



Enhancing Cooperation Systems with Internet Service Providers to Better Confront Illegal & Harmful Online Content from Overseas

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Online Content Review Systems in Korea

- ▶ KCSC (Korea Communications Standards Commission)
 - Independent statutory agency specifically in charge of content review
 - Broadcasting review & Internet communications review
 - Consists of 9 members commissioned by the President of Korea
 - 6 out of 9 members shall be recommended by the National Assembly
 - Cf. KCC (Korea Communications Commission): Central government agency in charge of media regulations in general
- ▶ Rational for establishing an independent content review agency
 - Limitations of the criminal justice system in effectively dealing with online illegal contents
 - Necessity to respond quickly to expeditious distribution of illegal information online, which is unrestrained by national borders
 - Necessity of a content review agency independently set up from the government to establish regulatory principles and standards that appropriately protect freedom of expression

Online Content Review by KCSC

Subjects for Review

Illegal Information under 「Info-Communications Network Utilization Act」

- | | |
|--|--|
| 1. Obscene material | 6. Speculative activities prohibited by law |
| 2. Defamatory content | 7. Divulgence of state secrets classified by law |
| 3. Cyber stalking | 8. Violation of the National Security Act |
| 4. Network and data infringement | 9. Other information that attempts, aids, or abets efforts to commit a crime (e.g., illegal food & drug sales, illegal transactions under false names, document forgery, etc.) |
| 5. Violation of the Youth Protection Act requirements (e.g., age verification, "harmful-for-youth" content labeling) | |

Online Content Review by KCSC

Review Process

Recognizing review items

- Complaints from ordinary Internet users
- Requests from heads of related central administrative agencies (National Police Agency, Food & Drug Administration, etc.)
- KCSC monitoring



Review of complaints

- Analyzed by a relevant review division.
Referred to Sub-Commission review if violation is identified



Deliberation by Commission

- Sub-Commission (twice a week) / Full-Commission (once every 2 weeks)
- Decisions on "Requests for correction" after consulting with a relevant Special Advisory Committee when necessary



Request for correction

Formal Objections

- Within 15 days after the issuance of a correction request



Online Content Review by KCSC

Methods of Online Content Review

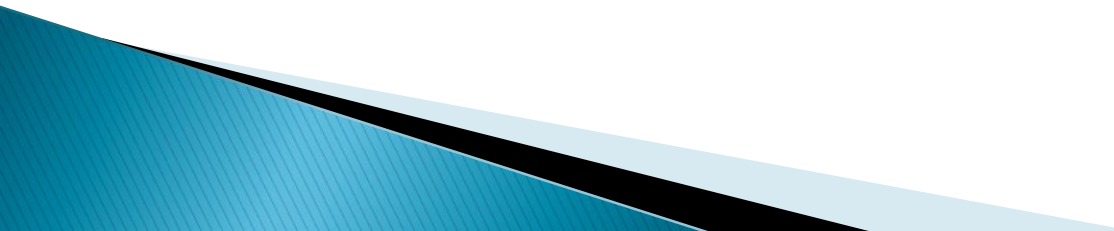
Request for Correction

- Given to ISPs or operators/managers of open message boards
- Recommends the deletion of information, access blockage, suspension or cancellation of service use, labeling as 'unwholesome content for youth', etc.
- Administrative guidance, not legally binding (no punitive measures for non-compliance)

Disciplinary Measures (Administrative Orders)

- KCSC could request that KCC issue an administrative order
- Applicable only to specific types of content (divulgence of state secrets, violation of the National Security Act, information that attempts, aids, or abets efforts to commit a crime)
- Only if certain conditions are met as specified by law (A request for correction is not followed and a related central government agency files a request)
- ※Administrative order is seldom issued

Changes in Internet Communications

- ▶ ‘Smart Revolution’ though
 - Innovations in digital technologies
 - Enhanced Internet networks
 - Accelerated convergence of broadcasting & telecommunications
 - ▶ Computerized smart devices
 - Continue to be miniaturized and personalized
 - Interconnected via the mobile Internet network at all times and in all places
 - ▶ Benefits
 - Invigoration of globalized Internet services
 - More convenience and pleasure in life
 - More information and knowledge
 - ▶ Drawbacks
 - Proliferation of and easier access to illegal & harmful content
 - Unrestrained circulation of illegal & harmful content through borderless Internet
 - Difficulties in regulating illegal content from overseas
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Increases in Illegal Content from Overseas [1]

<Correction requests by KCSC : Domestic content v. Overseas content>

(2012. 1. 1 ~2015. 12. 31.)


