), Funada (member), Murakami (member)

Suzuki (Vice-Minister for Policy Coordination), Ogasawara (Director-General of the Information and Communications Policy Bureau), Terasaki (Director-General of the Telecommunications Bureau), Nakata (Director-General for Policy Planning), Suzuki (Director of the General Policy Division), Naito (Director of the Communications and Broadcasting Legal Framework Planning Office)

4. Summary of the Minutes

(1) Public Hearings of Opinions of Relevant Major Business Operators, Associations and other Parties (2nd hearing)

Opinions on the “Interim Summary” were separately given by five NTT carriers, that is, Nippon Telegraph and Telephone Corporation, East Nippon Telegraph and Telephone Corporation, West Nippon Telegraph and Telephone Corporation, NTT Communications Corporation and NTT DoCoMo, Inc. (hereinafter, collectively, “NTT Group”), KDDI Corporation and three Softbank carriers, that is, SoftBank BB Corporation, SoftBank Telecom Corporation and SoftBank Mobile Corporation (hereinafter, collectively, “SoftBank Group”), which were each followed by opinion exchange.

(A) NTT Group

(a) Explanation

Explanations based on “Thoughts on the Interim Summary of the Study Group on a Comprehensive Legal Framework for Communications and Broadcasting” (Document 2-1) and “Written Opinions” (Documents 2-2, 2-3, and 2-4) were given.

(b) Opinion exchange

- To the question of whether NTT Group agrees or disagrees on the general direction of the transformation into a layer-type legal framework as a whole, NTT Group responded that it does not necessarily disagree with a layer-type legal framework in principle, but its answer depends on its details.
- NTT Group expressed the following opinion: Since diverse platforms will develop in the future, it is difficult to foresee possible issues. Therefore, it would be better to impose regulations one at a time after the fact rather than in advance in cases where a particular platform interferes with the principle of unrestricted distribution of information and then conduct research into categorization after a number of such cases have accumulated.
- Questions were asked about what kinds of regulations are appropriate to deal with harmful content and the like and what kinds of regulations are appropriate for the services that distribute content beyond national borders. NTT Group responded that rules to control the impact on society would be needed but that it requests that international competitiveness be not be hampered due to excessive regulations applicable only to domestic businesses and asks that this be taken into consideration.
- NTT Group expressed the following opinion: NTT Group recognizes that rules will be necessary to respond to the increasing social impact caused by the increase in network users. However, from the perspective of encouraging new business, emphasis should rather be put on the need to maintain Internet freedom. Some aspects can be regulated by general laws. Consequently, the evaluation of the new legal framework depends on whether it is intended to regulate business or regulate society.
- With regard to regulations for platform functions, NTT Group expressed the opinion that, in the case of, for example, “i-mode,” legislation is not needed because judgment criteria are voluntarily opened and discriminatory treatment is eliminated.
- NTT Group expressed the opinion that, while it cannot be predicted if platform functions and transmission services will be provided in an integrated manner or if they will develop separately from each other in the future, the new legal framework should be designed to allow for the development of both business models.

(B) KDDI Corporation

(a) Explanation

Explanations based on “About the Interim Summary of the ‘Study Group on a Comprehensive Legal Framework for Communications and Broadcasting’” (Document 3-1) and “Written Opinions” (Document 3-2) were given.

(b) Opinion exchange

- With regard to measures to deal with illegal and/or harmful content, KDDI expressed the opinion that, because there have been cases where carrying out judicial duties has proven very difficult as a career and because it is concerned that the number of such cases will increase in the future, KDDI requests further in-depth discussions in the future as to what kind of entity should judge the appropriateness of the content.
- As there are cases where unrestricted distribution of information or creation of content is interfered with by platforms, which impedes competition, KDDI expressed the opinion that there is a concern that competition may be biased in the area constructed with bottleneck facilities integrated.
- KDDI expressed the opinion that NTT's subscriber lines, which are based on infrastructure constructed over time, and other facilities and equipment constructed and used in tandem manner with them are "bottleneck facilities" under the rules for platforms and rules for vertical simultaneous operations.
- KDDI expressed the following opinion: The concept of platforms is very broad and includes the concept of a platform to provide medical services, as pointed out as an example by a member. Therefore, the concept must first be clarified and then discussions should be had as to whether a platform should be separated as an independent platform as a classification for each layer.
- With regard to the study on opening up platforms, KDDI expressed the opinion that, as far as the mobile phone business is concerned, KDDI is in support of the study and the study must be conducted. However there is a concern that investment in new functions and services may possibly be not forthcoming in the vertically integrated business model.
- To the question of whether there could be a layer-type legal framework from which the broadcasting industry can benefit, KDDI responded that, while there are some other options, the shift to a layer-type legal framework is inevitable to a certain extent and that the scope of business activities of broadcasters and similar and other enterprises may possibly expand.
- KDDI expressed the opinion that the "platform function constructed in an integrated manner with telecommunications bottleneck facilities formed over time" means the platform function in the NGN established through the fixed telephone business, including customer database, and that it is important that, in providing new services, this function not be subject to practices to limit competition.

(C) SoftBank Group

(a) Explanation

Explanations based on "Material for the Hearing in the 14th Meeting of the 'Study Group on a Comprehensive Legal Framework for Communications and Broadcasting'" (Document 4-1) and

“Written Opinions” (Document 4-2) were given.

(b) Opinion exchange

- SoftBank Group expressed the following opinion: Services based on a convergence of communications and broadcasting can be provided under the existing legal structure. However, it will be difficult to do this soon and each individual area has its own issues. To be specific, if the content of BBTV services is expanded and further cooperation with networks is required under the Law Concerning Broadcast on Telecommunications Services, such issues will become problematic.
- SoftBank Group expressed the following opinion: Methods to deal with illegal and/or harmful information will include establishing rules and having public organizations make judgments. However, it will be a considerable burden on the network if all the issues have to be resolved, including the issues related to judgment criteria and identity spoofing.
- SoftBank Group was asked for its opinion on the progress in opening up competition in the transmission aspect, while the bottleneck nature of NTT will be mitigated by future investment by competitors of NTT in transmission facilities. SoftBank Group responded that the bottleneck will become even more pronounced because NTT’s share in the last one mile is increasing, including FTTH.
- SoftBank Group expressed the following opinion: The bottleneck is basically a result of infrastructure and if this is opened up competition can increase to a considerable extent, meaning only a minimal amount regulation of platforms would be required.
- SoftBank Group expressed the following opinion: With regard to improving the rules concerning content, regulations that allow key broadcasters to distribute content via various media are necessary. For content distributed via the Internet, however, there will be other methods for resolving the issues, such as improving literacy.
- With regard to broadcasting on telecommunications services, such as BBTV, SoftBank Group expressed the opinion that research must be conducted in the future as to whether the Broadcast Law, such as the program standards, should be applied.
- To a question about whether platforms have particular differences regarding wireless communications as compared to wired communications, SoftBank Group responded that the platform particular to mobile communications will not be regarded as so important in future.