

## **Outline of the Interim Report of the Study Group on Actions against Illegal and Harmful Information on the Internet**

### **(1) Background of the establishment of the Study Group**

While the rapid development and penetration of the Internet have brought great convenience to users, the distribution of illegal and harmful information on the Internet is emerging as an increasingly serious social problem.

In response to a summary on government measures against illegal and harmful information on the Internet that was published on June 30, 2005, the Ministry of Internal Affairs and Communications established the “Study Group on Actions against Illegal and Harmful Information on the Internet,” which met first in August 2005. A total of five meetings have been held thus far, with discussion focusing mainly on voluntary actions of providers and managers of electronic bulletin boards to avert the spread of harmful or illegal information through the Internet as well as measures to effectively support such actions.

### **(2) Summary of discussions**

As for illegal and harmful information on the Internet, it may be possible to take direct action on the side of providers of sites that distribute information as well as managers of electronic bulletin boards in addition to the sender’s side (e.g. cracking down on senders of illegal information) and actions on the receiver’s side (e.g. filtering of information by receivers). Actual actions relate to measures to prevent transmission.

The Study Group has so far discussed measures to promoting voluntary actions by providers and the managers of electronic bulletin boards with an emphasis on the following points of contention. Illegal information as referred to here means “information that violates laws and regulations or that violates the legally protected rights or interests of others.” Harmful information means “information which is not illegal but which may cause danger to public safety and order and information that may be accepted as harmful by

certain groups or individuals.”

*Points of contention relating to voluntary actions*

- (i) Clarifying legal responsibility relating to voluntary actions by managers of electronic bulletin boards.
  - Legal responsibility when ignoring information posted by other people
  - Legal responsibility when taking measures to preventing transmission of information posted by other people
- (ii) Consideration of measures to support voluntary actions by managers of electronic bulletin boards
  - Measures to support judgment of the illegality of information
  - Measures to support actions against non-illegal information
- (iii) Consideration of the provision of filtering service by providers

- (1) Measures to support judgment of the illegality of information by the managers of electronic bulletin boards
- a.) As for the illegality of information distribution, the illegality must have been judged through proper deliberations by an institution (organization) having specialized knowledge and experience.
  - b.) We believe that we can support the judgment of illegality by the managers of electronic bulletin boards by building a mechanism to assure that a.) means that the decision was made through a set procedure that allows certain and easy judgment, and thus promotes measures against illegal information through transmission prevention.

Specifically, we believe the mechanism should allow managers of electronic bulletin boards to take measures to preventing transmission based on the judgment of illegality by a law execution institution (e.g. police) which has specialized knowledge and

experience regarding the interpretation of laws and their application.

(2) Measures to support actions against non-illegal information by the managers of electronic bulletin boards

As for the legal responsibility when taking measures against non-illegal information to prevent transmission under a contract, it is generally understood that the managers will not stand accused of wrongdoing so long as the content of the relevant information, the range of the measures for preventing transmission and procedures adopted are reasonable and suitable. Since the outcome may, however, be different depending on individual and specific circumstances, it is difficult to come up with a general standard regarding content, etc.

Because whether the information is considered harmful depends on the receiver, careful consideration must be given before setting a uniform standard to promote voluntary actions regarding the contractual relationship between the managers of electronic bulletin boards and users.

On the other hand, in light of recent cases of illegal behavior emerging as the result of information distributed via the Internet, we believe it appropriate to support measures by managers of electronic bulletin boards to preventing transmission of information that may cause danger to public safety and order by issuing guidelines to telecommunication-related groups.

**(3) Issues for consideration hereafter**

The Study Group will continue discussions focusing on other points of contention such as the provision of filtering services by providers, disclosure of sender information under the Provider Responsibility Restriction Law, anonymity of the Internet, and information transmission using servers abroad. We expect to compile a final report around July 2006.