	2012	2013	2014	2015
Correction request [domestic content]	32,629	41,742	35,789	37,743
Correction request [overseas content]	39,296	62,658	97,095	111,008
Total	71,925	104,400	132,884	148,751
Ratio [domestic content]	45.4%	40.0%	26.9%	25.4%
Ratio [overseas content]	54.6%	60.0%	73.1%	74.6%

Increases in Illegal Content from Overseas [II]

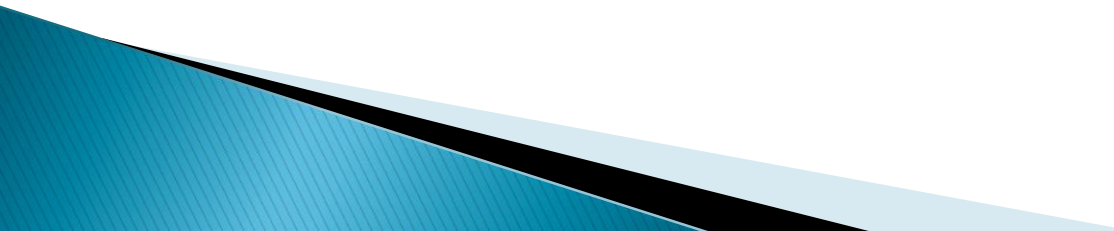
<Top 10 services (in terms of the number of correction requests issued)>
(2011. 1. 1.~2015. 8. 31.)

Rank	Service Provider	Domestic service/ overseas service
1	Naver	domestic
2	Daum	domestic
3	Twitter	overseas
4	Google	overseas
5	Photosugar	overseas
6	Tumblr	overseas
7	FC2	overseas
8	DCInside	domestic
9	Daily Best	domestic
10	Rakuten	Overseas

Increases in illegal Content from Overseas [III]

- ▶ Of total content related to sex trafficking and obscene material about which KCSC made correction requests in 2014, 2/3 was circulated by overseas service providers such as Google and Facebook
 - Total illegal content circulated by overseas service providers increased by 13 times between 2010 and 2014
 - Obscene content, including sex trafficking information, increased by 17 times
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Problems with Regulating Illegal Content from Overseas [I]

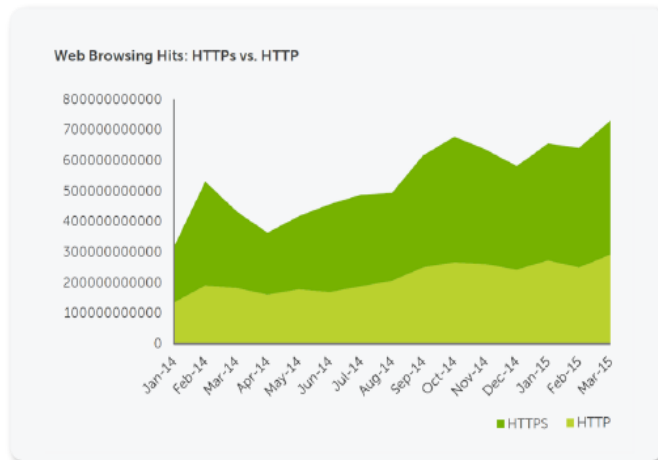
- ▶ There is limited application of domestic law to service providers with servers in foreign territories
 - ▶ When KCSC makes correction requests to overseas content providers, it is difficult to notify the providers about these decisions and to implement them
 - ▶ Therefore, KCSC asks domestic Internet network operators, such as telecommunication companies, to block access to illegal content from overseas instead of directly requesting that overseas ISPs, which host the content, remove it
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Problems with Regulating Illegal Content from Overseas [II]

