Material 1-5

**Summary of Minutes of the First Meeting of**

**the Data Governance Committee**

Date and time: 10:00 ~ 12:00, September 26 (Wednesday), 2012

Venue: Mitsubishi Research Institute, 4th Floor, Conference Room CR-F

**Attendees:**

Chairman: Yuriko Inoue Professor, Hitotsubashi University Graduate School of International Corporate Strategy

Vice-Chairman: Yuko Noguchi Lawyer, Mori Hamada & Matsumoto

Committee members:

Toshiko Sawada Director, EC Network

Fumito Tomooka Professor, Nihon University College of Law

Ryouji Mori Lawyer, Cyber Law Japan Eichi Law Offices

**Observers:**

Ministry of Internal Affairs and Communications (MIC) (Information and Communications Bureau)

Cabinet Secretariat (CAS) (Information Technology Security Office)

Ministry of Economy, Trade and Industry (METI) (Commerce and Information Policy Bureau)

Ministry of Land, Infrastructure, Transport and Tourism (MLIT) (National Spatial Planning and Regional Policy Bureau)

Geospatial Information Authority of Japan (also commonly known as Geographical Survey Institute – GSI) (Planning Division)

**Secretariat:**

Fumihiro Murakami, Takeshi Tsukuni, and Nao Fukushima (Mitsubishi Research Institute)

**Handouts:**

Material 1-1. Seating chart

Material 1-2. List of members of the Data Governance Committee

Material 1-3. Proposed operation of the Data Governance Committee

Material 1-4. Proposed items for studies and proceedings of meetings for this fiscal year

**Agenda:**

**1. Opening**

**2. Greeting by the Chairman**

**3. Self-introduction by the Committee members and observers**

**4. Explanation about proceedings of the Committee meetings and schedule**

・Based on Material 1-3, Secretariat explained the way of carrying out meetings.

・The way of handling Materials and Minutes of meetings of this Committee was approved without any objection, as described in Material 1-3.

・Based on Material 1-4, Secretariat explained the items for discussions and the schedule of meetings.

**【Comments on Materials, as well as comments on the overall policy】**

* As regards the information to which the Government has the right, the way of handling such information is not standardized among various departments of ministries. In respect of the information in the possession of the Government, a question exists as to whether a basic policy exists about its disclosure.
* There exists in fact a guideline called “Fundamental Policy (Guideline) of the Government on the Electronic Provision of Government Information”, and ministries have a unified way of thinking as to what kind of information shall basically be disclosed. However, conditions for the disclosure are not stipulated, and the matter is entrusted to each Ministry.
* The idea of “open data” has been advancing in overseas countries; not only in Europe but also in such countries as New Zealand and Australia. In pursuing the idea of open data, these countries have established unified guidelines applicable to all ministries. Thus, it is now time for Japan to follow such a trend.
* While we need to eventually find out the right direction for the entire aspect of public-sector information, including classification of information in the possession of the Government, we should first focus our study of this year on the public-sector information that has already been made open to the public.
* With respect to statistical information, we have the statistics law as a general law to govern this type of information, and if creators of fundamental statistics do create data contrary to the truth, it is stipulated in the law that penalties are imposed on such persons. We may need to discuss this type of information from the standpoint of what is required by its users. As the persons who put information into practical use are users, we should carefully examine as to what requirements they have. We must correctly grasp the entire picture of the public-sector information. Regarding the idea of communizing use conditions, we need to somehow overcome the situation where each ministry has been making decisions independently under the principle of separate responsibility and management of tasks among ministries.
* In every organization, there are people who sympathize with the idea of open data and those who do not sympathize with that. It is, therefore, necessary and important to have a basic policy based on solidly established philosophy in order to persuade cautious people, and in parallel with that, we may need to take an approach of having two steps; namely, we should demonstrate the basic policy, and at the same time, try to convince cautious people of the fact that implementing the idea of open data has merit, even if this process may take several years. If the basic policy is not solid, a variety of needs will emerge and the policy will become difficult to comprehend. It will be necessary to confirm the basic policy upon which we rely at the time when difficulties have arisen.

