

Study Group on Comprehensive Legal System for Communications and Broadcasting
Points of the Report

December 6, 2007

1 Necessity to Review Legal Structure for Communications and Broadcasting

1. Dealing with the structural change of the information and communication society

Information and communication society

“Vertical structure” with the market and the form of use limited by physical characteristics of individual media



“Horizontal” layer structure that allows unrestricted combination of content and networks



Convergence of transmission routes

Progress in constructing information and communications infrastructure

Technical innovations through digitization and IP

2. Development of an unrestricted business environment through broader classification of markets

Creation of new services and new businesses through cross-sectional business model development beyond the vertically structured conventional media

3. Consistent and unified measures to protect users

Necessity of measures to effectively protect users in order to deal with digital divide and increasing relativity in media and service content

4. Dealing with the rapid technical innovations

Further acceleration in the progress of technical innovations such as optical fiber and IP applications

5. Dealing with the internationalization of networks

Progress in borderless information and communications, issues of illegal and/or harmful information on the Internet, and the perspective of strengthening international competitiveness

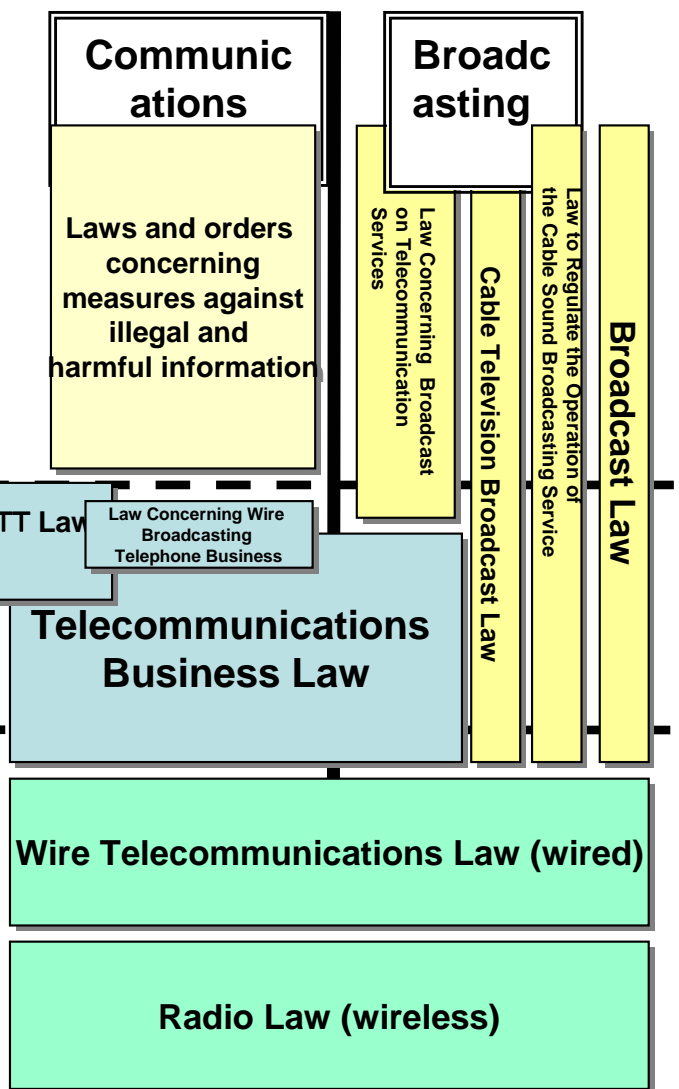


It is necessary to fundamentally review the legal structure for communications and broadcasting

2 Fundamental Restructuring of Legal Structure for Communications and Broadcasting

- Conversion of the existing legal structure from the “vertical structure” to the “layer structure” to establish the world’s leading-edge legal system
- Integration of the present legal structure for communications and broadcasting into the “Information and Communications Law” (tentative)