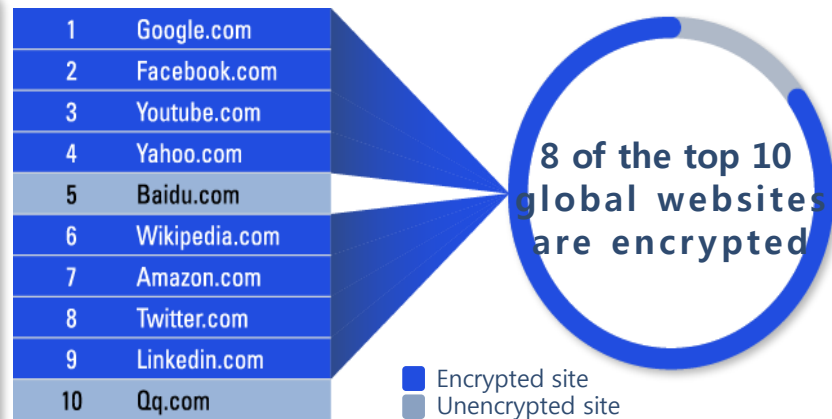
- ▶ Limitations with access blockage to illegal content from overseas through domestic network operators
 - Less effective in dealing with illegal content in comparison with 'removal of illegal content from the source'
 - Easy to bypass using circumvention techniques, such as https, proxy servers, virtual private networks, static routing, etc.
- ▶ Access blockage is not possible for encrypted traffic for technical, legal, financial, and other reasons
 - i.e., Apps provided in Google open markets require special blocking equipment
 - Apple distributes the same content through both overseas and domestic servers

Problems with Regulating Illegal Content from Overseas [III]

<Increases in encrypted network traffic>



< Source: Dell Security Annual Threat Report 2015 >



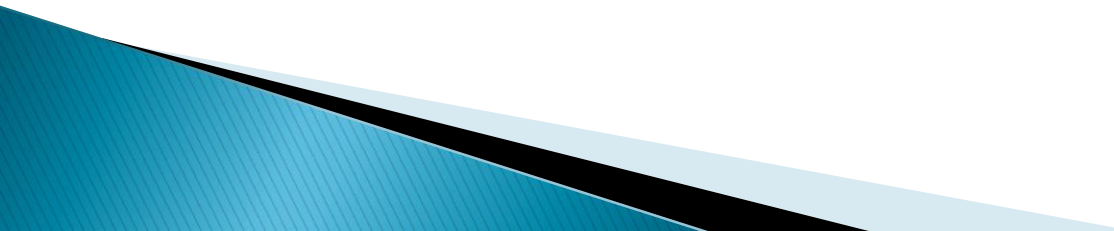
< Source: Alexa, 2015 >

- Currently, 25–35% of global Internet traffic uses encrypted networks [NSS Lab]
 - 30–50% of global internet traffic is expected to use encrypted networks by the end of 2016
 - 43% of traffic in major search engines and social media sites uses encrypted networks (Increases by 20% on average every year)
- [The Future X Network: A Bell Labs Perspective, 2015.10.]

Effective & Realistic Solutions to Confront Illegal Content from Overseas

- ▶ A significant portion of illegal content from overseas circulates through the websites of global service providers(GSPs)
 - GSPs' websites are used as circulation channels for not only foreign content but also for domestic content that is specifically targeted at domestic users
- ▶ Self-regulation by overseas service providers has limitations
 - Apple enforces its own rating system that follows its own standards in its open application market (App Store), which can conflict with or even nullify some nations' existing rating schemes. Apple rates content that is harmful for children ("adult content") as appropriate for 17 year olds and does not require any specific age verification
 - Google allows app providers to distribute content without ratings and does not provide any specific age verification measures

Effective & Realistic Solutions to Confront Illegal Content from Overseas

- ▶ GSPs face increasing pressure from the market to come up with more effective solutions to deal with illegal content
 - ▶ Need an agent that encourages GSPs to more actively enforce their self-regulatory measures and provides guidance on how they can better cooperate with domestic regulations
 - ▶ Need to embrace GSPs within a cooperative regulatory system
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Cooperative Self-Deliberation System (CSDS) [I]

▶ Under CSDS:

- KCSC provides concerned ISPs with information about illegal content (including URLs), and the ISPs review the content and take prompt counteraction

▶ Goal

- To counteract illegal online content more swiftly and effectively
 - The KCSC review procedure takes 1–2 weeks from the recognition of illegal content to deciding to issue a correction request to notifying the concerned ISP
 - In contrast, an ISP, as a private entity, can take immediate counteraction upon recognition of illegal content

Cooperative Self-Deliberation System (CSDS) [II]

▶ Launch of CSDS

- Talks began on the creation of a CSDS between KCSC and major domestic portal service operators in 2011, and the 'Information Sharing Network System' was established
- CSDS started operating in February 2012 with the participation of 4 major domestic Internet portal services

▶ Expansion of CSDS

- CSDS has expanded to include more domestic ISPs
- Participating domestic operators in CSDS as of June 2016
 - 26 domestic operators
 - Includes portal, webhard, P2P service providers, online newspapers, Internet TV operators, etc.

