

**Study Group for the Development of Digitization and Broadcasting Policy
(10th Meeting) Summary of Minutes**

1 Date and Time:

(Thurs.) April 7, 2005 10:00-11:35

2 Location:

First Special Conference Room, MIC (8th floor, Central Joint Government Building No. 2)

3 Attendees:

(1) Study Group members (Honorifics omitted; in order of the Japanese syllabary): Susumu Ito, Norio Kumabe, Soichiro Kozuka, Hiroshi Shiono, Toshiyuki Shinohara, Ikufumi Niimi, Atsuko Nomura, Yasuo Hasebe, Junichi Hamada, Masayuki Funada, Jun Murai, Haruko Yamashita (12 members)

(2) Invited guests:

Mitsubishi Research Institute, Inc. Mr. Nakamura, Director, Next-Generation Social Infrastructure Research Department

Mr. Yasue, Leader, Digital Broadcasting Research Team

(3) MIC members: Horie, Director-General of the Information and Communications Policy Bureau; Ogasawara, Deputy Director-General; Fukuoka, Director, General Affairs Division, Information and Communications Policy Bureau; Ando, Director, Broadcasting Policy Division; Asami, Director, Broadcasting Technology Division; Minami, Director, Terrestrial Broadcasting Division; Imabayashi, Director, Satellite and International Broadcasting Division; Emura, Director, Regional Broadcasting Division; Ogasawara, Senior Planning Officer, Broadcasting Policy Division; Inoue Senior Planning Officer, Broadcasting Policy Division

4 Proceedings:

(1) Opening

(2) Agenda

1) Status of Discussions of Working Groups

2) Status of Discussions on Restrictions on Indirect Investment in the Broadcasting Field

(3) Closing

5 Outline of Proceedings:

(Text symbols represent the following: ●- Remarks of study group members; ○ - remarks of invited guests; △ - remarks of MIC members)

(1) Status of Working Group Discussions

The secretariat explained the status of discussions in each working group. Subsequently, Mr. Yasue, Leader of the Digital Broadcasting Research Team at Mitsubishi Research Institute, Inc., explained the status of public broadcasting in the United Kingdom, France and Germany, focusing on the various related institutions of each country, channels owned by the respective institutions, viewer fee systems and trends in new services.

(2) Q&A session

Key questions and answers were as follows:

- The Working Group on Public Broadcasting has not yet held full-scale discussions to identify specific issues that will emerge in relation to digitization. We have started to study the basic system of public broadcasting, which is a basis of such discussions, from a comparative institutional perspective. We are also thinking of studying the issue from the user perspective.
- The United Kingdom, Germany and France all maintain a country-specific framework for public broadcasting. Is it right to understand that there is currently no movement to drastically this local-specific type structure?
- Basically there is no movement to change the existing styles.
- Is there any indication that public confidence has been shaken?
- This issue has not gained any particular attention.
- How is the BBC Trust different from the Board of Governors? I heard that, when the BBC launches a new service, the BBC Trust assesses the service from the perspective of the public interest. Are there any objections in the United Kingdom about the BBC Trust, an internal institution of the BBC, weighing up the public interest?

- Partly due to the point you have just mentioned, one of the key features of the reform is that the BBC Trust should be more like an external institution compared to the Board of Governors.
- The Hutton Report that was issued last spring strongly criticized the governance of the BBC. One of the focuses of the criticism was that the BBC's Board of Governors didn't properly supervise the BBC's business but mostly played the role as a cheerleader to the BBC after the conflict between the public service broadcaster and the government arose. Consequently, it was decided to provide the BBC Trust with a more supervisory role. Assessment of the public interest has already started due to the BBC's internal reforms implemented by the current Chairman, Michael Grade.
- Is it appropriate to understand that the BBC Trust is a government body?
- The BBC Trust is absolutely an institution of the BBC. Basically, the BBC is supervised by nothing but the BBC's Board of Governors in order to maintain the autonomy of the BBC, which I understand is a long-held tradition in the United Kingdom.
- Following the Hutton Report, the BBC has been carrying out the reforms independently under Chairman Grade. For example, in order to make the BBC's Executive Board and the Board of Governors independent from each other, they moved the Board of Governors out of the BBC building to another building, and established an independent office led by a former government official.
- All members of the Working Group on Content share an awareness that we need to think of something other than conventional content in accordance with the advancement of technology. On the other hand, efforts to provide such content could potentially cause great inconvenience to viewers and non-viewers including general device users. It seems that we cannot find a solution to satisfy both sides. In fact, there is a sharp division since each side has its own strong and open opinion.
- If devices that do not respond to copy control signals are to be released, the overall situation cannot be controlled because some devices will allow free copying while some will be formatted to properly control copying according to the intention of broadcasters or content holders.
- The current Copyright Law and the Unfair Competition Prevention Law specify that

removing copy control signals is an infringement of rights. The issue is that the unresponsive devices do not remove copy control signals, or, rather, they simply do not respond to the signals, and therefore cannot be regulated. We are therefore carrying out discussions based on the understanding that unresponsive devices can technically exist.