As regards the trend in foreign countries, it will be useful for us, as reference, to get a report showing policies of certain countries such as the United Kingdom, Australia, and New Zealand where the policies of the governments have been made public.

We should focus our study of this year on the public-sector information/data that have already been made open, and when we discuss the status of data next year, it will be possible that we reach a conclusion contradictory to that of this year’s. If we assume the possibility that such a situation may happen, it will be necessary to determine at this point, as to whether we should already take into account in this year’ study certain possible contradictions, or whether we should simply discuss based on the existing information/data this year and make modification to our conclusion if and when any contradictory result is found next year.

As regards the license conditions, only the copyrights seem to be dealt with in the licenses under the existing copyright law. Conditions seem to be shown only about the copyrights that the Government may possess, and other matters do not seem to be touched upon. Then, we may not need to consider the question of whether or not to include conditions in the license. Anyway, taking this opportunity, I want to call for your attention to this point.

* If we may talk about the policy, I think the basic idea is that public-sector information may be used freely. Then, how about starting our discussions from the issue of the “public domain” and considering whether we would encounter any problems if we impose some restrictions to the use of public-sector information? If we discuss from the viewpoint of what problems we might have, many points may emerge, but the situation may not be so serious in actuality.

If the issue of the right to public-sector information has not been clearly settled, we need to resolve this issue. If the copyright is not waived at the time when a report created by the original right-holder or research group is delivered, we may need to impose some restrictions on its use, and issuance of the general public license (GPL) by a community is also an issue related to the handling of right, although it is rather peculiar that the national Government asks communities to issue such license.

Concerning the use conditions as well, the question of whether to ask users to pay money for a thing created with taxpayers’ money may relate to another question of fairness, from the viewpoint of whether it is fair to have only some people use a thing in which a lot of taxpayers’ money was invested.

Regulation is not an issue related to the license but is rather an issue related to the way of using information.

The issue of “no guarantee” may also relate to the question of whether it is necessary to put it in writing or relate to the question of what kind of problems it may cause if and when a state compensation suit was filed. There may be a case, as an option, where the government defends the lawsuit.

**5. Free discussions**

* While it is already determined, as our basic policy, that we make public-sector information open, we should make clear the goals we are aiming at, from making such information open. In the case of the United States and Europe, they do not take money twice from their citizens. They make it a fundamental principle to make open anything that is created with the tax money. In Europe, they take a policy of making public-sector information open for the purpose of revitalizing industries. When we aim at getting economic effects by giving useful information, we need to accept the fact that the information is used for the purpose of profit-making.
* The public information disclosure system assumes that public-sector information is the property of the nation. When access is made from the side of the nation, we must think that such information may be used freely by citizens. Under the information disclosure system, it should be assumed that public-sector information is used for business purposes freely. I don’t think that it causes any problem to use public-sector information for profit-making purposes.
* I think that the information-opening strategy follows the global trend of encouraging the use of public-sector information for the purpose of industry revitalization. As regards the question of whether or not we should charge fees for its use, it is mentioned in a collection of papers compiled in Australia on the opening of public-sector information (PSI) that we can expect higher social benefit if such information is given to the public free of charge. If we have a solid idea that forms the basis for our policy, that will become a rule and principle.
* That is a matter of policy and we cannot make decisions from the viewpoint of legal aspects. There are in fact different types of information. Some can be used by the nation widely, and some can be used only by a limited number of people in certain areas. It depends on the nature of information.
* I think that all public-sector information should basically be made open, and therefore, we should take an approach of discussing why certain information cannot be made open.
* In our open data strategy, the following three points; namely, “improvement of transparency and credibility”, “promotion of participation by citizens and collaboration between the public and private sectors”, and “revitalization of economy and improvement of administrative efficiency” are mentioned as the important points and objectives concerning the utilization of public-sector data. And as the fundamental principle, “machine-readability” is considered to be quite important. Thus, “mere information disclosure” and “open data” have different implications. That is to say, as a means of making public-sector information visible to the public, the way of delivering information in the form of paper and the way of making it in a machine-readable form are different. In order to make data machine-readable, it is necessary for the administration to review business processes and technical measures, and thus, it also gives rise to the issue of cost effectiveness. While we should make all public-sector information/data visible to the public, based on the most basic way of thinking, we should first deal with the public data that can be handled more easily as a matter of strategy, and pile up results steadily.

