

**Summary of Minutes of the 10th Meeting of the Round Table
Conference on the Privacy of Information in the
Telecommunications Service Sector**

1 Date and time: April 19 (Mon) 2004 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, Kazunori Kohai, Hitoshi Saeki,
Kazuteru Tagaya (Acting Chairman), Masahiro Tajima, Nobuo Tezuka,
Susumu Hirano, Naoya Bessho, Masao Horibe (Chairman), Koichi Miki,
Toru Murakami

(2) Ministry of Internal Affairs and Communications

Aritomi (Director-General of the Telecommunications Bureau), Ezaki
(Director-General of the Telecommunications Business Department), Oku
(Director of Telecommunications Consumer Policy Division), Furuichi
(Examiner), Fujinami (Assistant Director), Shibuya (Assistant Director)

4 Outline of proceedings

(1) Opening

(2) Personal information leak cases

(3) Deliberation on the concept toward concluding the points of contention
regarding individual laws

(4) Deliberation on the direction of the amendment of the guideline

(5) Closing

5 Major discussions

(1) The concept toward concluding the points of contention regarding
individual laws

5 Major discussions

(1) Concluding the points of contention regarding individual laws in the

telecommunications sector

- When setting individual laws, there may be two kinds of concepts: one to control the possession of personal information and the other to control the distribution of personal information.
- Depending on the control, too much burden will be posed on operators which may lead to the driving out of small-size operators who cannot cope with the control, and thus the sound development of the industry may be inhibited.
- Since telecommunications service operators are connected via a network, it does not seem effective to control only operators possessing more than 5,000 items of personal data.
- It seems that we should act by all sectors together to protect personal information handled by name list providers and private detectives. Furthermore, we should control not only operators but also those who buy or induce people to buy personal information.
- It is essential to control employees of operators who feed personal information to name list providers.

(2) Direction of the amendment of the guideline

1) Limitation of provisions of personal information to third parties

- Regarding the consent of the party concerned, is comprehensive consent under the terms of agreement of a contract interpreted to correspond to consent as defined under the Personal Information Protection Law?
- Where the consideration of contract specifies that the condition of provision may be changed ex-post facto, and where a stipulation was established for the provision of personal information to third parties as the result of the change in the consideration of contract, will it be interpreted that consent has been given under the Personal Information Protection Law?
- Where comprehensive consent to the terms of agreement of a contract is interpreted as consent under the Personal Information Protection Law, and where a wider purpose of use has been set, there is a possibility that a provider might freely handle personal information without restraint. Therefore, it would seem reckless to address the matter merely in terms of consent to the terms of agreement of the contract.
- The Personal Information Protection Law primarily requires the consent of

the party concerned, but it includes some exceptional provisions where no consent is required. If comprehensive consent under the consideration of contract is to be handled as consent under the Personal Information Protection Law, we should consider whether or not exceptional provisions such as opt-out are further required.

- Regarding the interpretation of consent, it seems that we cannot help consider the extent of consent in accordance with the Personal Information Protection Law, since our discussions may conflict with discussions in other sectors if we restrict our discussions only to the telecommunications service sector.
- Where there exists a regular user other than the subscriber, there may be cases where the consent of the regular user is not given, even if the subscriber agrees with the specifications in the terms of agreement of the contract.
- Regarding the clause, “where particularly necessary for the promotion of the sound development of children,” an exceptional clause stipulated in Article 23 of the Personal Information Protection Law; does this only refer to cases where personal information is collected for the benefit of society as a whole, such as implementing a statistical survey; or does it also include cases where it is collected for individual interests such as cases where a parent requests the personal information of his/her child for the purpose of dealing with delinquency?
- It seems that we should verify whether the exchange of non-paying users information falls under Article 23.1, Item 2 of the Personal Information Protection Law or corresponds to the shared use under Article 23.4, Item 3 of the same.
- It seems desirable to handle the lists of spam-mail operators equally with non-paying users information and specify them under a provision in the guideline or include them in a description.

2) Usage details

- The usage details do not list the name of the user. Do they fall under the category of personal information of the user under the Personal Information Protection Law?
- Can the constant user reject viewing and issuing of the usage details by opt-out, if we should accept the request to view or issue the usage details

without the consent of the regular user where the subscriber is not the regular user but the charge payer, and where it is admitted that he/she has a proper interest in viewing the usage details?

- Operators can primarily identify the subscriber only and cannot recognize the identity of the regular user unless the subscriber declares it. Thus it seems that we may primarily regard “the party” under the Personal Information Protection Law as the subscriber. Having recognized the existence of the regular user, operators should request the consent of the regular user, since it is a matter involving the confidentiality of communications.
- It seems necessary to identify who is classified as “the party” in Articles 23 and 25 of the Personal Information Protection Law.

3) Transmitter information and position information

- Position information other than transmitter information, namely position register information will be kept controlled by Article 11 of the current guideline. It is necessary to define whether the position information sent upon transmission is controlled by Article 10 or by Article 11.

(End)
