

Chapter 3 Improvement of Operations Methods/Terms and Conditions of Provision of Services

The Telecommunications Business Law provides for the submission of opinions as a system to seek improvement of the conditions of the provision of services of telecommunications carriers, and the business methods of telecommunications carriers and those acting as intermediaries, middlemen or agents in concluding contracts for the provision of services of telecommunications carriers [hereinafter referred to as “a telecommunications carrier, etc.”]). Telecommunications carriers as well as users may themselves submit an opinion on the conditions of provision of services of other telecommunications carriers, etc., so that this system is considered useful as a way to resolve any dispute arising between telecommunications carriers. This chapter highlights this system.

In some cases, measures to improve the services of telecommunications carriers are taken not through the submission of opinion but by virtue of the Minister’s authority.

Section 1 Submission of Opinion

1. Purpose

The submission of opinion is intended to provide the opportunity for a party having a complaint or opinions about a telecommunications carrier, etc.’s services to submit such opinions and call on the Minister to address the issue.

2. Object

A party who has a complaint or opinions may submit opinions on the following matters:

1. Pricing or other conditions of telecommunications services provided by a telecommunications carrier
2. The business methods of a telecommunications carrier, etc.

3. Procedures

1) Submission of Opinion

A party who has a complaint or opinions about the conditions of provision of telecommunications services may submit such opinions by submitting a document (in an appropriate form) stating the reasons (Article 172, paragraph 1, of the Business Law).

A party who intends to submit an opinion is required to enter the necessary matters in a written opinion in the following form and submit the opinion (Article 64-2, Form No. 52, of the Ordinance of the Business Law).

Fig. 21 Written Opinion

Written Opinion											
To: Minister of Public Management, Home Affairs, Posts and Telecommunications	Year/month/day										
approved telecommunications carrier Address (Chinese characters must have their kana equivalent alongside) Name (Chinese characters must have their kana equivalent alongside) (The party's seal may not be required if the name of the party is written in his/her own handwriting. If the party is a corporate body, the name of the corporation and the name of the representative thereof are to be entered, and the representative's seal may not be required if the name of the representative is written in his/her own handwriting.) Seal											
Contact information (Telephone number etc. Name of the section concerned is to be entered, if any.)											
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; padding: 5px;">Items</th> <th style="width: 50%; padding: 5px;">Details</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">The name and address of a telecommunications carrier, etc. in the party's opinion</td> <td style="height: 20px;"></td> </tr> <tr> <td style="padding: 5px;">Content of submitted opinion</td> <td style="height: 20px;"></td> </tr> <tr> <td style="padding: 5px;">Reason for the submission</td> <td style="height: 20px;"></td> </tr> <tr> <td style="padding: 5px;">Other matters for reference</td> <td style="height: 20px;"></td> </tr> </tbody> </table>		Items	Details	The name and address of a telecommunications carrier, etc. in the party's opinion		Content of submitted opinion		Reason for the submission		Other matters for reference	
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(The size of an application form is to be JIS A-4.)											

The document shall be submitted to the Minister (if the party submitting opinion is a telecommunications carrier, to the Fair Competition Promotion Office, General Affairs, Telecommunications Bureau, MPHPT and if the party submitting the opinion is not a telecommunications carrier, to the Telecommunications Consumer Division, Telecommunications Bureau, MPHPT [Telecommunications Consumer Center]).

2) Processing

The Minister shall, once an opinion is submitted, process it in good faith (Article 172, paragraph 2, of the Business Law). In processing, if deemed necessary, the following measures in accordance with the Telecommunications Business Law are taken, and administrative guidance procedures are followed. For handing down a disposition unfavorable to the party concerned, the same procedures for hearing as described in

Chapter 1, Section 3, paragraph 3(2), for the order for consultation are to be followed (Article 161 of the Business Law).

1. Revocation of the registration of telecommunications business (Article 14, paragraph 1, of the Business Law)
2. Order for change of tariff concerning terms and conditions (Article 19, paragraph 2, Article 20, paragraph 3, of the Business Law)
3. Order for improvement of business activities (Article 29, paragraphs 1 and 2, Article 33, paragraphs 6 and 8, of the Business Law)
4. Order for suspension or change of prohibited act (Article 30, paragraph 4, Article 31, paragraph 3, of the Business Law)
5. Order for change of interconnection tariff (Article 34, paragraph 3, of the Business Law)
6. Recommendation to change a network function plan (Article 36, paragraph 3, of the Business Law)
7. Order to take measures to improve operations methods and other actions to approved telecommunications carrier (Article 121, paragraph 2, of the Business Law)

Regarding the above-mentioned measures 2.-7., the Minister shall inquire cases to the Commission for deliberation (Article 160, item 2, of the Business Law). The Commission shall, after deliberation (hearing interested persons and other witnesses if deemed necessary [Article 11 of the Regulations of Administration]), report its findings on the inquired measures to the Minister.

The situations in which cases 1.-5. are applicable are listed in the “Guidelines for Promotion of Competition in the Field of Telecommunications Business” (November 30, 2001).

Additionally, if it is judged that a matter addressed in an submitted opinion is likely to come into question under the Law concerning Prohibition of Private Monopoly and Maintenance of Fair Trade (Law No. 54 of April 14, 1947), MPHPT will communicate with the Fair Trade Commission in response to the wishes of the party submitting the opinion (Article IV of the “Guidelines for Promotion of Competition in the Field of Telecommunications Business”).

The Minister shall endeavor to complete processing of the matter addressed in the submitted opinion (except for cases which require inquiry to the Commission), from the date of submission of the opinion:

1. within 1 month, as a rule, for a case which is considered minor
2. within 3 months, as a rule, for a case which is considered to require careful determination

The Minister shall, upon completion of the processing of a submitted opinion, notify the party submitting the opinion of the result thereof (Article 172, paragraph 2, of the Business Law). MPHPT will publish instructive cases with due consideration to trade secrets, individual privacy, etc.

Fig. 21 Procedures for submitting opinion

