

Law Concerning the Limits of Liability for Damages of
Specified Telecommunications Service Providers and the
Right to Request Disclosure of Identification Information of
the Senders

(Law No. 137 of November 30, 2001)

Law Concerning the Limits of Liability for Damages of
Specified Telecommunications Service Providers and the
Right to Request Disclosure of Identification Information of
the Senders

(Law No. 137 of November 30, 2001)

This English translation of the “Law Concerning the Limits of Liability for Damages of Specified Telecommunications Service Providers and the Right to Request Disclosure of Identification Information of the Senders” has been translated in compliance with the Standard Bilingual Dictionary (March 2006 edition).

This is an unofficial translation. Only the original Japanese texts of laws and regulations have legal effect, and the translations are to be used solely as reference material to aid in the understanding of Japanese laws and regulations.

The Government of Japan shall not be responsible for the accuracy, reliability or currency of the legislative material provided in this Website, or for any consequence resulting from use of the information in this Website. For all purposes of interpreting and applying law to any legal issue or dispute, users should consult the original Japanese texts published in the Official Gazette.

Law Concerning the Limits of Liability for Damages of Specified Telecommunications Service Providers and the Right to Request Disclosure of Identification Information of the Senders

(Law No. 137 of November 30, 2001)

Contents

Supplementary Provisions -----	9
--------------------------------	---

(Unofficial Translation: In case of inconsistency, the original text in Japanese shall prevail.)

Note: For the purposes of this Law, the following rules of construction shall be applied:

Except as otherwise clearly indicated by the context:

- 1. Any word used in the present tense includes the future tense, unless otherwise expressly indicated;*
- 2. Any word used in the singular number includes the plural number, and the plural number includes the singular number, unless otherwise expressly indicated;*
- 3. Any word used in the male gender includes the female gender, unless otherwise expressly indicated;*
- 4. With respect to effective dates of the provisions, please refer to the relevant provisions of the Supplementary Provisions;*
- 5. Unless otherwise expressly indicated, the term "the Minister" means "the Minister for Internal Affairs and Communications"; and*
- 6. Unless otherwise expressly indicated, the term "the MIC" means "the Ministry of Internal Affairs and Communications".*

(Purpose)

Article 1.

The purpose of this Law is to set forth the limits of liability for damages of specified telecommunications service providers and the right to request disclosure of identification information of the senders in case of violation of the rights through information distribution by specified telecommunications services.

(Definitions)

Article 2.

In this Law, with respect to the meanings of the terms given in the following items, the definition specified in each item shall apply:

- i) The term “specified telecommunications service” means transmission (except transmission of telecommunications with the aim of direct reception thereof by the public) of telecommunications (referring to “telecommunications” as defined in Article 2 item i) of the Telecommunications Business Law (Law No. 86 of December 25, 1984)) with the aim of reception thereof by unspecified persons.
- ii) The term “specified telecommunications facilities” means telecommunications facilities (referring to “telecommunications facilities” as defined in Article 2 item ii) of the Telecommunications Business Law) being used for the operation of specified telecommunications.
- iii) The term “specified telecommunications service provider” means a person who relays others’ communications with the use of specified telecommunications facilities, or provides specified telecommunications facilities to be used for others’ communications.
- iv) The term “sender” means a person who has recorded information in recording media (limited to such recording media, from which the information recorded therein is to be transmitted to unspecified persons) of specified telecommunications facilities used by a specified telecommunications service provider, or who has input information in the transmission device (limited to such a transmission device, from which the information input therein is to be transmitted to unspecified persons) of such specified telecommunications facilities.

(Limits of Liability for Damages)

Article 3.

- (1) When any right of others is violated by information distribution via specified telecommunications, the specified telecommunications service provider who uses specified telecommunications facilities for said specified telecommunications (hereinafter in this paragraph referred to as a “relevant service provider”) shall not be liable for any loss incurred from such violation, unless where it is technically possible to take measures for preventing such information from being transmitted to unspecified persons and such event of violation falls under any of the following items. However, where said relevant service provider is the sender of said information

violating rights, this shall not apply.

