Study Group on a Comprehensive Legal System for Communications and Broadcasting

Report

December 6, 2007

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1 Introduction

Based on the statement in the “Agreement between the government and the ruling parties on regulatory frameworks for communications and broadcasting (June 20, 2006)” that “the study shall be promptly started on a comprehensive legal system for communications and broadcasting to reach conclusions by 2010 on condition that the concept of the key broadcasting is maintained,” the “Study Group on a Comprehensive Legal System for Communications and Broadcasting” has held a total of 20 meetings since the first one on August 30, 2006 for the purpose of researching and studying the future vision of the legal structure from an expert perspective in order to determine the specific direction for the study on the legal structure in response to the convergence and cooperation of communications and broadcasting.

On June 19, 2007, the “Interim Summary,” which was regarded as an original proposal to form a national consensus in order to create a new comprehensive legal system for communications and broadcasting, was released to the public based on the discussions in these meetings. The interim summary report stated that the existing legal structure be converted into a layer structure in response to the structural change in the information and communications industry so that it becomes to be the world’s leading-edge legal system for information and communications. Immediately after its release to the public, it was subjected to public comments and a total of 276 opinions were obtained from associations concerned, experts, and other parties. Since then, a total of four public hearings from major business operators, associations, and other parties concerned have been held to hear opinions to form a new comprehensive legal system for communications and broadcasting.

Based on the opinions obtained in these processes, this Study Group has made further discussions and compiled a final report here to propose the main points for the basic framework of the comprehensive legal system for communications and broadcasting. We sincerely hope that studies be made from now on further in depth aiming to submit legislation to the ordinary Diet session in 2010, which was the target indicated in the “Process Program for the Reform of the Communications and Broadcasting Field (September 1, 2006),” and that a broad national consensus be obtained for the new legal system for communications and broadcasting.

2 Understanding the Present Status

(1) Sophistication of Information and Communications Infrastructure toward a Ubiquitous Network Society

Now in Japan, efforts are made with cooperation among industry, academia, and government with an eye toward the construction of a ubiquitous network society. A ubiquitous network society is where anyone and anything can easily connect to networks to use them anytime and anywhere and also where information and communications spread into every corner of life and people can lead an affluent life utilizing them. The “u-Japan Policy” announced by the Ministry of Internal Affairs and Communications in December 2004 set the major target to “Lead the world as the world’s leading-edge ICT nation in 2010” and proposed to build the society where 100% of people in Japan can use high-speed or ultra high-speed networks.

In the broadcasting field, multi-channel and digitization trends are in progress. As for the multi-channel trend, audience can now access more than 300 channels of broadcast programs. In terms of various types of broadcast media, the shift to digital broadcasting has been in progress since the latter half of the 1990s. All terrestrial TV broadcasts will completely shift to digital ones in July 2011, when the digitization of broadcasting will be almost completed.

As mentioned above, with the development of intensive measures for information and communications, the world’s leading-edge information and communications infrastructure, which is the base to realize a ubiquitous network society, is expected to be completed around 2011 in Japan.

In addition, innovations of the information and communications industry are also progressing across the board. In the process of digitization of conventional communications networks, the Internet Protocol (IP) is globally expanding and taking root. This, combined with transmission infrastructure innovations, has brought about the development of various new services, such as broadband video distribution, video distribution to mobile terminals, and video and music downloading (such as iPod). Under such circumstances, the Internet is increasingly becoming a type of media. Consumer generated media (CGM) such as blogs and social networking services (SNS: services to support exchanges between individuals over the Internet) are significantly expanding and reforming the media structure in Japan.

Furthermore, platform services have emerged, which provide common infrastructure services, such as certification and billing services on commission, to multiple business operators providing services for users on information and communications networks. Such platform services are increasingly taking important roles not only in the satellite broadcasting

field but also in the fields of portal and search services and electronic commerce services. The platform function will become increasingly sophisticated in the future, and expectations are placed on the emergence of the “ubiquitous platform” that can be foundations for operations through interconnection and interoperation of diverse and various network terminals and services, not limited to billing and certification services.

On the other hand, the development of the Internet has a negative aspect that causes a social problem due to increased distribution of illegal and/or harmful content. Wider use of the systems facilitating access to content, such as the development of search services, has also an aspect that exacerbates this problem. In addition, for the copyright protection related to content distribution over the Internet, problems are caused by the file exchange via P2P (Peer-to-Peer: systems/services for directly exchanging data stored in all terminals, such as PCs), video upload services, and others.

(2) Development of the Convergence and Cooperation of Communications and Broadcasting

When the construction of the world’s leading-edge information and communications infrastructure is completed in 2011, services based on the convergence and cooperation of communications and broadcasting are expected to develop further in the future.

With the development of broadband networks and digital broadcasting, distribution business of various kinds of video content over the Internet is no longer something special. Now, widely seen are the use of the same infrastructure by communications and broadcasting in common (convergence of transmission routes), the emergence of terminals usable for both communications and broadcasting (convergence of terminals), and the simultaneous operations or the cooperation in capital in both of the communications and broadcasting fields (convergence of business entities).

As broadcasting-type services, there are two types of broadband video distribution services that have been regarded as typical examples of services based on the convergence and cooperation. One is the IP multicast system and the other is the RF system (CATV system). In the former case, four business operators are now providing multi-channel broadcasting services, while simultaneous retransmission of terrestrial digital broadcasting is also carried out in the latter case. In addition, VOD services using an open Internet network are also widely spread. In more than half of these cases, a TV set can be used to watch programs, allowing users to enjoy services in almost the same manner of viewing as broadcasting. Not only in the video field but also in the audio field, distribution services via networks are provided, and it is now a common practice to listen to radio programs by streaming-playing as well as to listen to popular

programs on demand after they have been broadcast. The population using podcasting (distribution after accumulation of audio files downloaded from the Internet) is particularly increasing, and the existing radio stations are also strengthening Internet radio services or content distribution services using podcasting.

One of service models utilizing the convergence of terminals is One-Seg. In terrestrial digital broadcasting, the frequency bandwidth of 6 MHz for one channel is divided into 13 segments to transmit audio and video data. One-Seg broadcasting uses one segment of them to broadcast TV programs for mobile terminals. This has made it possible to enjoy various broadcast programs with a clear picture anywhere using mobile phones or others. In addition, interactive services have become possible using the communication function of mobile phones. The shipment of this configuration has already exceeded 10 million units as of end July 2007.

As one of examples of the convergence of transmission routes and business entities, triple-play services are expanding. In addition to simultaneous operations by cable TV (wired television broadcasting) operators with telecommunication business, there are recent cases where telephone, video distribution, and Internet connection services are collectively provided using optical fiber owned by telecommunication carriers. As of end March 2007, there are as many as 385 cable TV operators that also provide Internet connection services and 17 operators that provide services using telecommunications services.

In response to this kind of development of the convergence and cooperation of communications and broadcasting, the government has taken institutional measures as required. In the communications area, in order to deal with the increase of illegal and/or harmful content distribution with the spread of Internet use, the relevant laws, such as the “Law on Restrictions on the Liability for Damages of Specified Telecommunications Service Providers and the Right to Demand Disclosure of Identity Information of the Sender (Provider Liability Limitation Law),” have been established since 1999. In the broadcasting area, the facility-supplying and program-supplying broadcasting system for satellite broadcasting (separation of software and hardware) was introduced in 1989 aiming to smoothly realize broadcasting services using communication satellites. This system applies to BS digital broadcasting which started services in 2000. In addition, in order to deregulate the use of facilities in response to the development of the convergence of routes for communications and broadcasting using optical fiber, satellites, and others, the Law Concerning Broadcast on Telecommunication Services was established in 2001 and thereby broadcasting using telecommunication services was institutionalized.

(3) Situation of Various Countries Concerning the Convergence and Cooperation Issue

(a) Development in the USA

In the USA, while the “Federal Communications Act” regulates communications and broadcasting as a whole, separate regulations apply to respective services such as public communications services, information services, broadcasting, cable services, and satellite broadcasting (DBS) as a rules system. After its approval in 1934, the Federal Communications Act was substantially revised in 1996 based on the division of former AT&T in 1984 and the subsequent progress in technology for the purpose of eliminating obstacles to new entry caused by regulations and creating effective competition. In this process, deregulation was implemented to promote competition, including mutual entry between communications business and cable TV business and between long distance communications services and local communications services. At the same time, rules for excluding multiple ownership of broadcasting stations were also substantially deregulated.

In contrast, to deal with the convergence and cooperation of communications and broadcasting, the basic legal framework of rules by type of services is not going to be reviewed yet. So far, discussions have focused on how to institutionally position new services such as broadband services. Consequently, wired broadband services, such as DSL services, were positioned as information services in 2005. Besides this, the FCC decided that cable Internet be categorized as information services in 2002 and it was finalized with the support of the Supreme Court of the United States in 2005.

It is the cable TV franchise system that hampers the spread of services reflecting the convergence of transmission routes unlike the case in Japan. It was argued that, for common carriers (public communications carriers providing communications services such as telephone services) to develop video distribution service business, the obligation to obtain cable TV franchises from each local government impeded smooth business development, and in December 2006, the Federal Communications Commission (FCC) decided to simplify the conditions for granting regional franchise licenses to operators that competed with a multiple system operator (MSO: Cable TV operator owning a plurality of CATV facilities). As for video transmission over the Internet, major common carriers insist on setting “two-tier fees,” whereby separate fees are added, while ISPs and others insist on “the neutrality of the Internet,” whereby no favorable treatment shall be given to specific parties over the Internet, and run an opposition campaign. In August 2005, the FCC adopted “Four principles to encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet,” announcing the policy to promote policy measures by attaching great importance to users’ rights in each of the content, application, service, and terminal layers as well as to fair competition between different layers.

