

**Minute Summary of the 3rd Meeting of the Study Group on
Actions against Illegal and Harmful Information on the
Internet**

1. Date and time: October 12 (Wed) 2005,

10:00 to 12:00

2. Location: Conference Room 1001 (10F),

Ministry of Internal Affairs and
Communications

3. Attendees

Standing members: Omiya, Okamura, Kuwako,
Kokubu, Goto, Kobayashi,
Shimada, Tagaya (Acting
Chairman), Nakamura, Noguchi,

Koseki (by proxy), Horibe
(Chairman), Mori (lawyer),
Morita, Yoshikawa

Ministry of Internal Affairs and Communications: Suda (Director-General of the
Telecommunications Bureau),
Terasaki (Director-General of the
Telecommunications Business
Department), Furuichi (Director
of Telecommunications
Consumer Policy Division),
Yajima (Planning Officer of
Telecommunications Consumer
Policy Division), Shibuya
(Assistant Director of
Telecommunications Consumer
Policy Division), Ikeda
(Assistant Director of
Telecommunications Consumer
Policy Division)

4. Proceedings

- (1) Opening
- (2) Refining of topics for discussion on “independent actions of providers against illegal and harmful information.”
- (3) Criminal responsibilities of providers in cases where they have ignored illegal information.
- (4) Schedule for the next meeting
- (5) Closing

5. Major discussions

After the Secretariat and exponents explained the distributed documents, the following discussions (summarized) took place:

- Providers are taking action against illegal and harmful information on the Internet, chiefly in the form of deleting the offending information to the extent possible under related legislation etc. It is, however, almost impossible for providers to prevent the distribution of information in cases where users have transmitted information using so-called P2P or servers installed at their own cost.

- As for “independent actions of providers,” the scope of possible actions, including technical aspects that providers may take independently, depends on their standpoint (as manager of an electronic bulletin board, manager of the server and access provider, etc.)
Therefore, it is necessary to categorize providers by type of entity and service and then discuss independent actions according to the defined characteristics.
- Even if a civil liability for damage is bestowed on, for example, a manager of an electronic bulletin board who has ignored information that infringes on other people’s rights, it may sometimes be impossible to enforce the punishment and the victim could feel justice has not been restored. In such cases, is it impossible to pursue criminal responsibility of the manager of the electronic bulletin board?
- A manager of an electronic bulletin board who has deliberately ignored illegal information can only be held criminally responsible when there exists a special reason for regarding the deliberate oversight of illegal information as the same as committing a crime. In a trial

case in which the criminal responsibility of an electronic bulletin board manager was recognized, it appears that he/she had been voluntarily and actively involved in the transmission of illegal information and could therefore be recognized as a transmitter of the information.

- As for one of the topics for discussion in the Study Group—“voluntary actions by managers of electronic bulletin boards”—we plan to specifically address the following: 1) criminal responsibility in cases where illegal information has been ignored; 2) legal responsibility in cases where illegal information has been deleted; 3) mechanism for supporting judgment of illegality; and 4) provision of filtering services by providers.

End