

Study Group on Integral Legal System for  
Communications and Broadcasting  
A Summary of the Minutes for the 6<sup>th</sup> Meeting

1. Date and Time: January 26, 2007 (18:00 to 19:50)
2. Venue: Ministry of Internal Affairs and Communications, 8<sup>th</sup> floor Special Conference Room No. 1
3. Attendees: Mr. Horibe, Chair; Mr. Murai, Vice-Chair; Mr. Ando, member; Mr. Takaya, member; Mr. Nakamura, member; Mr. Hasebe, member; Mr. Hamada, member; Mr. Funada, member; Mr. Aritomi, Vice-Minister for Policy Coordination; Mr. Suzuki, Director-General of the Information and Communications Policy Bureau; Mr. Mori, Director-General of the Telecommunications Bureau; Mr. Terasaki, Director-General for Policy Planning; Mr. Nakata, Deputy Director-General of Minister's Secretariat; Mr. Sato, Director of the Information and Communications Policy Bureau; Mr. Naito, Head of the Communications and Broadcasting Legal System Planning Office

4. Summary of the Minutes

(a) Legal system for radio waves

The proposal for the “Legal System for New Developments in Communications and Broadcasting (Summary)” (Appendix 2) was made official.

(b) General discussions on the issues related to content (1<sup>st</sup> discussion)

General discussions were held after the Director-General explained the “References for the 6<sup>th</sup> Study Group – Content-Related Deliberations (1)” (Appendix 3) and the “Content-Related Issues (Draft)” (Appendix 4). The following are the main opinions that arose during the discussion:

i) Regarding broadcasting rules

- The conventional and fundamental broadcasting rules should be understood with emphasis on the effects broadcasting has on society.
- It is a fact that there are slight discrepancies between the actual effects broadcasting has on society and how people regard these effects. It should be noted that systems are not formed immediately from actual facts but that systems are formed from people's assessments. In that sense, the most important factor that

affects people is that they should feel at ease and secure when watching broadcasting content.

- Regarding the content distributed in broadcasting, it should be understood that the quality should be above a certain level. In general, each product should have quality criterions.
- The reason rigorous values are not given towards freedom of speech and expression in broadcasting is because a great number of people do watch or listen to television and radio, which is of great assistance in everyday life.
- The reason broadcasting is perceived as being special although it is, technically speaking, a type of communication is because it is a kind of policy decision. It is a sign that the legal system is based on the expectation that a certain quality of information will be broadcasted to the public which will be instrumental in forming public sentiment.
- Terrestrial broadcasting will be scrambled with the digitalization of broadcasting. The technological changes from the analog era may influence the broadcasting rules and regulations.
- The technological changes may be one of the factors but it has not been decided if changes only should be regulated. We must start the discussion by addressing all the other regulative factors.
- The Japanese broadcasting system is a system that consigns to self-imposed disciplines. Administrative operations have also been suppressed. This is the Japanese system but ideas may call for altering it.

ii) Regarding the EU directives for audio visual media services

- There is a movement in the EU to regulate communications if it has major social effects. If the issue only concerns its influence, the range of communication should be expanded to include regulations on contents; however, it is difficult to predict if this will happen.
- It is important to note that the EU is expanding the regulations on broadcasting not one-dimensionally but in two steps—essential broadcasting and broadcasting with a wider definition, and its regulations.
- It should be noted that the EU is limiting their services as the editing responsibilities lie with the provider and that systems (such as searches) that are relayed or processed by the receiver are not subject to the regulations. Perhaps this is because it is useless to regulate these issues in the broadcasting system.

- iii) Relations between distributing information on the Internet and broadcasting regulations
- One of the issues is how to perceive the effects on society, which is the principle for broadcasting regulations, and the actual effects on society by communication systems such as search engines.
  - Communications, when made public, is said to be freedom of speech and expression as it can take a form of anonymity; however, the gap between broadcasting and communications must be considered when an Internet-type media have coercive effects on society. On the other hand, it may be a good idea to separate the issues into several functions, as there are newspapers that are indulging in self-imposed disciplines.
  - There is hardly any difference between the Internet and broadcasting as the Internet is an information distribution method that works from one to the masses but there are differences in content. The regulations should be discussed at large because this is related to the intentions of the distributor, the information distribution format, and the extent of influence.
  - With the development of information and communications, we have entered an era where the media is in a win-win situation. It is most probable that the effects on society, previously held by the backbone broadcasting systems will be transferred to search engine companies. It will be difficult to make differentiations using different hardware.
  - The rarity of social effects and frequencies are extremely ambiguous. It can be one factor to make decisions but it cannot explain everything. It is necessary to regulate as well as consider this as being part of broadcasting.
  - It is necessary to consider the organization of the media systems, and the acknowledgment from society as well as the relationship of the circulation towards media.
  - The present measures against illegal and harmful information are mainly related to civil and judicial issues such as the infringement of rights. There are discrepancies as broadcasting regulations are related to social order.
  - The guidelines in eliminating measures regarding harmful information and such seem to be similar to broadcasting codes but they have not actually been developed. They are different systems as the elimination of rights is based on agreements. It may be necessary to create a unified code through a neutral-standing organization with slight administrative intervention.

iv) General distribution of information on the Internet

- The law to limit the responsibilities of the provider is leaning too much towards a self-imposed discipline. Dissatisfaction is arising because the carriers are responsible for issues that should be covered by the government.
- The diversification of Internet content is rapidly developing. It is unavoidable that regulative issues are dealt with individually when they arise.
- Internet services that display the order of search results based on the advertising expenses are infringing on the right to know.
- Although newspapers also are biased regarding advertisements, the Internet is more within the realm of publishing. Also, the Internet is a competitive market and should not be monopolized.
- There are examples of book stores regarding the order of advertisements, but we are not here to regulate them. Major issues have, up till now, been resolved under economic laws.

(3) Others

During the next meeting, there will be a lecture on the topic “The Internet and Freedom of Speech” by a visiting lecturer. Mr. Nakamura will give a presentation on the basic framework of the legal system from 2020 and beyond.

(4) The next meeting

The next meeting will be held on February 26, 2007 (Monday) from 17:00. The topic for discussion will be general discussions on the issues related to content (2<sup>nd</sup> discussion).

\*Please be aware that the number of spectators will be limited as the venue of the next meeting is confined.