Under these circumstances, the proposed amendment of the Federal Communications Act was submitted to both the Senate and the Houses of Representatives and deliberated. The

proposed amendment included the review of the cable franchise system and the shift to the FCC of the authority to issue cable franchises now granted to individual municipalities. Although the so-called COPE Act was passed in the House of Representatives in June 2006, the further review is deadlocked partially because of the defeat of the ruling Republic Party in the midterm election.

With regard to content, there is an active movement to distribute content cross-sectionally across media like in the case where some TV stations proactively open their program content on the website on the Internet where moving pictures can be posted. As for the issue of distributing content open to the general public, there is no argument on the confidentiality of communications in the USA but discussions are rather focused on the relationship with freedom of expression. The USA is cautious in limiting the "freedom of the sender" in terms of the interpretation of the revised Article 1 of the Constitution. With regard to the Communications Decency Act, which specifies that criminal punishment be imposed on those who communicated obscene content or the like, a court decision was made that the provisions regulating "indecent" and/or "patently offensive" communications are unconstitutional because of their unclear definition. On the other hand, penalties in the provisions concerning other "obscene, lewd, lascivious, or filthy" communications are regarded as constitutional and applicable. Furthermore, the judgment of the Supreme Court of the United States varied to some extent on the subsequent legislation to protect minors from harmful information, and a decision was made by the court to uphold the constitutionality of the "Children's Internet Protection Act" (CIPA), which mandates to take technical measures (filtering) required to prevent children from accessing harmful information at schools and libraries as conditions to be eligible for subsidies from the government.

(b) Development in the EU

In the EU, a basic framework of regulations is based on the thought to create and promote a single market in Europe. To be specific, the same rules apply to the network infrastructure and services on the infrastructure without distinction between communications and broadcasting, and the telecommunications regulatory package regulates transmission services and facilities as well as their related services and facilities and the "Television without Frontiers Directive" and others regulate the content part, aiming at a layer-type legal system based on the neutrality of technology. Based on this, individual countries intend to establish their respective domestic laws.

In the telecommunications regulatory package, business operators can run their business without a prior examination by an administrative agency in principle so long as general

approval procedures, equivalent to notification or registration in Japan, are taken. However, a prior control still remains only for business operators with significant market power (SMP). As for rules for content, the Television without Frontiers Directive specifies minimally required rules common in Europe to protect minors and regulate advertisement. While member countries maintain the rules specified by the Television without Frontiers Directive, they are allowed to have their own discretion to specify additional detailed provisions.

Digital convergence is positioned as a main policy issue in the EU mainly because broadcast content is generally distributed to member countries beyond the border via satellites. Therefore, social rules to deal with the expansion of video distribution services and others are a focal point of discussions. To be specific, in June 2005, the European Commission adopted "i2010," which is an information strategy vision with the year 2010 in view, and proposed the review of the telecommunications regulatory package and the Television without Frontiers Directive from the perspective of creating a single information space in Europe. Based on this, the review work is undertaken for each. For the telecommunications regulatory package, the review proposal was released to the public in November 2007. It includes proposals to expand the unbundled access market, which used to be limited to metal lines, to the one including optical fiber, to introduce the system to transfer the rights to use a certain frequency to third parties, and to enhance user protection in the privacy and security fields.

As for rules for content, political agreement was reached in the EU Council and Parliament in May 2007 on the "draft Audiovisual Media Services Directive," whereby the subject of rules is expanded from "television broadcasting" to "audiovisual media services," meaning general moving picture transmission to the public, and member countries impose minimally required rules uniformly to protect minors and prohibit discrimination regardless of the Internet content or broadcast programs. To be specific, audiovisual media services are firstly defined as "services with the main purpose of providing programs targeted for the general public and with editorial responsibility belonging to the provider," which are "limited to mass media regardless of scheduled or on demand, meaning those aimed to be received by a considerable part of the general public and possibly having a clear impact." This definition focuses on the social impact. (However, these are not applicable to electronic versions of magazines and newspapers.) Imposed on audiovisual media services are (1) obligations to indicate the name, address, email address, and others of the service provider, (2) prohibitions to incite hatred related to sex, races, and others, and (3) regulations for the advertisement identification and content of TV commercials. Then, audiovisual media services are classified into linear services represented by the conventional-type broadcasting (services by providers to provide simultaneously viewed programs based on the schedule) and non-linear services such as VOD services (services by providers to provide programs at the time selected by users based on their own request). On

linear services, in addition to the above, regulations are imposed to ensure access to important events and others, take measures to protect minors, and ensure a certain proportion of programs produced in Europe and independent producers.

Measures are taken for communications open to the general public in individual countries. In France, under the Digital Economy Law established in 2004, regulations are in place to indicate the name and address of public online service editors and limit the liability of ISPs while freedom of communications to the public via electronic means is ensured. In Germany, a voluntary regulatory association has been established for search services and regulates such content as child pornography and the admiration of Nazism. As for measures taken by the EU as a whole, the European Parliament and the European Council officially adopted the "Recommendation on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services" in December in 2006, targeting "online media" where audiovisual media services and online information services are integrated. This urged the member countries to take proactive measures, including institutional aspects such as the study on introducing the right of reply and others into their respective domestic laws as well as the development of the code of conduct, with governmental organizations and other parties concerned cooperating to introduce the framework based on them, and where the concerned parties collaborate in acting to prevent the distribution of harmful content to minors.

3 Necessity to Review the Legal Structure for Communications and Broadcasting

(1) Dealing with the Structural Change of Information and Communications Society

Conventionally, due to the influence caused by a physically significant difference in nature between communications and broadcasting media, services could be provided only through the network suitable for the respective media. For example, multi-channel one-way video distribution services can be provided via cable TVs; however, since technical difficulties and significant costs were involved to provide interactive services, such services have not been profitable as a business until recent years. The same used to apply not only to broadcast media but also to conventional communications services, such as fixed communications and mobile communications. Based on one-to-one correspondence of service and network, the business model and the form of using services were completed within the media, resulting in a “vertical type” with little deployment beyond the media.

However, as a result of the progress in the construction of information and communications infrastructure and the development of technical innovations by digitization and IP, the convergence of transmission routes have made a progress, and now it is increasingly becoming a common practice to provide both communications and broadcasting services via a single network. Users are also becoming less conscious of the distinction whether information and communication services they enjoy are communications or broadcasting. Similarly, with the establishment of ubiquitous networks, the provision of services beyond the classification of transmission characteristics, either wired or wireless, is expected to be realized by 2011.

Also broadcast program content, which was conventionally used secondarily as package software, can be provided through online VOD services now, and multiple use of content on the network beyond the framework of secondary use is rapidly progressing. In addition, individual people, who used to only receive information, are now actively transmitting information in the form of blogs or using social network services (SNS). New types of content with the cooperation of these various types of communications content and broadcast programs are also actively created.

Furthermore, for smooth distribution of diverse and various types of content on general purpose networks for communications and broadcasting, platform services as a common foundation to mediate the distribution of information between an indefinite number of users will grow with major revenues from the commission for certification in mediation and billing services, and they are expected to grow into a common foundation for various terminals and services to interconnect and operate in the future.

Based on the above, information and communications society is expected to gradually change in the future from the vertical structure, where the market and the form of usage are limited by the physical characteristics of individual media, to the “horizontal” layer structure, (1) where content is distributed by selecting the network arbitrarily and timely, thereby aiming to maximize effectiveness for users as well as companies’ profits, (2) where transmission infrastructure specializes in transmitting information regardless of characteristics of services (such as whether they are interactive or one way and whether or not they are open to the general public), thereby aiming to maximize the efficiency of network use, and (3) which aims at platform services that specialize in mediating the distribution of information without having their own transmission facilities, thereby obtaining added value. Therefore, institutional measures to deal with these changes are required.

(2) Development of an Unrestricted Business Environment through Broader Classification of Markets

In the conventional vertical industrial structure, individual media and markets existed independently with only little mutual influence. Consequently, in order to promote a healthy growth of individual markets, it was the most efficient to evaluate the social impact and physical characteristics of individual media independently and apply the respective customized rules. In fact, these vertical regulations function comparatively well even at present after partial revisions for several times for deregulation purposes.

However, in light of the progress in the convergence and cooperation of communications and broadcasting, enterprising business operators are trying to construct a horizontal business model beyond vertically structured conventional media. There already emerge and spread mobile sites cooperating with broadcast programs, notably including One-Seg and other services, such as those used for program search, the Internet sales, and others by pasting meta data into a broadcast program after broadcast, and it is anticipated that various new services and new businesses full of creativity and ideas will emerge in the future.

Under these circumstances, if the regulation method conventionally used to respond to physical characteristics of media is maintained, smooth business development based on free ideas of business operators who want to develop business beyond media may be hampered and the chance of innovative converged services may be taken away. This gives damage not only to business operators but also to effectiveness for users, and it is therefore necessary to moderate the conventional institutional design vertically and finely divided to the extent possible and introduce an integrated regulation system broadly encompassing similar markets.

(3) Consistent and Unified Measures to Protect Users

Attention should be also focused on an increasing necessity ever to take measures to protect users with the sophistication of information and communications networks. With the progress in the convergence and cooperation of communications and broadcasting, new services are going to be provided, including broadcasting services using interactive functions and platform services with the information mediating function. It is also anticipated that a considerable part of various activities conventionally conducted through face-to-face sales or face-to-face contracts in principle will be implemented over the Internet in the future. With these trends, it is well assumed that there will be increasing cases where, for example, the conventional oral explanation of important items is replaced with the transaction by reading important documents posted on a website and clicking to agree on them. Using the Internet in these manners will most probably increase the burden on users without expert knowledge in trading.

In addition, there are cases where minors without sufficient ability to judge are vulnerably exposed to harmful content and a person without any fault and liability becomes a victim caused by vicious notes on the Internet bulletin board, and these cases have now become social issues.

To deal with these issues, individual voluntary measures are taken now in each industry. However, under the circumstances where differences in media and service content are becoming more relative to each other and users are becoming less conscious of whether the service is communications or broadcasting, it could pose a lot of problems from the perspective of essentially protecting users and ensuring fairness among users if individual business operators continue to take measures based on their thought from time to time in the conventional manner. From the perspective of ensuring the effectiveness of measures, it is necessary to develop measures consistent and comprehensive for users of communications and information networks as a whole to protect users and realize users' rights.

