

Study Group on a Comprehensive Legal Framework for Communications and  
Broadcasting  
Summary of Minutes (16th Meeting)

1. Date and Time

Wednesday, September 19, 2007, 6 p.m. to 8 p.m.

2. Location

Special Conference Room 1, 8th floor, Ministry of Internal Affairs and Communications

3. Attendees (honorifics omitted)

Horibe (Chair), Ando (member), Tagaya (member), Nakamura (member), Hasebe (member), Funada (member), Murakami (member)

Suzuki (Vice-Minister for Policy Coordination), Ogasawara (Director-General of the Information and Communications Policy Bureau), Terasaki (Director-General of the Telecommunications Bureau), Nakata (Director-General for Policy Planning), Suzuki (Director of the General Policy Division), Naito (Director of the Communications and Broadcasting Legal System Planning Office)

4. Summary of the Minutes

(1) Public Hearings from Relevant Major Business Operators, Associations, and other Parties (4th hearing)

Comments on the “Interim Summary” were made, with discussion following the comments, by Internet Association Japan, Telecommunications Services Association and Tokyo League of Regional Women’s Organizations.

(A) Internet Association Japan

(a) Explanation

An explanation based on “Current Status of and Issues related to Measures to Deal with Illegal and/or Harmful Information on the Internet – Public Hearing on the Interim Summary –” (Document 2) was given.

(b) Opinion exchange

- Questions were asked about the kinds of measures currently taken by the Internet Hotline Center to deal with illegal and/or harmful information that originates overseas and the kinds of measures that are regarded as important for the future. Internet Association Japan responded that there is a system called “INHOPE,” whereby mutual reporting can be carried out using an

international hotline network but that the main issue is the variability of laws among different countries, except for those dealing with child pornography.

- Questions were asked about whether filtering against illegal and/or harmful information is steadily increasing among users and providers and whether any particular measures are required to promote the practice of filtering. The Internet Association Japan responded that for mobile phones, filtering is provided free of charge on an application basis, but that the situation varies in the case of personal computers. It reported that the relevant association has set a target of raising awareness to 70% through promotional and educational activities.
- A question was asked about the opinion on measures said to be taken in South Korea, whereby defamation of character over the Internet is penalized more heavily than defamation of character in real life and the identity of anyone operating a web site that receives over 100,000 visitors per day must be confirmed. The Internet Association Japan responded that the South Korean side explained that, in their view, there was a need to identify those giving opinions with their real names and that the culture of anonymous spreading of malicious reports via websites must be eradicated.
- Regarding the “Comprehensive Framework for Measures to Deal with Illegal and/or Harmful Information on the Internet,” is there any current insufficiency, and what kinds of improvement measures are required if this is the case. The Internet Association Japan responded that, while problems must be solved using a comprehensive approach, the most important issue relates to the education of users to improve media literacy.
- With regard to “communications open to the general public” included in the Interim Summary, Internet Association Japan expressed the opinion that, unlike in regard to broadcasting, measures must be taken to deal with outsiders, both domestic and abroad, who continuously disregard requests for removal or who take no action in response to users’ complaints.
- To a question asking for its opinion on establishing “common rules” for the distribution of content concerning “communications open to the general public,” Internet Association Japan responded that it would be better if a legal framework was in place and that voluntary restrictions alone will not improve the situation unless measures are also taken to deal with outsiders.
- To questions about the reason for the difference between the number of reports of illegal information (9,439) and the number of reports which resulted in an investigation or arrest (418) and whether those who made the reports are informed of the results of any action taken, Internet Association Japan responded as follows: As for the first question, the number of reports of illegal information probably includes cases where the Internet Hotline Center made a request for the information to be removed, which was complied with. This is because a certain amount of time passes before an electronic bulletin board operator is requested by the police,

for the purpose of their investigations, to comply with the request for deletion. As for the second question, each case is assigned a report number, so that any action taken in regard to each case can be traced.

- A question was asked about whether business operators in the lower hierarchy, such as those who rent bulletin boards or operate data centers, accept that they have a responsibility to respond to requests for the removal of illegal and/or harmful information. Internet Association Japan responded that as an interested party they accept responsibility and that those operating a law-abiding business remove child pornography and illegal information immediately.
- A question was asked as to how many cases of illegal content are not reported versus the 60,000 cases that are. Internet Association Japan expressed the opinion that the reported cases are just the tip of the iceberg and indicate a more widespread trend, but that follow-up is impossible without an increase in personnel.

#### (B) Telecommunications Services Association

##### (a) Explanation

Explanations based on “Opinions on the Interim Summary of the ‘Study Group on a Comprehensive Legal Framework for Communications and Broadcasting’” (Document 3-1) and “Written Opinions” (Document 3-2) were given.

