

**Summary of Minutes of the 6th Meeting of the Round Table
Conference on the Privacy of Information in the
Telecommunications Service Sector**

1 Date and time: November 11 (Tue) 2003 18:00 to 20:00

2 Location: Conference Room 1001 (10F), Ministry of Internal Affairs and Communications

3 Attendees:

(1)Members

Kazuko Otani, Hiroyuki Kuwako, Hitoshi Saeki, Kazuteru Tagaya (Acting Chairman), Masahiro Tajima, Nobuo Tezuka, Ryutaro Nakamura (by proxy), Susumu Hirano, Naoya Bessho, Masao Horibe (Chairman), Shigeki Matsui, Toru Murakami, Hatsuko Yoshioka

(2)Ministry of Internal Affairs and Communications

Suzuki (Director-General), Oku (Director), Nakamizo (Assistant Director), Shibuya (Assistant Director), Okawa (Assistant Director)

4 Outline of proceedings

(1) Opening

(2) Responses to the legislation of the personal information protection law in the telecommunications service sector

(3) Closing

5 Major discussions

(1)Regarding provision of personal information to third parties (Article 23 of the Law for the Protection of Personal Information), discussion was made on the following points:

- How are the limitations on provision of personal information to third parties actually handled?
- As an operator, we are now generally responding to inquiries, except for matters relating to the confidentiality of communications wherever any third party requests disclosure, so long as the inquiry from someone who has the right of inquiry under the law. This may correspond to the “cases under the law” specified in Article 23.1 Item 1. On the other hand, no

disclosure is made regarding the confidentiality of communications unless there is a writ, but we may inform the police, a third party, in cases of so-called phone tracing. We consider that this is consistent with the laws concerning emergency evacuation and in flagrante delicto crimes.

We never respond to requests for disclosure from those having no right of inquiry.

- Also, where an inquiry is made to the bar association (Article 23.2 of the Lawyers Law), we respond to the inquiry as coming from one having the right of inquiry under the law, except for matters relating to confidentiality of communications. In the light of the Personal Information Protection Law, this case may correspond to “cases under the law”.
- It does not seem that we are allowed to disclose everything even if the inquiry is from the bar association. There is a case where a ward mayor’s responding to an inquiry for a previous history was judged illegal.
- We are aware of that judicial precedent. However, we operators would like to make a uniform response to inquiries from those having a right of inquiry under the law. It is too much of a burden to check the content of an inquiry in detail.
- In what cases may personal information be provided to other telecommunications service operators?
- There are cases where personal information is provided to other telecommunication operators with complete consent obtained from a subscriber based on the service’s agreement, such as in the case of interconnection.
- It does not seem to constitute provision to a third party if the provision is made because it is essential for the provision of services.
- In such a case, shall we consider the situation to constitute shared use, following the provision to a third party?
- Article 23.1 Item 4 of the Personal Information Protection Law did not exist before. It is also not included in the current guideline. Are there any such cases so far in the telecommunications service sector?
- It seems necessary to expressly show in the guideline in which cases provision to a third party is allowed.
- It seems that information involving the confidentiality of communications

must not be provided, while other information may be provided depending on the case.

- Even if the obligation under the Personal Information Protection Law is removed, the obligation under the Telecommunications Business Law still exists. We may conclude that telecommunication operators are under stricter obligations than handling operators general personal information.
- Are there any cases where provision of information is stopped upon request from the relevant party?
- The opt-out provision of Article 23.2 of the Personal Information Protection Law is assumed to apply to house map publishers and does not seem to apply to operators who collect personal information relating to their clients under a contract.
- The above point may be relevant to such cases where a request is made to remove information from the telephone directory.
- While we obtain consent from users regarding listing information in a phone directory, the opt-out provision applies to cases where personal information is provided to a third party without obtaining consent. Thus, requests for removing information from a phone directory do not appear to constitute opt-outs.
- The opt-out provision acknowledges there to be house map publishers, but we are not sure that removal of information from a phone directory constitutes an opt-out.
- We would like to discuss cases in which the recipient “does not constitute a third party,” specified in Article 23.4 of the Personal Information Protection Law. Currently, telecommunications service providers exchange information on non-paying subscribers.
- The cellular phone service sector has many non-paying subscribers. Information on non-paying subscribers is necessary for providers to effectively operate their business.
- Providers must refrain from providing information on non-paying subscribers to anyone (such as debt collectors) other than other telecommunications service providers.
- Does the exchange of non-paying subscribers information specified in Article 12 of the current guideline correspond to the shared use specified in Article 23.4 Item 3 of the Personal Information Protection Law? Is it

allowed to exchange information on spam mail senders?