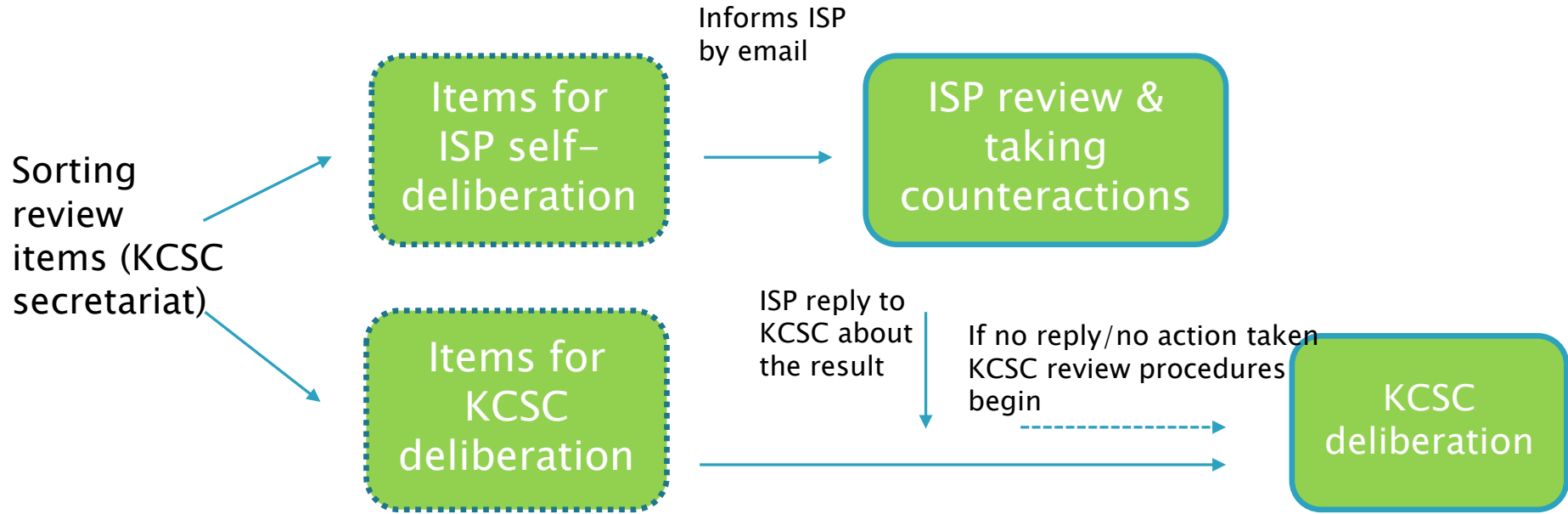
▶ Inclusion of global service providers(GSPs) in CSDS

- 3 GSPs joined in February 2015: Google, Facebook, Twitter
 - Instagram and FC2 will join soon

Cooperative Self-Deliberation System(CSDS) [III]

- ▶ Under the KCSC deliberation system
 - Recognizing review items
 - Review of complaints
 - Deliberation by sub-commission, full commission (when necessary)
 - Request for correction
- ▶ Under the cooperative self-deliberation system(CSDS)
 - Recognizing review items (by KCSC)
 - Sorting review items (by KCSC)
 - Items for ISP review v. Items for KCSC review
 - Items for ISP review
 - KCSC provides the relevant ISP with information about the items (including URL) through the 'Information Sharing Network System'
 - Deliberation by ISP – counteraction taken by ISP
 - ISP informs KCSC about the result
 - If no action taken or no reply by ISP, KCSC starts deliberation procedures on the item

Cooperative Self-Deliberation System(CSDS) [IV]



Need to Promote Regional Cooperation Systems [I]

- ▶ Content regulation in cyberspace becomes increasingly complicated as it inevitably involves overseas service providers, who have huge market power and resources that would affect national regulation, global social norms, and technological architecture
- ▶ Individual state's legal framework often does not function properly by itself due to many reasons, including:
 - 1) Lack of legal harmonization based on agreed-upon standards among interested nations
 - which often leads to the movement of the servers for certain problematic contents to so-called "safe havens" where relevant regulatory standards are most lax
 - 2) Challenge to the validity of the framework due to reverse discrimination toward domestic service providers