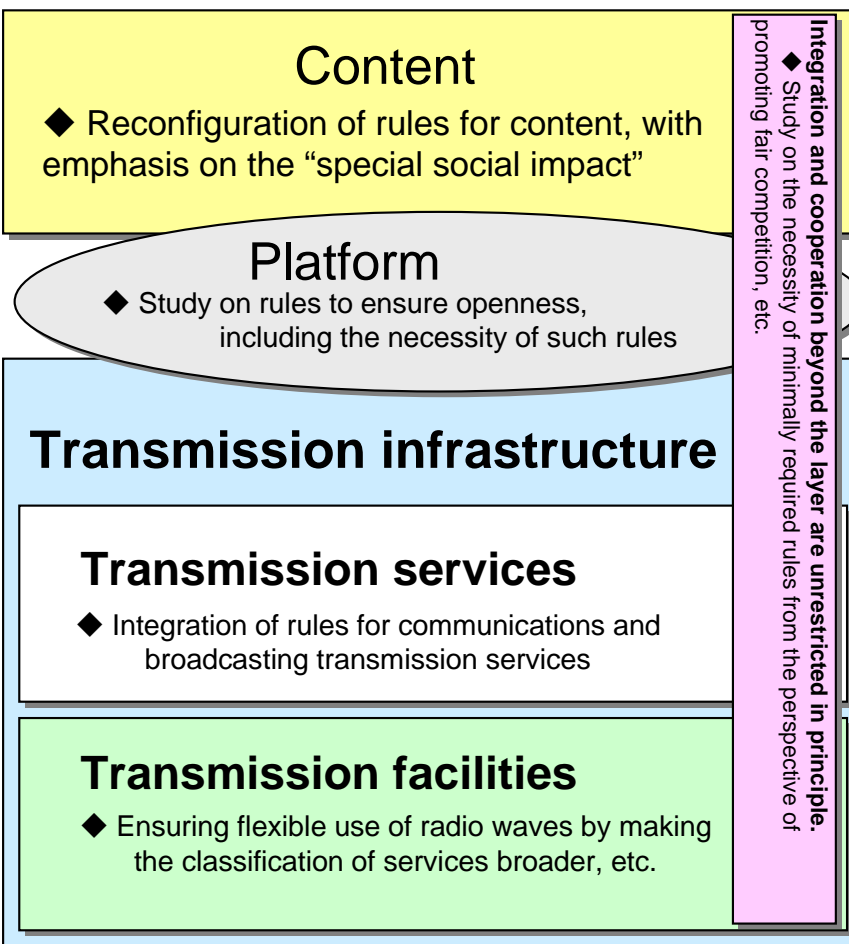
Present legal structure



Information and Communication Law (tentative)

Fundamental Principle

- [Unrestricted distribution of information]
- [Ensuring universal services]
- [Assuring the safety and reliability of information and communications networks]



Basic concept of the review

- ◆ Emphasis on the neutrality of technology capable of dealing with rapid technical innovations
- ◆ Relaxation and integration of regulations to allow carriers to develop various businesses at their own discretion
- ◆ Development of regulations that are comprehensively applicable to information and communications to protect users

3 Future Vision of Legal System for Content

Content distributed on the information and communications network

Content not open to the general public

Ensuring the “confidentiality of communications”

(Communications between specific persons, such as private communications)

“Special social impact” means a stronger social impact of the current broadcasting in comparison to other information and communications media because of its nature as a media that transmits information directly and instantaneously to a general public audience all over the country in a multicasting manner.

Content open to the general public

Ensuring the “freedom of expression” using the information and communications network

Content with no special social impact

“Open media content (tentative)”

- Transmission of telecommunications intended to be received by the general public (Homepages, etc.)

- “Illegal information”
 - Development of the items to be at least considered, which should primarily be observed by all parties distributing information on the information and communications network, in a form without any penalties
 - Development of the framework to promote countermeasures without direct involvement of administrative organizations
- “Harmful information”
 - Study on how to provide filtering and others

Content with a special social impact

“Media services (tentative)” (and their content)

- Existing broadcasting
- Content distribution services comparable to broadcasting expected to emerge in the future

Categorization based on the extent of the special social impact

【General media service (tentative)】

- Relaxation of the existing regulations for broadcasting in principle

【Special media services (tentative)】

- Maintenance of rules for current terrestrial TV broadcasting in principle

- The following will be some of the judgment indices for the extent of the “special social impact.”
- ◆ (1) Types of content, such as video/audio/data (2) Quality of the service such as the definition of the display on the screen (3) Ease of access via terminals (4) Number in the audience (5) Distinction as to for charge or free of charge
 - ◆ Oligopolistic nature of the market and the presence or absence of the bottleneck nature and the degree thereof
- The indices for categorization must be able to be externally judged to the extent possible to avoid arbitrary use. Specific studies will be conducted in the future by hearing the opinions of the parties concerned.

4 Future Vision of Legal System for Transmission Infrastructure

[Rules for Transmission Services]

- Unifying rules for transmission services to accelerate flexible and unrestricted business development
- Focusing on promoting fair competition and protecting users

Rules for
Wire
Broadcasting
Telephone
Business

Telecommunications Business Law

Cable Television
Broadcast Law

Broadcast
Law

Rules for
Cable
Television
Facility
Owners

Rules for
Facility-
supplying
Broadcasters

Radio Law / Wire Telecommunications Law

[Rules for Transmission Facilities]

Promoting a reform of the system, such as making the classification of services broader and reviewing the licensing system to facilitate the use without being bound by the communications and broadcasting classification

5 Future Vision of Legal System for Platforms and Inter-layer Rules

■ Future Vision of the Legal System for Platforms

- As of now, there is no significant need to enact a law to regulate the platform layer independently from other layers.
- In light of concerns that platforms could potentially constitute a new bottleneck to impede the unrestricted distribution of information, studies will be conducted on measures for ensuring openness, such as prohibition of unfair discriminatory practices, including whether or not such measures are required.
- * Platforms are regarded as “services to realize smoother content distribution, electronic commerce, provision of public services and distribution of other information, as well as enhance their safety and convenience, by cooperating with telecommunications facilities and mediating between a number of carriers or between carriers and a number of users.”

■ Future Vision of Inter-layer Rules

- Carriers are not restricted, in principle, from developing business beyond the layer.
- Studies will be conducted on the necessity of preparing inter-layer rules, including the assurance of the distribution of information that is crucial to people’s lives and the plurality of media as well as the rules for trading beyond the layer and for vertical simultaneous operations, to promote fair competition.

6 Study in Future

■ Specific System Design

- Occasions where the specific image of a new legal system can be discussed further, such as the inquiry to the Telecommunications Council, should be provided as soon as possible.

■ Future Issue

- The existing legal structures, such as the legal structure for copyright, should be discussed with the cooperation of the concerned ministries and agencies to pursue the possibility to re-design them into a “comprehensive ubiquitous network legal structure.”

(Reference) Revisions from Interim Summary

- Added the necessity to develop regulations, applicable to information and communications, to protect users comprehensively.
- Specified that the “freedom of expression” using the information and communications network should be ensured.
- Added the necessity to develop the framework to promote countermeasures against illegal information without direct involvement of administrative organizations.
- Added the statement that there is no significant need to enact a law to regulate the platform layer independently from other layers at this time.