

## Section 2

### ● Development of Information and Communications Policies

#### 1 Development of telecommunications policies

##### (1) Competition review in the telecommunications business field

MIC has conducted the competition review in the telecommunications business field, since FY 2003 to evaluate the market situation as it moves toward IP and broadband so that the current market situation can be reflected in government policies.

In FY 2004, MIC evaluated the area of the mobile communications and the IP phones in addition to the area of the internet access and the intra-company network that had been evaluated in FY 2003.

The main results of the competition review for FY 2004 include:

- In the mobile communications market, it is unlikely that the NTT DoCoMo will exercise its market power by itself; however, there is a concern that some carriers may exercise market power together based on their coordination.

- In the ADSL market of the area of the Internet access, it is unlikely that NTT East/West will exercise its market power either alone or in a coordinated manner with their competitors.

- The FTTH market in the area of the Internet access is divided into two submarkets, that is, “collective housing” and “detached housing”. In the former submarket, it is unlikely that NTT East/West will exercise its market power either alone or by coordinated with their competitors. In the latter submarket, which is a duopoly with NTT East/West and a group of subsidiaries of electric power companies, it is also unlikely that NTT East/West will exercise its market power either alone or by collusion.

##### (2) Consideration of the framework for competition rules to address the transition to IP-Based Networks

Telecommunications networks in Japan is in the rapid transition from Public Switched Telephone Networks to the IP (Internet Protocol)-Based Networks and the environment surrounding the telecommunications businesses is changing drastically toward the coming IP era. Along with this, advancement and diversification are taking place in business models of the telecommunications carriers which go beyond the traditional framework.

Thus, MIC holds meetings of “the Study Group on a Framework for Competition Rules to Address the transi-

tion to IP-Based Networks” since October 2005 in order to discuss the basic concepts of competition rules as of around the beginning of 2010s when the transition to IP will be substantial, in preparation for the coming era of full-scale IP services and to clarify the direction of discussions on policies for connections and tariffs.

##### (3) Ensuring universal services

The universal service system is a cost-bearing system introduced in June 2002 by a partial amendment to the Telecommunications Business Law in June 2001 to ensure provision of universal services throughout the country.

After the introduction of the system, market competition in the telecommunications sector has drastically changed in the following ways:

- 1) competition throughout voice services is promoted due to the penetration of mobile and IP phones;
- 2) competition in basic fee for fixed-line phones is expected due to the introduction of the new subscriber telephone service using dry copper dedicated lines; and
- 3) basic fee cost increase due to transferring NTS (Non Traffic Sensitive) cost to the basic fee cost.

Responding to such changes, MIC consulted the Information and Communications Council on “the framework of universal services fund system,” and the discussions were made on the scope of the universal service, cost calculation methodology, and the framework of contribution. In response to the report submitted by the Council in October 2005, the ministerial ordinance was revised and a new system has been implemented since FY 2006.

##### (4) Introduction of Mobile Number Portability

Mobile Number Portability (MNP) is system under which mobile phone users can retain the same phone number before and after they change mobile phone carriers. It is then expected to increase user convenience and promote competition among carriers. On the other hand, since the operators have to incur substantial costs for the reconstruction of networks by the introducing of the system, MIC had held “the Study Group on Mobile Number Portability” comprising experts and related parties to discuss users’ view and effects of the system since November 2003. As a result, a report was finalized in April 2004, including some issues to be paid attention, and commented that the MNP should be introduced at the earliest possible time in fiscal 2006. In response to the report, MIC compiled and issued “the Guidelines for

the introduction of Number Portability for Mobile Phones” in May 2003, including the framework, timing, and methods of introduction, cost sharing system, and usage procedures, and so forth which are issues that mobile phone service providers and other telecommunications service providers should pay attention for the introduction.

Furthermore, MIC consulted the Information and Communications Council on draft ordinance on partial amendment of “Regulations for Telecommunications Numbers” in November 22, 2005. The draft ordinance stipulated that telecommunications service providers (mobile phone service providers), who will be assigned with telecommunications numbers to identify terminal transmission line facilities for mobile phones, should take necessary measures to make number portability possible since November, 2006.

#### **(5) Dispute settlement between carriers**

The Telecommunications Business Dispute Settlement Commission, established in November 2001, undertakes procedures such as mediation and arbitration, in order to smoothly settle disputes between carriers, and at the same time, conducts deliberations on administrative punishment by the Minister of Internal Affairs and Communications, such as orders for consultation concerning connections.

The Commission has settled 40 cases and made two recommendations to the Minister of Internal Affairs and Communications as of the end of 2005.

While making steady achievements in official dispute settlement, the Commission established “the Consultation Window for Telecommunications Business Dispute Settlement” in December 2004 to improve the information provision system concerning dispute settlements and to provide appropriate advice on various consultations made by the telecommunications carriers at a preliminary stage before proceeding to official dispute settlement procedures.

## **2 Development of broadcasting policy**

### **(1) Protection of Personal Information in Broadcasting field**

Prior to the enforcement of “the Law concerning the Protection of Personal Information” on April 1, 2005, MIC enacted “the Guidelines regarding the Protection of Personal Information on Broadcasting Receiver” (Ministry of Internal Affairs and Communications Report No. 695).