- i) In cases where said relevant service provider knew that the violation of the rights of others was caused by information distribution via said specified telecommunications
 - ii) In cases where said relevant service provider had knowledge of information distribution by said specified telecommunications, and where there is a reasonable ground to find that said relevant service provider could know the violation of the rights of others was caused by the information distribution via said specified telecommunications
- (2) When a specified telecommunications service provider has taken measures to block transmission of information via specified telecommunications, said specified telecommunications service provider shall not be liable for any loss incurred by a sender of such information, transmission of which is prevented by said measures, so far as said measures have been taken within the limit necessary for preventing transmission of said information to unspecified persons and said measures fall under any of the following items:
- i) In cases where there was a reasonable ground for said specified telecommunications service provider to believe that the rights of others were violated without due cause by the information distribution via said specified telecommunications
 - ii) In cases where a person alleging that his right was violated by distribution of information via a specified telecommunications filed a petition that said specified telecommunications service provider take measures to prevent said information violating his right (hereinafter referred to as “violating information”) from being transmitted (hereinafter in this item referred to as “transmission prevention measures”), indicating the violating information and the allegedly violated right and the reason why said person insists on said violation (hereinafter in this item referred to as “violating information, etc.”) and where said specified telecommunications service provider provided such violating information, etc. to the sender of said violating information and inquired the sender if said sender agrees with implementing said transmission prevention measures, where said specified telecommunications service provider has not received any notice from said sender indicating his disagreement with implementation of said transmission prevention measures after seven days from the day of said inquiry to said sender

(Request for Disclosure of Identification Information of the Sender, Etc.)

Article 4.

- (1) Any person alleging that his or her rights were violated by distribution of information via specified telecommunications may, limited to cases when falling under both of the following items, request a specified telecommunications service provider using specified telecommunications facilities for the operations of said specified telecommunications (hereinafter referred to as a “provider of disclosure-related service”) to disclose identification information of the sender pertaining to said violation of the rights (referring to information, including a name and address, contributing to identifying the sender of the violating information and which is as stipulated in the applicable MIC ordinance; hereinafter the same shall apply.) possessed by said provider of

disclosure-related service:

- i) Where there is evidence that the rights of a person requesting said disclosure were violated by the distribution of the violating information
 - ii) Where said identification information of the sender is necessary for the person requesting said disclosure to exercise his or her rights to claim damages and where there is justifiable ground for said person to receive disclosed identification information of the sender
- (2) When the provider of disclosure-related service receives such demand as stipulated in the preceding paragraph, said provider shall hear the opinion of the sender of the violating information pertaining to said request for disclosure on whether said sender consents to the disclosure of his or her identification information, except where said provider is unable to contact said sender or where there are special circumstances.
- (3) Any person who received disclosed identification information of the sender in accordance with the provisions of paragraph (1) shall not, by indiscriminately using said identification information, unduly commit any act defaming said sender or disturbing tranquility of life.
- (4) The provider of disclosure-related service shall not be liable for any loss incurred by the person who requested for said disclosure in accordance with the provisions of paragraph (1) arising from said provider's refusal of said request, unless there is any willful or gross negligence on the part of said provider. However, where said provider of disclosure-related service is the sender of violating information pertaining to said request for disclosure, this shall not apply.

Supplementary Provisions

This Law shall come into force as from the day specified by the applicable cabinet order not exceeding six months calculating from the day of promulgation.

Ministry of Internal Affairs and Communications (MIC)
2nd Bldg. of the Central Common Government Office, 1-2, Kasumigaseki 2-chome,
Chiyoda-ku, Tokyo, 100-8926 Japan
(URL: <http://www.soumu.go.jp>)