(4) Dealing with the Rapid Technical Innovations

The structural change of the information and communications industry is backed by the progress of technical innovations, such as digitization, optical fiber applications, and IP applications. These innovations will not cease but are well expected to further accelerate in the future.

The legal structure for communications and broadcasting has responded to technical innovations as required. For example, when video distribution services via satellites became technically viable, a facility supplying/supplied broadcasting system was established, and when IP multicast broadcasting became technically viable, the Law Concerning Broadcast on

Telecommunication Services was established. While the institutional system generally meets the current technological level as of now, it is extremely difficult to concretely predict how technical innovations will proceed in the future. It is also possible that dealing with various new services created in accelerating technical innovations from time to time as required could possibly cause the delay of business development because new services cannot be provided until the new institution is prepared. Particularly, the information and communications industry is the field where the so-called pioneer profit is very likely to be obtained, and the delay in business development under the circumstances where markets are increasingly internationalized may possibly cause a critical disadvantage in international competition.

On the other hand, the major purposes of the present legal structure for communications and broadcasting are “the guarantee of freedom of expression and the public welfare” in information transmission services and “ensuring the confidentiality of communications” in information distribution services, and these values common to people do not fundamentally change even over time or with the progress of technical innovations. It is therefore necessary to establish minimally required rules to guarantee these common values and thereby change the institution to the one not affected by technical innovations and consequently foreseeable for business operators planning new services and not hampering their business development.

(5) Dealing with the Internationalization of Networks

Under the circumstances where the distribution of information is increasingly borderless, an international viewpoint must be taken into consideration for rules in the legal structure for communications and broadcasting.

Conventionally, international issues in the information and communications industry were not so obvious except for the interconnection of international calls and radio wave interference between countries. As an exception, when it became possible to receive foreign satellite broadcasting in Japan, the domestic institution was improved and it was institutionalized as entrusted domestic and overseas broadcasting in 1994. But this had no significant impact on domestic industries.

However, the globalization of the distribution of information due to the spread and sophistication of the Internet in recent years urges to take essential measures. To deal with illegal and/or harmful content on the Internet, voluntary efforts of ISPs in Japan obtained certain achievements. However, there are vicious parties that transfer content to servers abroad and continue to transmit it using the same URL, and consequently, the inflow of illegal and/or harmful content from abroad is becoming an issue. On the other hand, there are also cases where illegal and/or harmful content in Japan flows out via search services of foreign providers

operating in Japan. With regard to the distribution services of content using the Internet, even if regulations are imposed on providers in Japan, sufficient effects cannot be expected unless the law applies to the distribution services from abroad. International competitiveness may possibly be weakened as well if excessive regulations are imposed only on providers in Japan. While the conventional rules system based on the social and cultural background in Japan are functioning, ensuring consistency on the international basis must be regarded as important for these kinds of rules systems in the future.

The World Radiocommunication Conference 2007 (WRC-07: Conference hosted by the International Telecommunication Union [ITU]), where worldwide frequency allocations are coordinated, has decided that the issue of how wireless communications rules can meet the convergence of services and technologies of various wireless communications including broadcasting be put into the agenda in the next conference held in 2011. Also in the present situation, while an international consensus is partially established in some areas, for example, as the “Convention on Cyber Crime” and the protection of intellectual property rights, general and comprehensive international rules are still on the way to being established. Particularly, since the legal structure for communications and broadcasting has not only an aspect of rules for economy but also an aspect of rules for society and it is required to consider the historical and cultural background of individual countries in the latter aspect, a consensus will not be formed soon.

Consequently, rules minimally required from the global perspective, including the assurance of human dignity and the protection of minors, must be prepared with a pioneering approach with responsibility as a nation, taking into account the trends in various countries in dealing with the issue of convergence and cooperation, and then problems must be resolved through international coordination with foreign countries. This is very important from the perspective of enhancing forseeability of business operators aiming at overseas business development as well as bringing about overall strength of Japan in international competitiveness through the acceleration of innovations.

4 Direction of the Review

(1) Clarifying Fundamental Principles with an Eye toward a Ubiquitous Network Society

Along with the digitization of all networks developing towards 2011, the rapidly developing IP applications are now expected to further spread over a broader range of networks and services. This will lead to network infrastructure with various communications devices and services cooperating with each other and integrated via IP and comprehensively bring about a society where various human activities, including political, economic, and social activities, are conducted on the infrastructure.

The study to review the legal system needs to be conducted with an eye toward the advent of a ubiquitous network society, where all economic and social activities can be conducted safely and securely via these information and communications networks, from the perspective of fundamentally reviewing the future vision of the institution by clarifying fundamental principles in order to restructure the legal system to the one suitable to the vision. The industrial structure of the information and communications field is changing, content business and information transmission business are developing beyond the conventional wall between communications and broad casting, and services to which both communications laws and broadcasting laws apply in combination are expanding. Under these circumstances, if both regulations are kept distinct from each other, the expansion and development of new services are likely to be hampered. Rules for “communications” have been required to protect the confidentiality of communications as information activities between concerned parties mainly based on the common social background (such as a family and a company), and rules for “broadcasting” have been required to observe the bylaw for editing programs as information activities for the general public without individually recognizing receivers of information. Now it is important to restructure both of these rules in a manner consistent with each other and clarify fundamental principles of what kinds of purposes and common values should be realized in a ubiquitous network society. Even in this case, it is necessary to pay thorough attention to the viewpoint that the functions and role as “broadcasting” should be maintained as long as broadcasting remains as conventional broadcasting services.

The first objective to be realized as fundamental principles is “unrestricted distribution of information.” This is the concept closely related to “freedom of expression,” which is one of the fundamental principles of the Constitution. At the same time, “Production, distribution, and consumption of information are essential to leading a social life and conducting industrial and economic activities. However, such information activities are, needless to say, limited by the information environment in the respective times.” (Report of the “Panel on the

Convergence of Communications and Broadcasting toward the 21st Century" in June 1996) Accordingly, the development and sophistication of information and communications infrastructure in recent years have enhanced the degree of freedom of information activities and promoted unrestricted and smooth distribution of information. Unrestricted distribution of information will bring about the emergence of collective intelligence, a fundamental element of economic and social innovations. In this context, "unrestricted distribution of information" is regarded as a key element of information society.

The next objective is the "benefits of information and communications technology to everyone," meaning the guarantee of universal services. At present, universal services are defined as "telecommunications services crucial to people's life and therefore to be ensured to be provided to everyone in the entire Japan." Here, however, they have a broader concept encompassing whole communications and broadcasting as a fundamental principle of the information and communication law to realize a ubiquitous network society, including the removal of not only regional information disparity but also barriers of the information and communications environment. Various benefits thanks to the construction of a ubiquitous network society should be enjoyed by everyone, and for that purpose, the information and communications environment of individual people should be improved with the aim to eliminate all kinds of digital divide.

The rights whereby unrestricted distribution of information and universal services are guaranteed are, so to speak, "information rights" as fundamental rights of users and have an important significance in terms of what future-oriented fundamental human rights ought to be in information society in the future. Also from this perspective, the rights are worth as fundamental principles that should be clarified.

As close and inseparable practices to realize the above, it is also important to ensure the distribution of information in a highly reliable and safe environment. Consequently, "unrestricted distribution of information," "guarantee of universal services," and "ensuring the safety and reliability of information and communications networks" should be clarified as fundamental principles in a ubiquitous network society aimed at by the new legal structure for communications and broadcasting.

It is appropriate to position, based on the above, individual protected legal interests of the conventional communications and broadcasting legal structure, such as "promoting fair competition and protecting users," "ensuring the appropriateness of business and business operations," and "promoting ICT innovations," as protected legal interests to embody fundamental principles.

(2) Conversion to a Layer-type Legal System and Deregulation and Integration of Rules

The specific framework of the new legal system must be the one that can resolve various issues existing as background reasons for the necessity to review the structure. In other words, it needs to correspond to the reasons for the necessity of the review described in the previous section, that is, (1) dealing with the structural change of information and communications society, (2) development of the environment that allows unrestricted business development, (3) comprehensive measures to protect users, (4) ensuring the neutrality of technology of rules content, and (5) ensuring consistency on the international basis.

As described before, with transmission infrastructure digitization and the extensive use of IP, transmission infrastructures have been increasingly used in common for communications, and broadcasting, and the industrial structure of the information and communication field has changed to be in the “horizontally divided structure” where business models and markets are created for individual layers of content or transmission layers and business operators are competing with each other in the respective areas. Furthermore, diverse businesses are developing, including business integration and cooperation beyond the layer, based on this movement.

Under these circumstances, in order for each business operator to develop business freely beyond the wall between conventional media, it is more appropriate, rather than specifying detailed rules for individual businesses, to classify the scope of rules as broadly as possible and decisively deregulate and integrate various regulations to impose only minimum regulations and rules required commonly to the respective subjects of the rules. It is also necessary to apply the equivalent regulations in principle to services equivalent from the users’ viewpoint regardless of kinds of technologies used to provide the services in order to flexibly deal with the intensive technical innovations in the information and communications field.

To determine the specific scope of rules, it is necessary to consider the functions of information in the series of the information cycle process and the characteristics of information itself based on the fact that the information and communications industry is deeply involved in the cycle of the production, distribution, and consumption of information. To be specific, studies must be conducted based on (1) the classification of functions fulfilled by business operators in terms of whether the business is to transmit communications between third parties or to transmit information created by themselves and (2) the classification of information transmitted in terms of whether it is confidential or open to the general public.

