

**Minute Summary of the 6th Meeting of the Study Group on
Actions against Illegal and Harmful Information on the
Internet**

1. Date and time: February 6, (Mon) 2006 14:00 to 16:00
2. Location: Conference Room No.2 (1st basement level),
Ministry of Internal Affairs and
Communications
3. Attendees

Members: Omiya, Okamura, Kuwako, Kokubu,
Shimada, Tagaya (Acting Chairman), Chiba,
Nagata, Nakamura, Noguchi, Hasebe,

Bessho, Horibe (Chairman), Mori (lawyer),
Yoshikawa

Ministry of : Terasaki (Director-General of the
Internal Affairs Telecommunications Business
and Department), Furuichi (Director of
Communications 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)

Presenters: Sato, General Manager, Mochizuki,
General Manager, Digital Arts Inc.

4. Proceedings

- (1) Opening
- (2) Publication of the Interim Report (reporting)
- (3) Subgroup meeting (reporting)

- (4) Legal responsibilities relating to measures by managers of electronic bulletin boards to prevent information transmission
- (5) WEB content filtering software for ISPs
- (6) Current status on filtering
- (7) Schedule for subsequent meetings

- (8) Closing

5. Major discussions

After the Secretariat and presenters explained the distributed documents, discussions were conducted as presented below:

(Measures by electronic bulletin board managers to prevent transmission)

- An electronic bulletin board can be compared to a case where a person who has entered into a lease contract for a plot of land (the manager of the electronic bulletin

board) with a landlord (the manager of the server) makes the land vacant and opens it to people (writers on the electronic bulletin board) to allow their free expressions. Where a contractual relationship is recognized between the electronic bulletin board manager and people, an act of expression shall be handled based on the said contractual relationship; things may differ, depending on whether the relationship corresponds to a pay lease contract or a free contract for use. In the latter case, taking measures to prevent transmission for a certain period following notice of cancellation may become the basic idea. Since it usually requires no charge, even where no contractual relationship is recognized, it may be considered

pursuant to the latter case, or that there is room for recognizing wider measures to prevent transmission.

Furthermore, the relationship between the manager of a server and the writers on an electronic bulletin board may also be considered separately pursuant to the relationship between a property owner and people.

- The legal liabilities in the case where an electronic bulletin board manager took measures to prevent transmission will be judged based on whether a contractual relationship exists between the manager and the transmitter. If there is one, both parties will be bound by the contractual relationship. If measures such as deletion are generally based on covenant, the manager will not be held liable for the default of an

obligation or an illegal act. Even if no contractual relationship exists, it can be considered that the manager of an electronic bulletin board assumes no legal responsibility in respect to measures to prevent transmission as long as the manager takes such measures within the limits required for the management of the site.

- When the electronic bulletin board manager expresses his/her intent to not take any measures to prevent transmission against writing on the electronic bulletin board while the manager of the server that hosts the bulletin board takes measures to prevent transmission at his/her own discretion, both of the managers may come into collision with each other.

- An electronic bulletin board is also a means of expression for the manager. If electronic bulletin board managers cannot delete written information that appears against their will, is it not restricting the act of expression on the part of the bulletin board managers?

In addition, where there no contractual relationship exists, it seems that we should consider whether the benefit of writing on an electronic bulletin board is worth legal protection.

- While anonymity in information transmission is also worth legal protection and must be respected, it can be considered that a difference in the level of protection should appear, depending on the nature of the public forum of the site where information is transmitted.

Handling will be different between electronic bulletin boards that are used for communication within a small familiar group and those that are opened widely to the public and where many people write information.

- Regarding legal responsibility with respect to measures by electronic bulletin board managers to prevent transmission, a certain responsibility may be assumed by the managers with respect to having taken measures to prevent transmission where: 1) a contractual relationship exists between the manager and the transmitter, and the manager is held liable under the contract for hosting the information written by the transmitter; and 2) no contractual relationship exists, but the information written by the transmitter is worth

legal protection. In other cases, it seems reasonable to consider that there is no problem with taking measures to prevent transmission.

(Filtering service)

- Blocking of illegal and harmful information through a filtering service may not always work properly, but a combination of various functions may be effective in blocking such information flexibly according to the policy of each family. As parents that have knowledge of the Internet increase in the future, the penetration rate of filtering services will also increase. In order to introduce filtering services effectively into families,

communication between parents and children on the use of the Internet is essential.

- Children will be unable to behave appropriately if they are in an environment where no filtering service is provided unless they are fully informed of the affluent distribution of harmful information on the Internet. It is important to enable children to judge whether information is safe or not.

(Further schedule)

In the next meeting, we will discuss filtering services and the disclosure of transmitter information.

End