- When Article 12 of the current guideline was developed, it was concluded that the exchange of information on spam mail senders should be allowed, since such behaviors might disrupt the business operation of providers.
- While information on non-paying subscribers is definite in its meaning, we are not sure what makes an e-mail disturbing in terms of spam mails. It seems that the concept may differ greatly depending on each individual.
- We should just follow the definition of the Spam Mail Transmission Prevention Law.
- Regarding shared use, the Law specifies the “use of personal information between particular parties” and thus cannot be assumed to apply to the exchange of information with non-particular telecommunications services.
- This provision appears to work since cellular phone service providers exchanging information on non-paying subscribers are clearly limited. It seems difficult to interpret the exchange of information on spam mail senders as a case of shared use among telecommunications service providers.
- Yes, such an interpretation is difficult in so far as the number of sharing users cannot be changed afterwards.
- It may depend on the interpretation of the term “particular”.
- For example, it would be “particular” if the providers are limited to only members of the Telecommunications Carriers Association, in which case the exchange of information on spam mail senders may be allowed. We think we should seek a practical interpretation since consumers, too, want measures against spam mails.
- Could we consider the matter as coming under “protecting assets,” specified in Article 23.1 Item 2 of the Personal Information Protection Law?
- Article 23.1 Item 4 of the Personal Information Protection Law specifies “a governmental agency.” Can’t we consider a scheme enabling the Ministry of Internal Affairs and Communications to receive provision of certain information?
- It has been reported that a user may use the same cellular phone number even after changing his/her provider to another. In such cases, will the same discussion be made as for telephone numbers?

- How should we consider cases where a number is shared in interconnection?
- In such cases, there doesn't seem to be a problem since the consent of the user is obtained.
- How should we consider personal information provided when transferring the right to request compensation? What about personal information provided to credit card companies when making credit card settlements?
- When making credit card settlements, we consider that the consent of the user has been obtained regarding the provision of his/her personal information to his/her credit card company. However, other cases of transfers of receivables may be problems.
- Regarding transfers of receivables, not only telecommunications operators but also other operators face the same problem.
- Equivalent public sector operators may provide personal information to each other. However, can we consider a telecommunication operator and an individual to be equivalent?
- The telecommunications service, in which obtaining permission and filing reports is required, is recognized by the Government to some extent. We have already discussed whether such telecommunications operators may transfer information to debt collectors.
- It seems that a procedure must be followed, including giving notice, when transferring personal information.
- The point of contention may lie in how these points should be specified in the guideline.
- Is there any difference in normal operations between the telecommunications operation sector and other industrial sectors? Why are telecommunications operators treated more strictly? It seems that a broader range of sectors should be addressed.
- Collection services require considerable cost if undertaken by the telecommunications operators themselves. Yet the rule that forces operators to assume this service may eventually lead to excessive expenses, creating additional burdens on reliable fee-payers and shareholders. Accordingly, it seems to benefit reliable consumers and shareholders if the possibility of outsourcing collection is retained for the purpose of efficiency.

- It is necessary to make considerations and rules that aid various developments and improve usability for consumers, while not inhibiting the development of electronic transactions. For this purpose, flexible deliberations may be required that enable the outsourcing of debt collection as well.
 - We feel a bit uncomfortable about telecommunications operators as basic service providers collecting receivables. However, we do not intend to deny that telecommunications operators engage in diversified operations.
 - Operators may transfer receivable from clients in order to raise money. Our company has securitized rental fee receivables of ADSL modems to raise money only after obtaining individual consent from the users of the modems.
- (2) Regarding disclosure (Article 25 of the Law), discussion was made on the following points:
- This appears to be an issue particular to telecommunications operations. But how should we consider a request for disclosure of itemized phone charges from only one spouse in a married couple?
 - The draft government ordinance permits requests for disclosure from legal representatives. However, it is questionable whether details of phone calls made by children are naturally allowed to be disclosed to their parents upon request on the grounds that the parents are the legal representatives.
 - It is certainly questionable if disclosure is permitted from *anyone* simply on the grounds that the requesting party is a legal representative.
 - Disclosure relating to children has also been a point of contention in municipalities. If a parent of a high-school student requests disclosure of information relating to his/her child and if the interests of the parent and child are incompatible, a municipality judges not to disclose in such cases. Such cases may occur in the telecommunications service sector.
 - How do we consider information of location?
 - Does information of location necessarily fall under the category of personal information specified in the Personal Information Protection Law?
 - It may be deemed personal information if information connecting it with the person is attached.

- Even telephone numbers may constitute personal information if combined with the information of the resident(s).
- Information of location may sometimes be used to grasp where an object came from, by means of an attached electronic tag. It seems that information of location cannot always be deemed equal to personal information.
- Information of location can be deemed as personal information as long as information connecting it to the person is attached to help identify the person.
- Five years have passed since we examined the current guideline and new incidents are emerging relating to information of location.

(End)