- As for the digital radio, a separate study group that includes some members from the industry is now in its final stages of discussions. We may obtain information from that study group and subsequently make efforts to establish systems that need to be established.
- The Working Group on Satellite/Cable is attempting to obtain more information from providers because it may be difficult to study policies or systems if we do not research actual transactions between providers.

(3) Status of Discussions on Restrictions on Indirect Foreign Investment in the Broadcasting Field

The secretariat explained the background of the discussions as well as specific details under review regarding the concept of the amendment to the Law Concerning Regulations on Foreign Investment in Broadcasting Stations. In the subsequent Q&A session, the following key questions and answers arose:

- Whether in regard to restrictions on foreign investment, indirect or direct restrictions, has no country yet started to question restrictions at all?
- △ Basically, the United States, France, Germany, Italy, Canada, Australia and South Korea restrict foreign investment, including restrictions on indirect investment. Although the United Kingdom removed its restrictions on foreign investment in 2003 in order to promote domestic investment, the issue aroused huge debate and the restrictions were consequently retracted through the provision of an alternative means of conducting a public interest test on diversity of the media upon the merger of certain media companies. At present, the general trend is that the basic framework should be to regulate foreign investment including both direct and indirect investment.
- Imposing restrictions on foreign investment is a very classic doctrine, and can

coexist with the principle of excluding multiple ownership of the media. While the principle of excluding multiple ownership of the media is arousing great debate, restrictions on foreign investment remain and there are increasing demands for even tougher restrictions. The doctrine and future direction can become long-term issues of this study group.

- Germany does not seem to have restrictions on foreign investment. What kind of alternative do they use?
- △ One of the features of the system in Germany is that there are cases where residency in Germany or an EU member country is a prerequisite. Another feature is that broadcasting German programs or programs produced in Germany is specified as a requirement for license in order to virtually eliminate foreign programs and protect German culture.
- What is the direction of restrictions on foreign investment in major countries? Toward deregulation or stricter regulations in specific areas of broadcasting?
- △ Some countries have allowed direct investment and indirect investment simultaneously. Others have allowed indirect investment only recently. It can not be said that all countries are generally heading toward deregulation.

Japan has initially restricted direct investment, but the shareholding ratio of foreign corporations in Japanese corporations has considerably increased in the past few years. Under such circumstances, we need to pay attention to indirect investment in order to secure effectiveness of restrictions on foreign investment. What is needed is some fine-tuning of the system in order to secure the substance of the restrictions, or the substance of the original policy target, rather than tougher restrictions.
- Direct restrictions and indirect restrictions really differ in terms of the relating systems, but is the change so big in essence?
- Based on the assumption of imposing restrictions, the change is not so big, but it seems that the essential issue of whether or not to impose restrictions has not been particularly discussed this time round.

- How would you handle indirect restrictions specifically?
- △ We would ask for your cooperation in reporting on the shareholding ratio of foreigners as major shareholders in broadcasters. It is likely that, based on the understanding of the reports on the shareholding ratio of major shareholders and other information, the broadcasters will be asked to take actions such as handle the transfer of shares as they grasp the situation.
- Has the United Kingdom removed restrictions on foreign investment? Or, did it have none from the beginning?
- △ Initially, restrictions on foreign investment existed in the United Kingdom., but were removed due to the background that has just been mentioned. Meanwhile, it is specified that assessment of diversity and the public interest should be conducted upon acquisition of a media company. There is also a provision to conduct a certain assessment to secure diversity and the public interest of content in the United Kingdom.
- Does each country actually have restrictions on foreign investment, or have foreign investment, to the maximum extent possible? Does foreign investment in that context mean a company in the same trade or a company that has no ties but just receives interest or dividends?
- △ As I do not have the exact data with me today, I would like to research that separately as far as I can and explain in more detail at a later stage.
- Japan used to have restrictions on foreign land ownership, but they have been watered down. In the broadcasting field, is it possible to secure the purpose by imposing restrictions on investment?
- △ Radio waves are globally allocated. They are very limited resources and a national asset of high public interest. Additionally, as broadcasting has a great influence on various areas of a country, including politics, economy, society and culture, it is disciplined based on the concept of prioritizing a nation's own citizens. Therefore, each country thinks that restrictions focusing on voting rights are an effective method to achieve the policy purpose.
- There are many movements to eliminate foreign cultures, but Japan is the most

open. Does Japan have any intention to change the broadcasting policy on that point?

- △ The conventional thinking is that foreign investment should be basically eliminated in terms of ownership or discipline on actors while leaving program content to be autonomously edited by broadcasters. Basically, we do not have any intention to change that stance at this moment.

Schedule of next meeting is to be decided.