Accordingly, the information and communication industry needs to be classified into (1) the content industry where business is to transmit information created by themselves and the

applicability of rules must be studied from the perspective of being in conformity with public welfare because information transmitted is open to the general public, while freedom of expression must be guaranteed for the information content and (2) the transmission infrastructure industry where business is to transmit information between third parties and the applicability of rules must be studied from the perspective of ensuring the confidentiality of communications because the information content must be confidential; and it is appropriate to study the necessity of rules for competition policy, protecting users, and others in each classification. These classifications correspond to the content layer and the transmission infrastructure layer, respectively, from the viewpoint of a hierarchical structure of networks.

In addition, while platforms, which have an important function to efficiently and effectively distribute content using transmission infrastructure, cannot be ignored in studying the future vision of the legal system, they do not belong to either of the above layers. It is, therefore, appropriate to temporarily regard platforms as an independent layer and study its future vision from the perspective of unrestricted distribution of information.

Based on the above, the present legal system for communications and broadcasting in Japan should be regulated commonly for each layer in accordance with the positioning and the difference in the role of individual content and services in the distribution of information on networks. Furthermore, it is appropriate to convert the legal system to the one that ensures openness of the distribution of information as a whole by clarifying inter-layer rules. In the EU, individual member countries are also trying to discover specific measures for this layer-type legal system under their respective domestic laws, and Japan should aim to establish a leading-edge layer-type legal system ahead of the other countries in the world from the perspective of leading measures on an international basis to deal with this issue.

Furthermore, this type of review should not be limited to the superficial restructuring of the present regulations but they should be deregulated and integrated to the extent possible excluding indispensable rules, for example, for ensuring fair competition and protecting users' benefits. Then, based on the fundamental principle of each layer, laws should be integrated for each layer (and between layers when required) to the extent possible and classified as broadly as possible as a whole, including legislation related to the improvement of the ICT environment such as the Provider Liability Limited Law, in accordance with the legal technique with the goal of forming a single and comprehensive "Information and Communications Law (tentative)".

(3) Comprehensive Improvement of User Regulations

In restructuring the legal system into the Information and Communications Law to promote unrestricted business development of business operators, it is desirable to relax regulations for

individual business to the extent possible. However, attention must be paid so that users' benefits ensured by the conventional business regulations may not be impaired as a result of, for example, the abolishment of the conventional business regulations. Furthermore, as described before, it is anticipated that, in addition to the conventional communications and broadcasting services, a considerable part of various activities conventionally conducted through face-to-face sales or face-to-face contracts in principle will be made over the Internet in the future. Even though the operability of information terminals has been substantially improved in recent years, a high level of information literacy is still required to utilize ICT, and the risk has rather increased whereby the information weak such as the aged are left without the ability to make adequate use of terminal functions or even suffer unexpected damage. In addition, in the existing communications and broadcasting services, troubles between business operators and users are frequently occurring over the method for selling devices and the method for soliciting services. Should no measures be taken for these issues, information and communications networks would lose the universality and the major objective of a ubiquitous network society would be impaired.

Consequently, in the process of this fundamental restructuring of the legal system, it is necessary to improve regulations for protecting users and realizing users' rights comprehensively applicable to information and communications services, together with the relaxation or abolishment of regulations for business operators.

5 Future Vision of Legal System for Content

(1) Basic Concept

Broadcasting is conceptually positioned as “part of the concept” of communications. In the present legal structure, however, the function of rules for communications (the Internet) at the legal level is limited to deleting some of illegal information, while broadcasting is comprehensively regulated by the legal structure for broadcasting, most notably including the “Broadcast Law”. This is because involvement in communications content is institutionally eliminated to the extent possible based on the “protection of the confidentiality of communications,” while broadcasting is regulated to be in conformity with the public welfare on condition that “freedom of expression” concerning senders and receivers is ensured.

In the future, the Internet will be further becoming a kind of media, which will cause the distribution of a large amount of content of “communications open to the general public,” which has fundamental characteristics as communications but is substantially not confidential. Information once placed on networks will be stored in the cache of PCs and servers of individuals into the future. It is extremely difficult to completely erase such information on networks, and in addition, it can be easily retrieved. This type of information propagates widely via networks and reaches parties not intended by the sender of the information and influences them. The impact on society of the distribution of information via networks is essentially the same between broadcasting and communications if such information is open to the general public. Consequently, in a ubiquitous network society, those parties engaged in distributing information on information and communications networks should fulfill the responsibility for constructing a “safe and secure network society” equally without the distinction of broadcasting and communications, and it is appropriate to study on the rules for this purpose in a unified manner.

In this process, what should be regarded as the most important is ensuring “freedom of expression” using information and communications network. It is needless to say that freedom of expression, meaning freedom of external spiritual activities, should be guaranteed in all expression media including radios, TVs, and furthermore the Internet, not limited to addresses, pictures, and printed materials, such as newspapers and magazines, as the one to support individuals’ freedom of internal spiritual activities (freedom of inner thought), such as freedom of thought and conscience, that must be absolutely ensured.

In this view, based on the fact that communications in the broad sense are a kind of expression activities to communication a will and a notion to other people and also from the perspective of protecting privacy, the confidentiality of communications to a specific party

and not open to the general public, such as private communications, should continue to be guaranteed to the extent possible concerning all matters related to communications, including not only the content, needless to say, but also the names of the senders and receivers, time of communications, and others.

On the other hand, since communications content open to the general public, including broadcast content, are received by an indefinite number of people, such content must be subject to very exceptional restrictions on freedom of expression in the context of the relationship with society, particularly with human rights of other people. Information and communications media can have a social impact different from that of printed media and others in terms that video and audio images can be viewed instantaneously by an indefinite number of people. If, for example, sexual expression, expression of defaming people, or expression of infringing on privacy is transmitted to an indefinite number of people without limitation using this kind of media, important values, such as maintaining sound sexual morals and protecting honor and privacy of private individuals, are likely to be impaired; therefore, rules for coordination to avoid conflicts between both sides are required.

In this case, in the relationship with “freedom of expression” under the Constitution, the distribution of content classified as illegal as a results of measurement taking into account the values of expression activities, such as defamation of character, obscene materials, and crime incitation, is not within the scope of the guarantee of freedom of expression in the first place, and it is generally accepted that regulating such does not poses any problems. As for the distribution of harmful content, based on the fact that the criteria for harmful books designated by the Youth Protection Ordinance were judged constitutional in the Supreme Court, there will be room that it can be subject to clear and minimally required rules.

Among all, broadcasting is the media directly and instantaneously transmitting information simultaneously an indefinite number of viewers across the country and has a strong social impact (special social impact) compared with other information and communications media. On the other hand, broadcasting plays a special role in the contemporary society as a means to promptly provide receivers with diverse and good quality information. To be specific, the role includes a function as a mass media contributing to the healthy development of democracy, the provision of information crucial to people’s life in local communities, and the provision of various programs in abundance and with good quality meeting the diversifying needs of people. In light of these kinds of “special social impact,” regulations are imposed on broadcasting in editing programs, for example, to comply with the bylaw specifying (1) public security and good public decency, (2) political impartiality, (3) accuracy in reporting, and (4) multiple approaches to understand the points of argument.

With technical innovations, expectations are placed on the emergence of content

distribution services in the future with the quality comparable to that of broadcasting (in terms of such as the best effort or not and the presence or absence of convergence) and the capability of, for example, instantaneously and simultaneously distributing content to the public. However, should such services have a "special social impact" similarly to the current broadcasting, there would be no reason to impose different regulations on services having no particular difference in their service content for the reason of the difference in technology used to provide services. At the same time, even if the traditional concept of "broadcasting" is changing due to technical innovations, the social significance of the key role that broadcasting has fulfilled so far is not lost. In this context, the framework of rules for "broadcasting" will be able to play the role also in the future as a rules model for media content with a "special social impact."

Based on the above, content distributed on information and communications networks shall be firstly classified into that open to the general public and that not open to the general public, and then the confidentiality of communications shall continue to be guaranteed to the extent possible for the latter. Then, in the case of content open to the general public, (1) as for the existing broadcasting and content distribution services comparable to broadcasting and expected to emerge in the future (hereinafter collectively as "media services [tentative]"), in light of their "special social impact," it is appropriate to apply content rules technically neutrally and in the unified manner from the perspective of ensuring unrestricted distribution of information while maintaining the concept that "minimally required rules shall be developed together with voluntary principles to ensure freedom of expression" based on the broadcasting legal stricture, which is a mature rules system. On the other hand, (2) as for information and communications content open to the general public excluding content of "media services" (hereinafter as "open media content [tentative]"), minimally required measures should be taken to deal with the distribution of illegal content as rules for coordinating freedom of expression and the public welfare and the study should be made on the possibility of rules for harmful content as well, on condition that the guarantee of freedom of expression is ensured to the maximum extent possible.

Meanwhile, there is a concern about unfair infringement on freedom of expression by public authorities in this kind of process to restructure rules for content, and many opinions expressing concern were received in public comments and others for the Interim Summary Report. As already explained, illegal content is regarded as being out of the scope of the guarantee of freedom of expression in the first place, and with regard to "open media content," rules for illegal content do not infringe on freedom of expression. Also in the case of the system whereby regulations, for example, for ensuring multiple approaches to the points of argument are imposed only on "media services" on condition that printed media are

completely free from regulations, minority opinions are taken up by “media services,” which eliminates the possibility of controlling information by oligopolistic mass media, and excessive regulations for “media services” are restricted by the criticism from printed media. These kinds of mutual interactions are expected to ensure well-balanced and enhanced unrestricted markets of ideas.

(2) “Media Services”

With regard to “media services,” as described above, rules for content technically neutral and in accordance with the existing rules for broadcasting should be applied with the “special social impact” as the grounds of the rules.

As for the thought that rules have grounds mainly in the special social impact, the argument that rules can be justified is generally accepted also in theories in Japan. In the EU, a rules system focusing on what is called “a clear impact on, a significant proportion of the general public” is already aimed to be introduced. Furthermore, in the USA, there are no regulations for printed media, while various regulations exist for broadcast media, and opinions to justify the regulations applied only to broadcasting are dominant as a theory for the reason that mutual checking and interaction between printed media and broadcasting, both having a social impact in a general sense, will correct unequal opportunities for expression and ensure diversity of information. This will be reasonably explainable from the perspective of international comparison of rules.