And when we introduce a license, the major point for discussions seems to be what kind of license to introduce. A simplified license is easy to use. I don’t think it possible to make the license free of any restrictions, but we should at least create a license as simplified as possible, as a matter of fundamental principle.

If we need to create a variety of optional licenses, we must consider what degree of variation we should accept, and if such approach is not practical, we should find a way of disclosing information in a manner that prohibits its secondary use, rather than taking the way of open data.

* If we consider the subject of determining the range of license types from the viewpoint of the zero-base thinking, we should deal with this matter from the standpoint of the degree of imposing restrictions or releasing from restrictions. We should start with finding out the degree of necessity of restraining the number of options. I don’t think we have pre-determined ideas about this matter, though it will not be good if the number of options gets too large.
* As a matter of fact, wide variation may not be required so much. In every license, reproduction is generally allowed and modification is permitted as well. As regards the commercial use, public-sector information is allowed to be used freely, considering its economic effect, and thus, I don’t think that it will cause any problem to use the public-sector information for commercial purposes. We will be able to avoid any problems if we carefully examine each option.

There are cases where we wonder which license to choose out of plural types of licenses when they look similar superficially despite the fact that their actual contents are different. There are cases where we don’t like certain specific provisions when determining whether or not to attach CC, and that kind of discussion is said to be the mainstream in overseas countries. We need to discuss whether a standardized license can be adopted from the viewpoint of its merit and demerit. We also need to discuss the matter of compatibility. It is necessary to make a comparative study between “creation of independent licenses” and “application of a standardized license”.

* Still at present, it seems that there are many government-owned institutions that desire to disclose their information so that it is used widely by the public, but they remain conservative due to the reason that they have no model of proper license. I think that while we should examine in the second year of our study as to why certain information is not disclosed to the public despite the fact that the information in question should be disclosed in principle, it will be necessary for us to create in the first year a useful model of user rules for organizations that desire to make their information open. We should also undertake activities to sweep away unfounded concerns, by conducting hearings from organizations desiring to disclose information, on such matters as the reasons for concerns including legal aspects and their needs for introducing use restrictions.
* While we continue to discuss the rules and principles, I think we should mainly take up such data that have high demand and high value for their secondary use, as the date to look at in our study. Geospatial information is of high utilization value, but it is not certain if such information is subject to copyright, and also a number of persons are involved in creating the information. Thus, I think it good to take up such information as an item for our study.
* Statistical information and medical information can also be considered in relation to the secondary use. Although such information has some causes for concern in the aspects besides the copyright, it will be useful to take up such information as items for our study.
* We also want to examine such documents as white papers and reports, assuming that they are subject to copyrights.
* We want to discuss and examine in our study the following three types of public-sector information/data ; namely, (1) data (including written documents) that are subject to copyrights with certainty, (2) data that do not seem to be subject to copyrights, and (3) data, the existence of copyrights for which are not certain and that may also contain other problems. Data with judicial precedents have a problem in that they cannot be browsed because they are published in the form of PDF. It will be nice if we could also include such data in the subject of our study.

**6. Messages from Secretariat**

・A mailing list of the Committee members, observers and the Secretariat will be prepared by Secretariat.