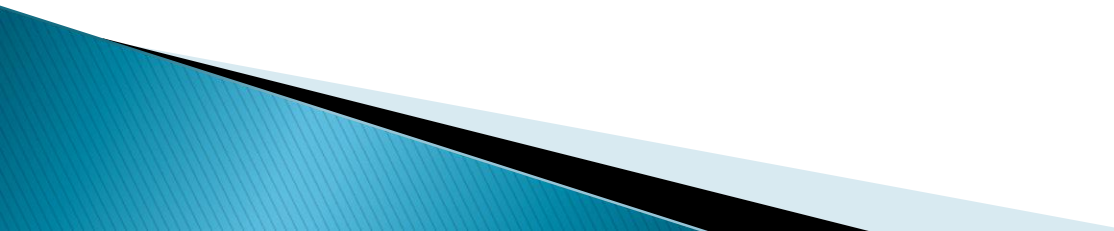
Need to Promote Regional Cooperation Systems [II]

- ▶ 3) Failure to secure efficacy due to technological factors
 - Regulators often find themselves helpless to deal with technological circumvention
 - Regulators are often not able to offer a solution to service providers' claim that they do not have the technological means to deal with certain problematic situations
 - e.g., A serious conundrum appears when they try to find effective methods to check the actual age of users from different nations so that age verification system could work when minors try to access adult content
- ▶ These complexities suggest that content regulation in cyberspace requires a different strategic approach that needs to have the involvement of more than just one country
 - **Multilateral cooperative approach**

Need to Promote Regional Cooperation Systems [III]

- ▶ Multilateral cooperation particularly through a regional cooperative body is essential in the following sense :
 - 1) In a regional body, which tends to consist of member countries that share relatively similar cultural and philosophical backgrounds or values, legal harmonization can be achieved more easily
 - Members of the body can include public regulatory organizations, self-regulatory associations, and relevant civic activist groups
 - Discussions on legal harmonization on a global level, particularly on content regulatory standards, could always be at a standstill, mainly due to the conflict of many different values
 - It is realistic to expect that consensus making on a global level can take place more easily after a consensus is reached on a regional level
 - Regionally achieved consensus can play the role of providing guidance standards for global harmonization (as the EU standard of hate speech did.)

Need to Promote Regional Cooperation Systems [IV]

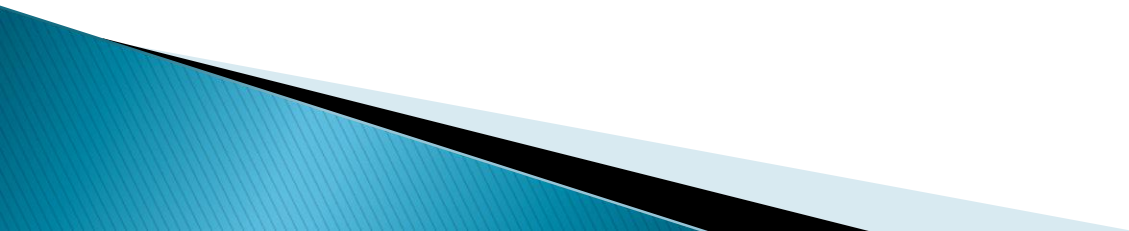
- 2) Through a regional cooperative body, member countries can convene more frequently for a relatively small scale (compared to a global scale) conferences and working-group meetings. They can communicate more closely on the issues that require expeditious discussions
 - 3) Through a regional cooperative body, member countries can have enhanced negotiation power when they need to deal with global service providers
 - 4) Through a regional cooperative body, new types of social norms can be formed, which can legitimately challenge the norms created by global service providers mainly in accordance with their business interests
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Need to Promote Regional Cooperation Systems [V]

- 5) Through a regional cooperative body, pressure on the service providers to act in the interest of users, particularly of minors, can be applied more systematically and powerfully
 - Self-regulatory associations and civic activist groups with long traditions and know-how to deal with corporate interests can play a significant role
 - Such pressure could include persistent demands for continuous effort to make technology for the protection of minors more sophisticated
- 6) Through coherent actions among the members of a regional cooperative body, global service providers will conceive the entire regional area as one significant market. This will make the corporations consider an individual member country's regulatory movements more seriously and attentively

Discussion:

How to invigorate regional cooperation systems in the Asia Pacific area to better confront illegal content on the Internet



Thank you!!!