However, even in the case of regulating “media services” for the reason of the special social impact, it is not appropriate to apply the same rules uniformly to the “media services.” Broadcasting has been conventionally playing a social role of providing fundamental information crucial to peoples’ life. However, due to the progress in multiple channels particularly in CS broadcasting, the number of dedicated channels specializing in amusement or the like for people is increasing. These are considered to have rather a comparatively small degree of special social impact. In these kinds of field, regulations should be relaxed by paying more attention to freedom of expression. Consequently, “media services” should be further categorized based on the special social impact and then reorganized “stepwise” in the direction of deregulating the present broadcasting regulations in accordance with the degree of its impact. To be specific, studies should be conducted on the direction that the present rules for content in broadcasting are to be maintained in principle for key “media services” like the present terrestrial TV broadcasting having a particularly strong “special social impact” and playing a special social role by categorizing them as “special media services (tentative),” and that other “media services” are to be deregulated as “general media services (tentative)”.

The judgment indices for the degree of the "special social impact" as merkmal for categorization will include (1) type of content, such as video/audio/data, (2) quality of the service such as the degree of definition of the screen, (3) ease of access via terminals, (4) number of the audience, and (5) distinction as to at a charge or free of charge. In this case, in order to avoid arbitrary use, the indices must be able to be externally judged to the extent possible. Particularly, the so-called mass media having a social impact are usually oligopolistic and since oligopoly is considered to narrow the possibility of receivers to select information, which is the source of the social impact, the oligopoly nature of a market as well as the presence and the degree of the physical bottleneck nature of the market should be used as important indices to judge the degree of the special social impact. In the process of determining specific indices, in order to ensure the impartiality and objectivity, studies must be further conducted in the future by widely collecting opinions of the parties concerned so that thorough attention can be paid to ensure freedom of expression.

(a) "Special media services"

"Special media services" have a strong function to form public opinion, which is most important as mass media for the sound development of democracy, and comprehensively provide everyone with information crucial to the life of the people in communities, while they will be positioned as a means for the distribution of content playing a special social role with functions, such as a major means of transmitting information in emergencies like disasters. This type of role as key media is now mainly played by terrestrial TV broadcasting. Consequently, with the content distribution services provided by the current terrestrial TV broadcasting as a base, it is necessary to study the specific scope of "special media services" and the detailed structure of the rules for them in accordance with the objective of the agreement between the government and the ruling parties that "the study shall be promptly started on condition that the concept of the key broadcasting is maintained."

In this process, it is appropriate that the rules for content applicable to "special media services" maintain the rules for the current terrestrial TV broadcasting in principle including the principle of excluding multiple ownership of the media, which aims to ensure the plurality, diversity, and regionality of broadcasting, in light of the particularly strong "special social impact" of the services and their special social role.

As for the specific scope of "special media services," many opinions that the scope be clarified were received in public comments and others. For this issue, in the process of designing a specific institution in the future, the social functions required as "special media services," including ensuring the transmission of information and the provision of regional

information in emergency, should be determined first, and then they shall be specifically applied to the existing media.

(b) "General media services"

The scope of "general media services" should be studied so that it covers commercially feasible content distribution services that have certain social functions and impact among those comparable to the present broadcasting, together with the present satellite broadcasting (CS) and others. This is based on the possibility that services having functions and quality equivalent to those of the present broadcasting from the viewers' standpoint could emerge in the future also in video distribution services provided over the Internet because, for example, easy access via dedicated terminals, similar to TV, is achieved.

As for details of rules, studies must be conducted in the direction of deregulating the present broadcasting regulations. To be specific, for example, the obligations concerning the special social role, such as disaster broadcasting, should be mitigated or eliminated and the "principle of excluding multiple ownership of the media" should be applied to the minimum extent possible. Furthermore, also in the case of "general media services," their social impact must be assessed based on the above-mentioned judgment indices to categorize those services, instead of uniformly applying the rules for content. Then, rules concerning the assurance of proper content shall apply to content distribution services acknowledged as equivalent to the present CS broadcasting. Such rules include a bylaw for editing programs (while there is room for the study of content to which the bylaw applies) and advertisement identification. On the other hand, studies should be conducted to ensure that more generous rules on content shall apply to others. In these cases, if audio and/or data have no significant difference from "open media content" in their social impact, it should be also studied whether they should be institutionally regarded as "open media content".

As for the framework where providers who desire the guaranteed credibility of their own services can choose rules, there is an opinion that it is useful from the perspective of protecting users, while it is pointed out that there are problems in terms of the need for and the operation of the mechanism, so it is appropriate to continue discussions.

(3) "Open media content"

For "open media content" with the social impact not as strong as "media services," freedom of expression must be guaranteed to the maximum extent possible. From this perspective, it is proposed that "unrestricted distribution of information" should be referred to in the fundamental principles of the new legal system. Therefore, on "open media content," rules

equivalent to those for “media services,” such as the bylaw for editing programs, should not be imposed; however, it is necessary to study on rules minimally required to coordinate freedom of expression and the public welfare as exceptional measures so that some of “open media content” may neither infringe on the rights of third parties nor impair the public safety and sound growth of minors.

In this process, the specific definition and scope of “open media content” must be clarified to the extent possible because they are subject to the rules. It will be appropriate to assume the definition as “specified telecommunications”, that is, the “Transmission of telecommunications intended to be received by an indefinite number of people” as specified in Article 2-1 of the Provider Liability Limitation Law. As merkmal (indices) for specificity, it is appropriate to judge whether or not the sender intends to transmit information to an indefinite number of people mainly based on the degree of the relationship binding the sender and receivers and attributes of receivers as well as comprehensively taking into account such factors as whether or not advertisement is involved. This matter will raise the issue of particularly how to handle membership sites; however, since there are various and diverse membership sites, studies should be conducted to have merkmal (indices) more specific in the future to develop guidelines as clear as possible for legislation.

As for what the specific rules ought to be for “open media content,” studies must be conducted by distinguishing between “illegal information” and “harmful information,” whereby the former means information violating laws and/or orders or infringing on the rights of others (including legally protected benefits; hereinafter the same) while the latter means information which cannot necessarily be regarded as illegal information but may possibly cause danger to the public safety or order or information which is regarded as harmful to the rights or welfare of specific people.

(a) Measures to deal with “illegal information”

As described before, illegal information is classified as illegal as a result of measurement taking also into account the values of expression activities, and regulating such information as being out of the scope of the guarantee of freedom of expression will not pose any significant problems under the Constitution.

In fact, when we look at the situation abroad, in the USA, in addition to the provision to limit the liability of providers under the “Federal Communications Act,” provisions to penalize those who conducted obscene, lewd, lascivious, or filthy communications using telecommunication equipment for the purpose of offending people are prepared. Also in the UK and France, under the laws and regulations concerning information and communications,

providers are uniformly exempt from criminal liability under individual laws in the case that providers have taken such measures as deleting illegal content. Also in Germany, penalties are imposed for illegal content under the interstate agreement. In addition, in Korea, the Information and Communications Minister can order the suspension, limitation, or the like for providers to handle illegal information through deliberations in the Information Communication Ethics Committee. Like these cases, foreign countries are aiming at proactive regulations taken by public authorities to deal with illegal content.

Domestically in Japan, the transmission of illegal information is now regulated under the respective individual laws, such as the Copyright Act and the Pharmaceutical Law. In addition, from the perspective of improving the ICT environment, the Provider Liability Limitation Law is established, which specifies the limitation of liability of providers and the rights of claim for disclosure of senders' information concerning information that infringes on individuals' rights; however, compared with various foreign countries, legal measures are less than enough to deal with illegal information that infringes on social legal interests. Concerning voluntary measures taken by provides, many voices are raised requesting the improvement of rules, including legal grounds, and the prompt relief of victims

However, the imposition by the government of comprehensive and direct regulations to deal with illegal information may cause excessive discouragement of speech and expression activities and will be most probably incompatible with affluent Internet culture of our country with voluntariness and spontaneity as its core, which has rapidly bloomed in the past several years. Many similar opinions have been received also in public comments and others.

With these comprehensively taken into account, in the comprehensive legislation of the Information and Communications Law, comprehensive and direct regulations by the government for illegal information shall be refrained from being imposed for the time being, and studies should be conducted to prepare minimally required items to be taken into account in the form of no specific penalties, which should be complied with by all parties involved in the distribution of information on information and communications networks. At the same time, in order to promptly deal with illegal information, including that infringing on social legal interests, prevent damage, and relieve victims, a framework should be developed to promote measures without direct involvement of administrative organizations, including, for example, clarifying legal liabilities of the parties concerned and preparing legal grounds for measures, such as the deletion by ISPs and others and the setting of ratings. Meanwhile, detailed investigations should be conducted in the future on the situation of the distribution of illegal content as well as the situation of damage, and studies should be also conducted as required on the appropriateness of imposing penalties and others.

(b) Measures to deal with "harmful information"

As described before, "harmful information" means information which cannot necessarily be regarded as illegal information but may possibly cause danger to the public safety or order or information which is regarded as harmful to the rights or welfare of specific people. It is, for a specific example, information against public order and morals or harmful to minors.

Harmful information is estimated to be within the scope of the guarantee of freedom of expression; therefore, in the process of studying the future vision of the rules, more attention must be paid to the items taken into account (such as the effect to discourage speech) for the abovementioned measures to deal with "illegal information."