With a partial amendment (entered into force April 1, 2005) to “the Examination Standards for the Broadcast Law (Ministerial ordinance No.68, January 6, 2001)” and an enactment (entered into force April 1, 2005) of “the Standard Contract Tariffs for Pay Digital Broadcasting Services Using Artificial Satellites” (Ministry of Internal Affairs and Communications Report No. 236), the Ministry supports effective implementation of protection

of personal information in the broadcasting field.

Furthermore, the Ministry authorized “the Broadcasting Security Center” on April 12, 2005, as an authorized organization for protection of personal information. The Center, among other operations, provides service providers with information that would contribute to resolving claims concerning the handling of personal information and ensuring appropriate handling of personal information.

### **(2) Review of restrictions on foreign investments in broadcasting**

In response to recent changes, including an increase in domestic investment and drastic changes in the shareholdings and investment, MIC submitted to the Diet a bill for “the Partial Amendment to the Radio Law and the Broadcast Law” in April 2005 to introduce regulations on indirect investment in addition to the ongoing regulations on direct investment. The Bill was enacted on November 2, 2005 and entered into force on April 1, 2006.

### **(3) Revision of the principle of excluding multiple media ownership**

MIC inspected and investigated broadcasting carriers for an alleged violation of the principle of excluding multiple ownership of media stipulated in the ordinance of MIC (Article 9 of the Fundamental Standard of the Establishment of Broadcast Stations) based on the Radio Law, Article7, Paragraph 2-4, that restricts the upper limit of investment in broadcast stations. It was then found that 73 companies were investing the amount beyond the limit, and these companies were given administrative guidances.

Responding to these underlying factors, and at the same time, with an aim to reinforce the inspection system concerning re-licensing of broadcasting stations, MIC revised the principle of excluding multiple ownership of media (promulgation/enforcement, July 15, 2005).

## **3 Promotion of policy for effective use of radio spectrum**

### **(1) Promotion of Frequency Open Policy**

MIC is promoting Frequency Open Policy as a means to prepare a scheme to open frequencies drastically and allocate them to new fields toward the realization of “wireless broadband service” which is a key to establish ubiquitous network society in Japan.

### **(2) Review of frequency allocation (expansion of frequency use for cellular phones)**

MIC formulated and published “the Guidelines for Spectrum Reallocation” regarding basic policies for the reallocation of frequencies in October 2003. It mentioned that frequency reallocation should be considered over the midterm (within 5 years) to ensure frequencies of 330-340 MHz bandwidth, primarily in the 1.7GHz,

2GHz and 2.5GHz bands, for mobile communication systems.

In response, MIC considered the use of frequencies in the 1.7GHz and 2GHz bands which was made newly available for cellular phones, based on the opinions exchanged at “the Study Group on the Expansion of Spectrum Uses for Cellular Phones” and comments from the public, and set up the licensing policy in August 2004, which stipulated the number of operators who would use the allocated frequencies and examination standards for the 1.7GHz and 2GHz bands.

Furthermore, MIC formulated “the Action Plan for Frequency Reallocation” which was an action plans to follow up frequency reallocation smoothly and surely on August 2004. This Action Plan is to be sequentially reviewed based on the evaluation results of an annual survey on radio spectrum usage and the changes in the environment for radio spectrum usage. In response to the evaluation result of the annual survey on radio spectrum usage of FY 2004 (published on April 13, 2005), the Ministry revised and published the Action Plan in October 2005.

### **(3) Efforts for timely radio spectrum reallocation**

By the amendment to the Radio Law in 2004, a scheme was adopted to compensate existing radio spectrum users whose periods of frequency use are shortened for costs uncollected by shortening of the period of frequency use for facilitating timely reallocation of radio spectrum.

By utilizing this scheme, in the 4.9-5.0 GHz band (which is used by fixed stations for telecommunications business), the termination date of the existing radio stations, which had been set at the end of November 2007, was brought forward by two years, and thus the usable radio spectrum was ensured, in order to provide an environment to use freely High Power Wireless LAN in the

metropolitan areas of Kanto, Tokai and Kinki.

In response, the Radio Station Registration system was introduced in the metropolitan areas above for the wireless access system in the 4.9-5.0 GHz band on December 1, 2005.

### **(4) Drastic review of Spectrum User Fee System**

It has been more than 13 years since the introduction of the spectrum user fee system and the situation surrounding spectrum user fees has drastically changed, represented by the growth of businesses using radio spectrums, such as cellular phone service and wireless LAN service. Thus, MIC had considered on the review of spectrum user fee system at “the Study Group on Policies for Effective Radio Spectrum Use.” Based on the result of study made by the Study Group in October 2004, MIC submitted the legislation for “the partial amendment to the Radio Law and the Broadcast Law” in September 2005, which was then promulgated in November 2005.

### **(5) Promotion of wireless broadband**

MIC held “the Study Group for Wireless Broadband Promotion” from November 2004, and considered specific measures to realize wireless broadband system which was the key to establish ubiquitous network society in Japan.

The Study Group conducted active discussions widely and openly by cooperation between industry, academia and government, including call for proposals on wireless broadband systems to be introduced in the future (72 system proposals from 44 parties), and compiled a specific introduction scenario, promotion measures, and specific measures for frequency reallocation based on “the Guidelines for Spectrum Reallocation” (Final Report: published in December 2005).