##### (b) Opinion exchange

- With regard to the comment that there are difficulties and limitations even if the telecommunications industry alone deals with illegal and/or harmful content and that “it is important to study the creation of a framework that allows for the involvement of all the relevant parties as part of a further study for a legal framework in the future,” questions were asked about what is meant by “all the relevant parties” and what kind of role is thought appropriate for those other parties to play, Telecommunications Services Association responded as follows: Even if a new legal system is established, it will not be able to ensure network safety and security and facilitate the taking of effective measures to deal with illegal and harmful content unless those parties, such as creators and publishers of content and bulletin board operators, are involved. If no consensus is formed regarding the fundamental rules for written content published on the Internet, these parties will take increasingly improper actions.
- With regard to the comment that “there are no objections against the aim of establishing technologically neutral rules for content but it is also necessary to give consideration to technological characteristics,” it was asked that examples of the kinds of technological characteristics that should be considered be given. Telecommunications Services Association responded that they include, for example, content exchange using P2P technology and issues related to anonymous certification.

- With regard to the comment that “it is difficult in many cases for providers to judge whether information is illegal and/or harmful and the expectation is that a kind of framework to assist in making a judgment, including, for example, an association to certify the reliability of information, will be established,” questions were asked about what kinds of parties would appropriately comprise the association that assists in judging whether information is illegal and/or harmful and what is the view about a framework whereby the association directly makes a judgment, although the comment describes a situation where the association “assists in making a judgment.” Telecommunications Services Association responded that, while a framework in which the ministry or agency in charge forms the core can be considered for cases relating to illegal information, a framework supported by a national consensus is needed in the case of harmful information. Telecommunications Services Association added that an organization such as an association to certify the reliability would be useful as it would be able to take proper and prompt measures.
- With regard to the comment that “since it is difficult in many cases to take legal measures to regulate content, meaning voluntary regulation or the like is a necessary condition, there is an expectation that a framework that legally supports voluntary efforts will be established,” an example of the kind of framework expected was requested. Telecommunications Services Association responded that, if a framework exists whereby guidelines can gain broad acceptance by society, providers and other relevant parties would be enabled to take prompt action without fear.
- A member expressed the following opinion: the ability to incorporate a function to check on contents in accordance with industrial law into the telecommunications framework is limited. “Communications open to the general public” will be defined only as those communications that can be accessed by anyone without a certain level of security being compromised.
- Telecommunications Services Association expressed the opinion that whether or not communications fall into the category of “communications open to the general public” or not will be generally decided according to whether they can be accessed only by specific people or by anyone. It added that when the term “specific people” is used, it is necessary to take into the account the number of such specific people.
- With regard to the comment that “studies are required on interactive services (or content),” a question was asked as to what kinds of cases are harmful. Telecommunications Services Association responded that the following case, for example, would be different from the conventional cases regarding non-interactive content: Party A transmits illegal information and Party B, while recognizing the transmission of illegal information by Party A, continues to exchange information without itself transmitting illegal information.

(C) Tokyo League of Regional Women's Organizations

(a) Explanation

An explanation based on "Opinions on the Interim Summary of the Study Group on a Comprehensive Legal System for Communications and Broadcasting – Focusing on Illegal and/or Harmful Information on the Internet –" (Document 4) was given.

(b) Opinion exchange

- With regard to the comment that, in spite of the fact that "many parents are concerned about harmful content on the Internet," "it does not necessarily lead to the introduction of filtering even though awareness of filtering has increased," an explanation of the cause of such a situation was requested. Tokyo League of Regional Women's Organizations responded that it is caused by (1) parents believing that their own children will never be exposed to such content, (2) a lack of parental awareness of the imminent risk, (3) rejection by children, and (4) problems operating the system.
- With regard to voluntary measures taken by business operators to deal with illegal and/or harmful content, Tokyo League of Regional Women's Organizations asked if there are any legal grounds available for business operators to avoid the possibility of a civil lawsuit in cases where they remove content on the basis that it is illegal.
- With regard to the comment that "the system must not allow the government to determine what information is harmful," a question was asked as to who should judge it in an appropriate system. Tokyo League of Regional Women's Organizations responded that it was the league's frank opinion that, in particular, those who lived through prewar and war times are wary of government involvement in the regulation of information.
- To the question of what user protection regulations should be included in a comprehensive legal framework for communications and broadcasting, Tokyo League of Regional Women's Organizations requested that all aspects of user protection regulations be studied, including the following: Even if certain practices are included in the negative list under the Specific Trade Law, contract cancellation rights should be protected under a comprehensive legal framework to cover any illegal practices involved in door-to-door sales, mail-order businesses and other activities. Problems should be also solved on a one-stop basis in cases where contracts are made over the phone and household appliances are connected to the network.
- To the question of whether the Information and Communications Law (tentative name) should be formulated in such a way that it has effects similar to civil law, Tokyo League of Regional Women's Organizations responded that the interpretation of laws and laws themselves can be improved if the means used by consumers to take legal action become more sophisticated and lawsuits using such means are frequently brought.
- With regard to the comments that "the system must not allow the government to determine

what information is harmful” and “it will be necessary to study the zoning,” a question was asked concerning the view on regulations for harmful books and what the difference is. Tokyo League of Regional Women’s Organizations responded that, since there are limitations on regulating harmful books due to the dependency on human-wave tactics, different measures are needed for Internet-based contents and that effects of voluntary regulations may possibly divide zones further.