In this aspect, generally in various foreign countries, indirect regulations, such as blocking the access from the parties likely to receive a harmful impact, are institutionally prepared rather than the government administration directly regulating the content of expression. To be specific, in the USA, the "Children's Internet Protection Act" mandates to take technical measures (introduction of filtering software) required to prevent children from accessing harmful information at schools and libraries as conditions applicable to subsidies from the government. In the UK, as voluntary regulations of providers, any content inappropriate for users under 18 is voluntarily sorted and each provider puts the content sorted under its control so that only the users whose age is confirmed can access it. In France, as measures to deal with illegal and/or harmful content, providers are obligated to provide their subscribers with filtering software (while it is up to users' discretion whether or not to use it). In Germany, providers are obligated to take measures to prohibit or limit certain access to harmful content depending on the age of children or minors. In Korea, providers must promptly delete content not indicating that it is a harmful media to minors, and penalties are imposed in the case of the negligence.

In contrast, domestically in Japan, measures to deal with harmful information have not institutionally developed well, and guidelines, model agreements, and others are created and operated as voluntary measures of the private sector. It is, however, pointed out that it is in reality difficult for ISPs to judge the specific harmfulness of information on individual basis, and there are opinions that the current voluntary measures are inadequate and an active involvement of the government is required.

Based on the above, it should be studied whether it is appropriate to introduce the so-called "zoning" regulations (method of rules allowing regulations for specific practices and others applied only to a certain zone [range and/or method of use]) to ensure the soundness of content distribution while avoiding the extensive application of content regulations. To be specific, studies should be conducted on how to provide filtering. Studies should also be conducted on the establishment of independent organizations on an institutional basis to help

private sector providers judge harmfulness, including the necessity of such an institution.

6 Future Vision of Legal System for Platforms

(1) Basic Concept

Information and communications networks are expanding from their use only for a single service, such as communications and broadcasting, to the “foundation for content distribution, electronic commerce, and the provision of public services.” It is platforms that enable the function of information and communications networks to become more sophisticated. Platforms can be regarded as “services to realize smoother content distribution, electronic commerce, provision of public services, and distribution of other information, as well as their enhanced safety and convenience, by cooperating with telecommunications facilities and mediating between a number of business operators or between business operators and a number of users.” To be specific, the functions of platforms encompass a broad range with diverse content, including certification, billing, and settlement services on networks, portal services, cyber malls, search services, software functions at terminals cooperating with OS and other networks, as well as services providing these as their combination. These platforms are anticipated to become essential to utilizing information and communications networks in a sophisticated manner in the future, with search services as a typical example, whereby the information you want is retrieved from a vast amount of information on the Internet.

As for information and communications networks, while regulations for such as open access apply to transmission service providers from the perspective of promoting fair competition and protecting users, no particular regulations have applied to these platforms and the market has grown. Under these circumstances, trends of oligopoly are now observed, including related markets, due to the “network externality” and other factors. Under such conditions, there are cases where platform providers force unfair trade on their trade partners, and it is becoming realistic that a platform may possibly cause a new bottleneck and potentially impede not only free and sound economic activities of business operators but also unrestricted distribution of information.

As of now, there is no significant necessity to legislate regulations for the platform layers independently from other layers. In reality, however, adequate discussions have not be made on measures, for example, for ensuring fair competition and protecting users partially because platform services are new services; therefore, studies must be proceeded with on the future vision of rules for platforms, including the necessity of such rules, from the perspective of the sound formation and development of a ubiquitous network society.

In relation to this matter, there is an opinion that rules for platforms should be uniformly subject to the Antimonopoly Act; however, since the Antimonopoly Act imposes extremely

stringent penalties, it is appropriate to study on the application of more relaxed rules in advance or after the fact at a stage prior to the stage where the market is blocked to the extent that requires such strong regulations. To be specific, with regard to imposing rules on platforms, such as the prohibition of unfair discriminatory practices in providing services and the disclosure of information concerning service interfaces, to ensure the openness in order to promote fair competition between business operators on information and communications network, it is appropriate to verify and study the validity and necessity specifically for individual platforms based on the reality of the market. In this case, since platforms are in the field with intensive changes in the business environment in response to technical innovations, in the process of studying on rules, it should be also considered even in the case of applying uniform rules that the necessity of such practices needs to be consistently reviewed.

Meanwhile, in some cases, platforms are provided as part of transmission services together with transmission infrastructure. But in some other cases, platform services are provided in the integrated and inseparable form with content distribution services. In this case, the application of rules for transmission services and content also to platforms can be considered.

(2) Viewpoint of Studying Rules for Platforms

(a) Viewpoint of protecting users taking into account the social and public nature of platforms

As for pay satellite broadcast services, services, such as the conditional access system (CAS) services and services under the contract between individual satellite broadcasters and viewers on commission, are provided by the so-called satellite platform providers. With influences of these providers increasing in the satellite broadcasting field, the proposed amendment of the Broadcast Law was submitted to the Diet session in April 2007 for the purpose of such as imposing certain regulations in order to protect receivers. The proposed amendment defines and institutionalizes platform providers, who are engaged in mediation, brokerage, or commissioning in making contracts concerning the provision of pay broadcast services as well as providing CAS services, as “pay broadcast management operator” and imposes the obligation of prior notification on them as well as specifies rules such as those for the obligations to take measures to ensure the appropriateness of operations. In this context, it is necessary to study on the necessity of introducing rules for such platform providers as those having a particularly high social and public nature from the perspective of, for example, protecting users.

What are assumed as platforms having a particularly high social and public nature are, apart from satellite platforms, those providing users with common functions to be used equally by

everyone or possibly causing unexpected damage to users unless provided, such as user certification and security. Under circumstances where services are becoming increasingly sophisticated and complex, the positioning and the details of services of these kinds of platforms should be clarified so that users can understand them. Studies should be conducted, including the necessity of institutionalization, on, for example, the accountability for important items for users in making contracts and the obligations to properly deal with complaints and others from users for individual specific platforms.

(b) Viewpoint of ensuring openness taking into account the bottleneck nature of oligopolistic platforms

In the present legal structure for communications, regulations to prevent the abuse of market power (designated telecommunications facilities systems) have been introduced for transmission services from the perspective of promoting fair competition. Reasons for the introduction include (1) the difficulty in increasing the competition due to carriers already existing in the telecommunication field who can exercise market power because of the installation of bottleneck facilities, their market share, and other factors, (2) the existence of externality as a network industry, and (3) the rapid market change and technical innovations.

Also for platforms, it is required to study the necessity of introducing rules from the perspective of preventing the abuse of market power and ensuring unrestricted distribution of information, considering a generally high likelihood of monopoly or oligopoly to occur due to the “economy of scale” and the “externality of networks”. To be specific, there will be a method to apply certain rules if the following conditions are met: (1) Network externality has a strong impact. (2) Technical innovation of competitors cannot practically deal with or overwhelm the network externality concerned. (3) The exercise of market power can be observed with a rise in the degree of monopoly or oligopoly in the platform market. (4) There is a certain request to open the platform from the social and public perspective, such as unrestricted distribution of information. In such cases, it is appropriate to determine the standards of regulations by analyzing social welfare based on the platform opened and other factors and considering the progress of innovations, the degree of incentives for technology development, and other factors.

This approach has the following aspects that should be carefully considered: (1) While necessary rules can be applied flexibly in response to the rapidity of market change and technical innovations, it is necessary to analyze the range in which the “network externality” occurs, particularly in the case of platforms subject to free competition. (2) The method for market definition has not been decided to determine monopoly and/or oligopoly status. (3)

Opening the platform is an essential part of the business strategy from the perspective of international competitiveness and regulations that are not well thought out are likely to restrict innovation. (4) It is possible that a new platform would be created after a certain period of time based on technical innovations, causing a substantial change of the market structure. (5) There are areas that *ex post* regulations under the Antimonopoly Act can deal with. Each of the above points must be rigorously assessed by verification studies and others and studies should be conducted including on the necessity of rules.

7 Future Vision of Legal System for Transmission Infrastructure

(1) Basic Concept

The rules for transmission infrastructure have responded from time to time as required on an institutional basis to the rapid innovations of information and communication technology, including the promotion of the competition policy in telecommunications business; the sophistication of transmission routes including, notably, the digitization of broadcasting; and the increasing number of media types. As a result, the world's leading-edge information and communications network infrastructure is now being constructed and the sophisticated use of networks through the "convergence of transmission routes," such as triple play whereby a business operator simultaneously provides services, such as telephone, broadband connection, and broadcasting on the same network, is accelerated, along with the progress of IP. In conjunction with this, the "convergence of terminals," including multifunctional mobile phone terminals, is also in progress.

From the viewpoint of proactively dealing with a further development of the convergence and cooperation of communications and broadcasting in the future, there are following issues concerning rules for transmission infrastructure.

With regard to rules for transmission services, while the Telecommunications Business Law comprehensively applies to communications services, the Broadcast Law or the Cable Television Broadcast Law apply to broadcasting services depending on the type of media. This system rigorously distinguishes communications from broadcasting. The detailed rules, however, do not significantly differ between them in terms that "prohibition of unfair discrimination" and "protection of users (receivers)" are regarded as important. In the case of the Telecommunications Business Law, the institutional system is flexible, giving consideration to unrestricted business development by, for example, adopting a registration system or a notification system for entry into the business and imposing asymmetric regulations on dominant carriers from the perspective of promoting fair competition. On the other hand, a license system for wireless broadcasting stations under the Radio Law applies to a facility-supplying broadcasting, and a permission system under the Cable Television Broadcast Law applies to facilities for cable TV broadcasting. Furthermore, in the case of CS broadcasting, facilities supplied for broadcasting have been commonly used as communications facilities all along, and the number of triple-play service providers is increasing also in cable TV broadcasting, and multiple rules are applied to the same network.

As for the rules for transmission facilities, the institution is beyond the framework of communications and broadcasting at the level of laws. Particularly under the Radio Law, the

provisions of the Law are considerably detailed, which may possibly cause restrictions on flexible deployment of services. In January 2007, this Study Group compiled the Report on "Legal System in Response to New Aspects of Communications and Broadcasting – Aiming at Acceleration of Wireless Innovations – ," which proposed, for example, the establishment of the institution that allows people other than those such as licensees of wireless stations to operate wireless stations under certain conditions so that the achievements of rapidly progressing technical innovations can be smoothly put into practical use for such as services using radio waves. The proposed amendment of the law based on this has been submitted to the Diet. In addition, for example, as for the use of the frequency band of terrestrial analog television broadcasting becoming unoccupied and fully available for use from 2011, the introduction of a framework capable of quickly reflecting technical innovations and promoting transmission service innovations is desired.

