

Study Group on Systems in Ubiquitous Network Society
Third Meeting Proceedings Summary

1 Date and Time: July 5, 2006 (Wed) 14:30-16:30

2 Location: 11th floor, Meeting Room 1101, Ministry of International Affairs and Communications

3 Attendees (Honorifics omitted):

(1) Members

Chairperson HORIBE Masao (Chuo Law School); Vice-chairperson IBUSUKI Makoto (Ritsumeikan University School of Law); OHTANI Kazuko (The Japan Research Institute, Limited); OKAMURA Hisamichi (Attorney at law); KISHIGAMI Junichi (Nippon Telegram and Telephone Corporation); KOMUKAI Tao (InfoCom Research, Inc.); TAMAI Katsuya (University of Tokyo); TERADA Shinji (Index Corporation); HIRANO Susumu (Chuo University); YOKOYAMA Tsunemichi (Attorney at law); WAKIHAMA Noriko (Yomiuri Telecasting Corporation)

(2) Secretariat (MIC)

Director-General TAKEDA of the Information and Communications Policy Bureau; Director SAKAMOTO of General Policy Division; Director KONDO of the Research Department, Institute for Information and Communications Policy

4 Proceedings:

(1) Briefing on the main points of the Report (Draft)

The secretariat explained the main points of the report drafted by the “Study Group on Systems in Ubiquitous Network Society,” based on Reference 3-2.

(2) Q&A/Opinion Exchange

Q&A and opinion exchange were conducted. Key questions/answers and opinions were as follows:

【Questions to the secretariat and their answers】

○Some of the items in the main points of the Report (Draft) could not necessarily fall under the jurisdiction of MIC. How can these items be handled?

→The secretariat answered: “We’d like to raise awareness of these items on occasions of cross-ministerial discussions at such as the IT Strategic Headquarters when necessary.”

【“Protect privacy”】

○Referring to the DRM issue under “Protect privacy” seems to be wrong. It is a general issue of de facto standards, which should be covered in the Overview.

○Recently, it is becoming common to retain biometrics authentication data on a mobile handset. Although no specific issue has come to the surface, there is a potential risk. Therefore, such issue should be referred to under “Monitoring and Tracing Issues.”

○There is no legal control or industry guideline for tracking others’ activities with GPS. Therefore, this issue should also be referred to under “Monitoring and Tracing Issues.”

○Issues on the use of location data, including the use of wireless LAN and Bluetooth, should be covered widely.

- In conjunction with the issue of RFID tags, the issues of overall technologies for tracing others' movements and activities should be put together and described.
- There are cases where enterprises are called for disclosure of applications installed on employees' privately-owned computers by their partners as an "excessive reaction" to the Act on the Protection of Personal Information. As the implementation of ICT has been dramatically changing the work environment, how to coordinate the issues of security and employee privacy is becoming a challenge. Awareness of such issue should also be covered.
 - 【"Secure information security"】
 - There is an item titled "Bot Issues," but it should be specified that the term "bot" in this context means botnet because "bot" is an ambiguous term that refers to search bots (crawlers) as well.
 - Although it is mentioned that the Act on the Protection of Personal Information is serving as a de facto "general law" for information security, the Telecommunication Business Law may also be playing the same role from a different perspective.
 - Even if the Act on the Protection of Personal Information is actually playing the role of a general law of security, there should be an official general law. Accordingly, this section should carry the nuance that the current situation is not necessarily desirable.
 - 【"Establish an e-commerce infrastructure"】
 - The "user consent issues" are not specific to e-commerce and therefore seem wrong to be covered under "Establish an e-commerce infrastructure." For example, similar issues have been raised about insurance policies and some measures have already been taken for them. The current scheme is that any contract that is excessively disadvantageous to consumers is invalid under the Consumer Contract Law since the system of pre-approval of contract by the ministry of jurisdiction was abolished in principle due to the easing of regulations. It may be excessive to call for more actions that are only for e-commerce.
 - The "user consent issues" are: Users tend to be asked for consent over every matter on the Internet. Although each of their consents is valid, consumers sometimes end up having unwanted software downloaded on their computers, as they see exemptions one after another, beyond their cognitive capacity. The current expression will not convey that the type of this issue is different from those discussed with the traditional contract theories.
 - It should be specified that what matters is not validity of the contract, but the fact that the indication of consent becomes a dead letter.
 - 【"Secure intellectual property rights"】
 - The Copyright Law in Japan especially strengthens the right of integrity. It should match the level of the international treaties that allow alterations as long as they do not bring disgrace.
 - 【"Establish systems and practices with Internet support"】

- In addition to implementation of ICT for legal information, it is important to ensure that legal services are provided broadly to the people of Japan through the use of ICT. For example, the Japan Legal Support Center (Houterasu) that comes into service in October 2006 is planning to launch a call center. ICT could be proactively used in the center.
- Standardization of legal information seems to assume standardization of metadata in this context. If so, it should be specifically described.

【Overall comments】

- “Establish comprehensive legal systems based on the characteristics of ‘information’” in the Overview reminds one of the dispute between Lessig and Easterbrook (as to whether the unique legal field of “cyber law” is needed). It may be better to include a perspective that legal systems should be established on a cross-cutting approach from the viewpoint of “ubiquitous,” since the ubiquitous network society will face issues that cannot be handled within the conventional vertical legal fields.
- It is surprising that so many new issues have been raised and require reviews in just two years after announcement of the u-Japan Policy. These issues should be continually reviewed in the future.
- Since the “Ubiquitous Network Society Charter” presented in the u-Japan Policy does not appear to be fully used, we should try to optimize it by upgrading it to allow open alterations or disseminating it to international society.
- As establishment of the legal systems for the “Law on the Prevention of Unauthorized Use of Cellular Phones” to prevent abuse of mobile phones has been pushed forward in the past two years, achievements in establishing the legal systems should be covered.

(3) Future schedule

The future schedule and how to put together the report were explained by the secretariat, based on Reference 3-3, and approved.

(4) Speech by Director-General of the Information and Communications Policy Bureau

Director-General Takeda expressed his gratitude to the members.