

# Submission to study on private ICT sector responsibilities

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Korean Progressive Network Jinbonet, a non-profit organization based in South Korea and a member of Association for Progressive Communications, has been advocating human rights in the digital age since its establishment in 1998. (<http://act.jinbo.net/drupal/english>)

## **1. Legal and policy issues strifling free speech on the Internet**

- The biggest factor which drives internet intermediaries to censor user's expression is the demand of national authorities and related laws. The more they are small and nationally based, or operate under the authoritative regime, the more companies become vulnerable to the demand to censor their users.

- In South Korea, the Korea Communication Standards Commission, the administrative body, deliberates internet contents and recommends intermediaries to delete allegedly illegal contents while some of those recommendations were revoked by court . Those recommendations would be normally-about 98%- accepted by intermediaries, because if they don't accept them, the Korea Communications Commission could 'order' deletion. Another widely-used mechanism to censor internet contents in South Korea, is 'temporary blocking', which requires intermediaries to block insulting expressions only by an allegation of allegedly victim without ensuring appeal of poster, so has been criticized as being misused by the powerful.

- Internet surveillance by intelligence and investigative agencies as well could stifle free speech on the Internet. In particular, very much part of communications these days are multi-to-multi communications through mailing lists and messengers etc, so surveillance on a certain target could involve the infringement of fundamental rights of many other innocent people. For instance, there was an occasion in 2014 where personal data and communication messages of 2,368 people, who were in the same chatting room of KAKAO-TALK, most popular messenger service in South Korea, with a certain target, were provided to the investigative agency by seizer and search warrant. The occasion raised severe social concern on government surveillance and caused massive, so-called, 'cyber-asylum' to other foreign messenger services. After that, KAKAO-TALK launched 'secret-chatting service', which provides end-to-end encryption of communications, but it's uncertain that the service would survive as government and governing party are pushing the bill that obliges intermediaries to adopt wiretap-ready equipment, which is actually same as restriction of encryption.

## **2. Unnecessary identification practice**

- Unnecessary and excessive identification of users on the Internet and of mobile service, e.g. sim card registration, could have negative effect on the freedom of expression and right to anonymity of users, especially whistle-blowers, human rights defenders, dissidents and social minorities.

- In South Korea, the Network Act, which obliged intermediaries to adopt identity verification system, was decided unconstitutional by the constitutional court, but there are still other laws which oblige intermediaries to adopt the system, such as 'Public Official Election Act', 'Juvenile Protection Act' and 'Game Industry Promotion Act'. Some companies, especially online shopping malls, voluntarily adopted the system. Moreover, government policy and related law encourage the adoption of identity verification system by intermediaries, by designating identity verification agencies, most of which are telecoms and credit information companies, that would be allowed to provide identity verification service to intermediaries.

- Sim card registration could threaten user's freedom of expression as well as privacy very severely, in particular in the age when mobile communication become increasingly popular. In South Korea, the network act requires telecoms to verify user's identity when s/he subscribes to mobile service regardless of payment method(pre or post pay).

### **3. Copyrights vs freedom of expression**

- Corporate copyright owners, collective management of organizations and law firms that work for them might be considered as corporate actors which have a profound influence on freedom of expression on the Internet. Cultural expressions and activities of users have been severely restricted and threatened by the demand of (corporate) copyright owners and law firms, and by the regulation of copyright act.

- User's contents could be taken down only by the allegation of copyright owners, even when those contents could be considered as fair use. In addition, copyright owners often threaten to file a suit against users, only to request settlement money, which has raised social concern in South Korea.

- Some provisions of copyright act in South Korea, such as so-called '3-strike policy' and filtering obligation on certain intermediaries, threaten freedom of expression and access right to the Internet in the name of copyright protection.