Under the circumstances where the "convergence" of transmission routes and terminals is developing, in order to make available the environment where information can be obtained anytime and anywhere at a low cost, it is important to make it possible for business operators to provide services with originality without restriction regardless of their classification as either communications or broadcasting, the types networks, and others. Diverse deployment of such information and communications services is also required from the perspective of strengthening the international competitiveness of the information and communications industry of Japan as a whole. Consequently, the rules for transmission infrastructure should be simplified and made more flexible based on a high ripple effect of transmission services and information and communications terminals on the economy and society and their importance in the national strategy and giving consideration to the economic and social viewpoint as well as the viewpoint of protecting users..

(2) Rules Concerning Transmission Services

As for the rules for transmission services, as described before, although both satellite broadcasting and cable TV broadcasting similarly provide multi-channel broadcasting services, there are three separate applicable laws, that is, a facility supplying/supplied broadcasting system under the Broadcast Law, the Cable Television Broadcast Law, and the Telecommunications Business Law (in the case of broadcasting on telecommunications services). This type of rules system is based on the fact that the correspondence between facilities and services were clear when the system was established because communications facilities were designed and installed with the usage for one-to-one communications such as telegraph and telephone assumed, while for broadcasting facilities with an assumed use for efficient transmission of video and audio to the public, as well as based on the thought,

particularly for broadcasting, that due to its public nature, a separate rules system was required for facilities as well.

However, with the development of the convergence of transmission routes since then, these situations have become less realistic and there were requirements from satellite broadcasters providing CS broadcasting facilities to enable them to use their facilities flexibly for communications and broadcasting as well as requirements from telecommunications carriers to use already installed optical fiber and others for cable TV broadcasting. Consequently, the Law Concerning Broadcast on Telecommunication Services was established in 2001 and broadcasting using telecommunication services was institutionalized. Utilizing this institution, for example, IP multicast broadcasting using telecommunication services via optical fiber networks and others of telecommunication carriers is actually provided as services even though it is in the form of using the transmission frequency band separate from the general frequency band for telecommunications (closed network) from the perspective of ensuring transmission quality.

Based on the development of IP multicast broadcasting, the increase of triple-play services, and other trends in recent years, the difference between communications facilities and broadcasting facilities is expected to become more relative in the future with the progress in technical innovations. Under such circumstances, transmission service providers are not assumed to be conscious of the details of content transmitted (communications or broadcasting or whether or not open to the general public). If there are differences in applicable laws depending on the details of content the providers concerned are not involved in and separate administrative procedures are required for them, it may possibly impede their free business development flexibly using networks in the future.

Consequently, for the rules for transmission services, the existing Telecommunications Business Law and others should be integrated and united with rules concerning broadcasting transmission services (excluding an independent type) in the legal structure for broadcasting to restructure them into the institution focusing on the promotion of fair competition and the protection of users while giving consideration to unrestricted business development.

Meanwhile, for specific rules concerning transmission services, studies should be conducted in designing a specific institution in the future based on the status of discussions ongoing now concerning the Telecommunications Business Law and others.

(3) Rules Concerning Transmission Facilities

For transmission facilities, rules are imposed in the current institution not directly based on media classifications such as communications and broadcasting but rather with a focus on

physical characteristics, such as wired and wireless. On the other hand, with the progress of technical innovations, such as the development of wireless facilities usable for diverse applications, wireless networks and wired networks are becoming increasingly seamless. Differences between communications facilities and broadcasting facilities are also becoming more relative and the convergence of communications networks and broadcasting networks is rapidly progressing as well. In order for the achievements of these technical innovations to be input to the market as new services in a mobile manner, measures for ensuring more flexible use are required for rules for radio wave as well.

In this respect, as described before, the Report on "Legal System in Response to New Aspects of Communications and Broadcasting" in January 2007 proposed, for example, the establishment of the institution that allows people other than those such as licensees of wireless stations to operate wireless stations under certain conditions in order to smoothly put new services using radio waves into practical use, and the proposed amendment of the Radio Law based on this has been submitted to the Diet. Furthermore, it is required to promote the reform of the institution, which will include (1) a broader classification, to the extent possible, of radio stations providing commercial services considering the economic and social viewpoints, such as strengthening international competitiveness, and giving consideration to the neutrality of technology and services to the extent possible, (2) the expansion of the secondary radio wave trading system incorporated into the ICT Reform Promotion Program in April 2007, and (3) a review of the license system to promote use regardless of the classification as either communications or broadcasting.

Meanwhile, in reviewing the rules for transmission facilities and integrating the laws, the universal characteristics of radio waves must continue to be considered and also thorough consideration must be paid in the process of the specific design of the institution in order never to be contradictory to the fact that radio waves are also used for other applications than communications and broadcasting, such as astronomical observations, medical treatment, and equipment using high frequencies, such as microwave ovens, as well as to frequency allocations under international agreement.

Also from the perspective of converting the rules system to a layer-type one, rules essentially related to broadcasting which are now implemented under the Radio Law, such as the principle of excluding multiple ownership of mass media, should be shifted to the content rules system as rules concerning "media services."

Supplement: Future Vision of Technical Standards

As for the institution of technical standards concerning information and communications, detailed technical standards (compulsory standards) are specified at the respective ministerial levels based on the Radio Law, the Telecommunications Business Law, the Cable Television Broadcast Law, and the Law Concerning Broadcast on Telecommunication Services. In addition, the respective private standardization organizations develop private-sector standards (voluntary standards) as required.

The following issues for the institution of technical standards are pointed out from the perspective of the convergence and cooperation of communications and broadcasting: (1) The grounds at the legal level are generally specified for each layer, however, provisions at the ministerial level (compulsory standards) need to be revised where they are not well organized as, for example, there is some duplication. (2) Cases concerning IP TV and others, where mutual cooperation of concerned organizations needs to be promoted, are increasing in private-sector standards (voluntary standards)

Consequently, based on the fact that private-sector standards are increasingly playing a significant role in technical standards, studies should be promoted on specific issues of making layers of standards and taking comprehensive measures beyond the framework of communications and broadcasting based on actuality in order to flexibly deal with rapid technical innovation and market changes from the perspective of promoting the convergence and cooperation of communications and broadcasting, including the concept of the framework to coordinate technical standards (compulsory standards) and private-sector standards (voluntary standards) as a whole, the mutual cooperation of private standardization organizations, and the reflection of opinions of the parties concerned, including users, in the development of private-sector standards.

In addition, based on the result, it is necessary to study the establishment of the legal standing of private standardization organizations and other issues while broadening the classification of the legal system.

8 Future Vision of Inter-layer Rules

(1) Basic Concept

In order to promote the development and provision of diverse services making the most of the world's leading-edge information and communications infrastructure, it is important to develop the environment where unrestricted business cooperation can be promoted among common carriers, broadcasters, content providers, Internet-related companies, manufacturers, and others. Particularly, in light of the trends of the world's leading media companies promoting business integration and cooperation, it is important, from the perspective of strengthening the competitiveness of the information and communications industry of Japan, to freely promote business integration and cooperation based on the business decision of each company in order to promote the diversification of business development.

On the other hand, if vertical business integration and cooperation develop, disputes beyond a layer may possibly occur due to movements of, for example, business operators owning a bottleneck in the transmission services and facilities aspect to exercise influential power over content distribution and/or platforms, or business operators having enclosed prominent content that everyone views to exercise influential power over other platforms and/or transmission services. Consequently, it is required to study the necessity of developing inter-layer rules, including the assurance of the distribution of information crucial to people's life and the plurality of media, as well as the rules for trading beyond the layer to promote fair competition of media and partial limitation of vertical simultaneous operations.

The following are considered as some examples of inter-layer rules to be studied. However, specific cases to be prepared as rules should be verified and studied in the process of designing a specific institution in the future.

(2) Rule for Trading between Different Layers

With regard terrestrial TV broadcasting, from the perspective of its close relations with local communities, meaning that it should be spread everywhere, the existing institution obligates cable TV broadcasters having their own network to retransmit the broadcast messages in the area designated by the Minister of Internal Affairs and Communications among areas with interference in receiving terrestrial television broadcasting. Like in this case, concerning the distribution of content of a highly public nature, meaning that it should be spread everywhere, such as the transmission of information that is closely related to local communities and in emergencies such as large-scale disasters, if the legal system is converted into a layer-type, it is required to study, for example, the necessity of imposing a transmission

obligation on platform providers and transmission service providers from the perspective of ensuring the distribution of information crucial to people's life and the plurality of media.

In this aspect, various countries have established the must-carry/must-offer rules in many cases, which obligate distribution platform providers and transmission service providers to retransmit broadcast messages having a public nature. It is desirable that people be provided with various methods to access "special media services." However, as for the must-carry/must-offer rules, there are some points to be carefully studied, such as how to handle compensation and copyright issues. Based on these points, it is required to study in the future the necessity of introducing the must-carry/must-offer rules for contents subject to "special media services."

It is also possible that, with the formation of a layer-structure of the information and communications industry, business operators owning a bottleneck in the specific layer abuse their influential power to give a favorable treatment to their affiliates in other layers or discriminate competitors, thereby hampering fair competition in the respective layers. For information and communications networks, based on the fact that service-oriented functions, whereby independent services are provided through the extraction of only the part required by the respective functions, are increasingly separated, it is required to also study the necessity of measures for ensuring the openness of inter-layer interfaces in the future so that services can smoothly cooperate with each other.

In addition, it is required to verify whether there are any rules to be clarified for inter-layer trading with the shift to the layer-type legal system, and study the inter-layer trading rules in the process of designing a specific institution in the future, including the necessity of such rules.

