

5. Case of Dispute No.1, 2016
(Application: April 25, 2016)

1) Progress

April 25, 2016	Company A filed an application for mediation against Company B.
May 23, 2016	The Commission appointed the mediation commissioners.
May 24, 2016	Company B submitted a written reply.
June 10, 2016	The mediation commissioners heard opinions from both parties.
September 15, 2016	The mediation commissioners heard opinions from both parties. The mediation commissioners presented a proposed mediation for (1) <i>Conclusion of a new wholesale contract</i> to both parties.
September 16, 2016	Company A accepted the proposed mediation.
September 23, 2016	Company B accepted the proposed mediation.
November 18, 2016	The mediation commissioners communicated in writing to Company A The mediation commissioners' views on (2) <i>Compensation for differences from current contract fees</i> .
December 28, 2016	Company A reported to the Commission that an agreement had been reached on (2) <i>Compensation for differences from current contract fees</i> . The mediation process concluded.

2) Summary

Company A had entered into a contract with Company B pertaining to subcontracting and sales promotion, and Company A earned “consignment fees” based on the contract and “subcontracting fees” determined by a tariff.

In January 2015, Company B informed Company A that the rate for the subcontracting fees would be reduced, and despite Company A’s request for talks about the reduction, there were no negotiations on the issue.

Thereafter, Company B explained that the contract would be changed to a “resale model”, different from the previous “outsourcing model”. Company A

determined that the “resale model” would be more efficient and informed Company B to that effect in January 2016. However, details of the contract’s terms and conditions were not presented even after the proposal deadline, and substantive negotiations were not moving forward. Therefore, Company A filed an application for mediation for (1) *Conclusion of a new wholesale contract* and (2) *Compensation for differences from current contract fees*.

3) Results of mediation

The mediation commissioners decided to settle by splitting them into (1) *Conclusion of a new wholesale contract* and (2) *Compensation for differences from current contract fees* — the matters for which Company A was seeking mediation — separately. In order to settle (1) *Conclusion of a new wholesale contract*, the mediation commissioners presented the proposed mediation below.

1. Company B shall provide wholesale telecommunications services to Company A at the price agreed upon in negotiations between the parties during the mediation process.
2. (Details related to the notification period and other matters in the event a change is made to the price at which wholesale telecommunications services are provided.)
3. (Details related to terms and conditions subject to individual negotiations, the deadline for resolving large-sum use cases, and other matters concerning the handling of large-sum use cases, should they occur.)
4. Company A and Company B shall conclude a Memorandum of Understanding in accordance with the details in Paragraphs 2 and 3 above.
5. (Details related to the clause on liability for damages to customers, etc., in the draft wholesale/resale contract.)

When the proposed mediation was presented, it mentioned that Company B wished to examine the section covered in Paragraph 5 above separately.

Regarding (2) *Compensation for differences from current contract fees*, the mediation commissioners confirmed with both parties that mediation would aim for a resolution in the form of a settlement payment.

Company A and Company B accepted the proposed mediation described above and agreed that Company B would pay a settlement payment to Company A through good faith negotiations in parallel with the mediation process.