

**Minute Summary of the 4th Meeting of the Study Group on  
Actions against Illegal and Harmful Information on the  
Internet**

1.Date and time: November 25 (Fri), 2005

10:00 to 12:00

2.Location: Shared Conference Room No.2,  
Low-rise Building (1F), Ministry of  
Internal Affairs and Communications

1. Attendees

Standing members: Okamura, Kamimura, Koizumi  
(by proxy), Goto, Kobayashi,  
Shimada, Tagaya (Acting

Chairman), Nakamura, Nagata,  
Noguchi, Bessho, Horibe  
(Chairman), Mori (lawyer),  
Morita, Yoshikawa

Ministry of Internal Affairs Suda (Director-General of the  
and Communications: 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)

## 2. Proceedings

- (1) Opening
- (2) Criminal responsibility in cases where electronic bulletin board managers have ignored illegal information.
- (3) Responsibility regarding deletion of information by electronic bulletin board managers:
  - 1) When deleting illegal information
  - 2) When deleting information that was not illegal
  - 3) Actions other than deleting
- (4) Measures to support judgment of illegality
- (5) Schedule for the next meeting
- (6) Closing

## 3. Major discussions

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

- Based on trial cases so far, electronic bulletin board managers who have ignored illegal information posted

by others are not usually deemed criminally responsible. For that to happen, it seems that their active involvement in the distribution of illegal information must be recognized. However, we need to keep watch on the trends of such future cases in order to see to what extent a manager's involvement counts as criminal liability.

- As for cases in which managers of electronic bulletin boards have been deemed criminally responsible, several trial cases have recognized the responsibility due to willful negligence. However, it is necessary to consider the consistency with the fact that recognition of the manager's role in the distribution of illegal information is required for damages under Article 3.1 of the Provider Responsibility Restriction Law.
- As for the deletion of information by the manager of electronic bulletin boards, the Provider Responsibility Restriction Law is applied to information that violates the rights of other people and the criteria for action have to a certain extent been established due to the improvement of relevant guidelines. If information is harmful to society as a whole, even if it violates public

decency but generates no particular victims, it is possible for the industry group to create a guideline for unified action. That said, it is difficult to take unified action toward information which may be evaluated harmful by some people and not harmful by others. In such cases, the evaluation should depend on the policy of the manager of the electronic bulletin board.

Measures such as filtering on the receiver side will be effective for information that various parties may evaluate differently.

- When considering voluntary action by electronic bulletin board managers, it seems appropriate to first think about the operation standard of sincere managers who actively take action against illegal information before implementing awareness activities for managers of electronic bulletin boards who have a low level of concern regarding illegal information.
- We believe that it is an effective approach to have another institution (such as a law enforcement body) support, by judging the illegality of the information, managers of electronic bulletin boards in judging

whether or not information violates any given law.

- Ministries and agencies holding jurisdiction over various laws and regulations should support judgments of the electronic bulletin board managers by identifying the illegality of information that violates the rights of other people and that violates specific laws and regulations. However, when abstractly harmful information violates no specific laws or regulations but is against public decency, industrial guidelines to independently take action against such information, which we may develop, would seem the best option.
- Is it impossible to build a system that automatically issues a warning for information containing illegal aspects when a user tries to browse that information on the Internet?
- Realization of such a system appears to be quite far in the future in terms of technological feasibility, since it is difficult to judge without error the illegality of information through such a mechanical approach. In addition, taking measures to automatically prohibit access may involve legal problems such as censorship.

Actions on the receiver side such as filtering are effective for preventing access to illegal and harmful information, as automatic blocking is being implemented based on the database built by the filtering operators.

- We have so far discussed topics with a focus on voluntary actions by providers and the managers of electronic bulletin boards, but penetration of filtering on the receiver side and restriction on the sender side are also essential. It can be considered as an action on the sender side to effectively utilize measures such as placing on providers their obligations under industrial law.

(Further schedule)

- In the next meeting, we will make an interim summary based on the discussions thus far.

End