(3) Rules for Vertical Simultaneous Operations beyond the Layer

As described before, vertical business integration and cooperation beyond the layer should be left to the management decision of a business operator in principle. However, free business development of competitors may possibly be interfered with if a specific business operator leverages the allocated frequency range and the owned bottleneck facilities to prevent competitors in other layers from entering the market. Therefore, while the business development of companies based on their free business decision is regarded as important, it is required to study the necessity of taking institutional measures, such as limiting the vertical business integration and simultaneous operations to the extent necessary, if there is a specific situation, where the measures, for example, for ensuring the openness of interfaces between layers do not function fully effectively, and further a lock-in effect, oligopoly, or the like is

recognized and the maintenance of the plurality of media and the promotion of fair competition are hampered.

In response to the vertical business integration and simultaneous operations anticipated for the future and the subsequent increase of disputes between business operators, it is also necessary to study the framework to deal with disputes not only within a layer, but also beyond the layer.

9 Conclusions

(1) Toward the Design of a Specific Institution

This Study Group has proceeded with deliberation with the Interim Summary released to the public in June as its basis and referring to opinions obtained from public comments and public hearings, and here we have proposed the main points of the basic framework of a comprehensive legal system for communications and broadcasting. We sincerely hope that further studies are conducted in the future toward the design of a specific institution in the Ministry of Internal Affairs and Communications.

To design a specific institution, there still remain significant issues as frequently pointed out in this Report, including the items requiring further studies in the future from an expert perspective, such as the future vision of rules for platforms and specific measures to deal with illegal and/or harmful content, as well as the items requiring realistic discussions involving the parties concerned, such as the application of the new institution to specific existing broadcasting media. Dealing with these issues on an individual basis will be one of the means; however, it is much likely that coordination will become necessary between multiple issues for methods for their resolution. Therefore, in the process of studies in the future, comprehensive resolutions should be pursued through deepened discussions in the occasions with the involvement of experts and the relevant business operators and associations. In light of the significance of the issues, there is not enough time before the submission of legislation to the ordinary Diet session in 2010. Therefore, this Study Group expects the Ministry of Internal Affairs and Communications to immediately proceed with studies toward the design of a specific institution, and occasions, such as the inquiry to the Telecommunications Council for deliberation, should be provided as soon as possible, where the specific image of a new legal system can be discussed further.

Meanwhile, in the process of the study of the design of a specific institution, the discussion will involve an issue of administrative organizations that operate the institution, while such an issue was not in the scope of the study of this Study Group. We hope that an extensive discussion on administrative organizations also be held, including the study on whether or not neutral organizations be established to deal with items, such as the assistance of ISPs and others for their decision concerning measures to deal with harmful information and the mediation of disputes between business operators beyond the layer.

(2) Future Issues Concerning the Construction of a Ubiquitous Network Society

Institutional issues toward the construction of a ubiquitous network society are not limited

to the framework proposed in this Report.

For the utilization of ICT, since the establishment of the IT Strategic Headquarters and the IT Basic Law, various institutions concerning electronic commerce, public administration informatization, and others have been developed, and the utilization of ICT has been promoted in various economic and social fields. However, in response to the individual issues, established each time were the general legal structure, such as the civil law and the criminal law, individual legal structures concerning issuance of documents and others, the legal structure for protecting personal information, the legal structure for security, the legal structure for copyrights, and other legal structures, undeniably causing a “patchwork-like” structure. From the perspective of promoting further penetration of a ubiquitous network economy and society, without limiting to the conventional approach, concerned ministries and agencies should collaborate to verify the consistency of the existing legal structures from the aspect of “information,” reorganize issues, and discuss the possibility of redesigning the structure as a “comprehensive ubiquitous network legal structure”.

In addition, in light of rapid technical innovations and a significant market change in the information and communications field, the government is required to take a leading role in technical innovations and properly return the achievements to the people as well as constantly review the institutions. From this perspective, it is necessary to also verify and review the issues about the institution concerning research and development, human resource development, and others in the future.

(End)

Reference Data

Outline for Holding the Meetings of the "Study Group on a Comprehensive Legal System for Communications and Broadcasting"

1. Background/Purpose

Based on the statement in the recent "Agreement between the government and the ruling parties on regulatory frameworks for communications and broadcasting," that "the study shall be promptly started on a comprehensive legal system for communications and broadcasting to reach conclusions by 2010 on condition that the concept of the key broadcasting is maintained," the meetings of the study group shall be held for the purpose of researching and studying the future vision of the legal structure from an expert perspective in order to determine the specific direction for the study on the legal structure in response to the convergence and cooperation of communications and broadcasting.

2. Name

This meeting is named the "Study Group on a Comprehensive Legal System for Communications and Broadcasting."

3. Details of the Study

The research and study shall be conducted on the following items.

(1) The status of the implementation and the issues of the present legal structure
(2) The present status and the future outlook of technologies and networks related to communications and broadcasting
(3) The future outlook of services and business models related to communications and broadcasting
(4) The future vision of rules for transmission, platforms, content, and others
(5) The future vision of secrecy of communications and freedom of expression
(6) The status of services and the legal structures of various countries, etc.

4. Structure and Management

(1) This study group is sponsored by the Vice-Minister for Policy Coordination.
(2) The members of this study group are as listed on the separate sheet.
(3) This study group has a Chair and a Vice-Chair.
(4) The Chair is elected by mutual vote among the members of this study group.
(5) The Chair calls and presides over the meetings of this study group.
(6) The Chair appoints a Vice-Chair from among the members of this study group.
(7) The Vice-Chair assists the Chair, and calls and presides over the meetings of this study group in the absence of the Chair.
(8) The Chair can request relevant organizations and others to attend the meeting of the study group as required.
(9) In addition, the Chair determines the items required to manage the study group.

5. Period

The first meeting is held in August 2006 and the results shall be compiled in about 18 months.

6. General Affairs

The Communications and Broadcasting Legal System Planning Office is in charge of general affairs.

(Separate Sheet)

Member List

(Last names in Japanese alphabetical order)

Makoto Ando	Professor, Graduate School of Science and Engineering, Tokyo Institute of Technology
Kazuteru Tagaya	Professor, Faculty of Law and Economics, Chiba University
Ichiya Nakamura	Professor, Research Institute for Digital Media and Content, Keio University
Yasuo Hasebe	Professor, Faculty of Law, University of Tokyo
Junichi Hamada	Professor, Graduate School of Interdisciplinary Information Studies, University of Tokyo
Masayuki Funada	Professor, Faculty of Law, Rikkyo University
(Chair) Masao Horibe	Professor Emeritus, Hitotsubashi University
(Vice-Chair) Jun Murai	Professor, Faculty of Environmental Information, Keio University
Teruyasu Murakami	Chief Counselor, Nomura Research Institute

Reference Data 2

History of the Meetings of the "Study Group on a Comprehensive Legal System for Communications and Broadcasting"

1st Meeting (Wednesday, August 30, 2006)
○ Outline for holding the meetings of the study group
○ Current state of communications and broadcasting
○ How to proceed with the study from now on

2nd Meeting (Thursday, September 28, 2006)
○ Future perspective of the information communication industry
○ Legal structure for communications and broadcasting

3rd Meeting (Friday, October 27, 2006)
○ Hearing on the convergence and cooperation of communications and broadcasting (Market aspects)
- Teruyasu Murakami, Member
- Norio Murakami, President & General Manager, Google Japan
- Kenji Kasahara, President, mixi, Inc.

○ State of studies on the future vision of the legal structure for radio waves

4th Meeting (Tuesday, November 21, 2006)
○ Hearing on the convergence and cooperation of communications and broadcasting (Technical aspects)
- Jun Murai, Vice-Chair (General ICT technology)
- Makoto Ando, Member (Radio wave technology)

○ Future vision of the legal structure for radio waves

5th Meeting (Thursday, December 21, 2006) (Not open to the public)
○ Future vision of the legal structure for radio waves (Draft summary)
○ Free discussion
○ Study schedule from now on

6th Meeting (Friday, January 26, 2007)
○ Future vision of the legal structure for radio waves (Summary)
○ Issues related to content (1st)

7th Meeting (Monday, February 26, 2007)
○ Issues related to content (2nd)
- Presentation: Hidemi Suzuki, Professor, Graduate School, Osaka University
- Presentation: Ichiya Nakamura, Member

8th Meeting (Monday, March 26, 2007)
○ Issues related to the platform
- Presentation: Hideya Hayashi, Assistant Professor, Nagoya University Graduate School of Law

9th Meeting (Monday, April 16, 2007)
○ Issues related to transmission infrastructure
- Presentation: Yoshiyuki Takeda, Executive Managing Director, The Telecommunication Technology Committee

10th Meeting (Friday, April 27, 2007) (Not open to the public)
○ Discussion to prepare an interim summary (1)

11th Meeting (Tuesday, May 22, 2007) (Not open to the public)
○ Discussion to prepare an interim summary (2)

12th Meeting (Tuesday, June 19, 2007)
○ About the draft of the internal summary report

13th Meeting (Friday, August 10, 1007)
○ Results of public comments on the "Interim Summary"
○ Public hearing from major carriers, associations, and other parties concerned (1st)

14th Meeting (Monday, August 27, 2007)
○ Public hearing from major carriers, associations, and other parties concerned(2nd)

15th Meeting (Tuesday, September 4, 2007)
○ Public hearing from major carriers, associations, and other parties concerned (3rd)

16th Meeting (Wednesday, September 19, 2007)
○ Public hearing from major carriers, associations, and other parties concerned (4th)

17th Meeting (Friday, October 19, 2007
○ Free discussion

18th Meeting (Friday, November 2, 2007) (Not open to the public)

○ Discussion to compile the Final Report (1)

19th Meeting (Monday, November 18, 2007) (Not open to the public)

○ Discussion to compile the Final Report (2)

20th Meeting (Thursday, December 5, 2007)

○ Draft Final Report