

THE ACT ON PROMOTION OF INFORMATION AND
COMMUNICATIONS NETWORK UTILIZATION AND
DATA PROTECTION, ETC.*

Extracts - the data protection provisions only

Established by Act No. 6360, January 16, 2001
Amended by Act No. 10138, March 17, 2010
Amended by Act No. 10560, April 5, 2011
Amended by Act No. 11322, February 17, 2012
Amended by Act No. 12681, May 28, 2014
<Effective on November 29, 2014>

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to promote the utilization of information and communications networks, to protect the personal information of users utilizing information and communications services, and to build a safe and sound environment for the information and communications networks in order to improve the citizen's lives and enhance the public welfare.

Article 2 (Definitions)

(1) The terms used herein shall be defined as follows:

1. "Information and communications networks" shall mean the information and communications system under which telecommunications facilities and equipment as prescribed in

* The Korean text has been unofficially translated into English based on the previous translation available at <http://onepark.khu.ac.kr/Engl/DPAkr_full.pdf> by Prof. Whon-Il Park, Kyung Hee University Law School. See the purports of legislation at KoreanLII <<http://koreanlii.or.kr>> under the title of "Recent Amendments to ICN Act".

- subparagraph 2 of Article 2 of the Telecommunications Business Act are utilized, or the telecommunications facilities and equipment, computers and the technology of using computers are utilized together to collect, process, store, search, transmit and receive information;
2. "Information and communications services" shall mean the telecommunications services as prescribed in subparagraph 6 of Article 2 of the Telecommunications Business Act, and the provision of information or the intermediation of information services utilizing the telecommunications services;
 3. "Information and communications service provider" shall mean the operator of telecommunications as prescribed in subparagraph 8 of Article 2 of the Telecommunications Business Act and other person who provides information or intermediate information services for profit utilizing the services rendered by the telecommunications service providers;
 4. "Users" shall mean the persons who utilize the information and communications services rendered by the information and communications service provider;
 5. "Electronic message" shall mean the standardized data in the form of document in which information is electronically compiled, sent or received, or stored by equipment, including computers, etc., that are capable of doing information processing;
 6. "Personal information" shall mean the information pertaining to any living person, which contains the code, letter, voice, sound and image, etc. that make it possible to identify such individual by his/her name and resident registration number, etc. (including the information which, if not by itself, makes it possible to identify any specific individual if combined with other information);
 7. "Incidents" shall mean accidents caused by such attack on the information and communications networks or related information systems as hacking, computer viruses, logical bomb, mail bomb, denial of service, high-powered electromagnetic wave, etc.;
 8. "Information security industry" shall mean the industry related with development, production and circulation of information security

- products, or consulting for data protection, etc.;
9. "Bulletin boards" shall mean the computer programs or technological devices, regardless of their names, to which the users may post the code, letter, voice, sound, image, video clips and other information for the purpose of making public by using the information and communications networks;
 10. "Communications billing services" shall mean the information and communications services carrying out the business as defined in the following items:
 - a. The business which claims and collects the prices of goods or services sold or provided by others together with the charges for the telecommunications services provided by itself; or
 - b. The business which transmits or receives the transaction data electronically, or conducts the settlement of charges as a proxy or intermediary so that the prices of the goods or services sold or provided by others may be claimed and collected together with the telecommunications service charges stated in Item a.
 11. "Communications billing service provider" shall mean the operator who provides the communications billing services subject to the registration pursuant to Article 53;
 12. "Communications billing service users" shall mean the persons who purchase and use the goods or services by means of the communications billing services provided by the communications billing service provider; and
 13. "Electronic transmission media" shall mean the media by which code, letter, voice, sound, image, video clips and other information are transmitted to the receiver in such an electronic form as electronic messages, etc. via the information and communications networks. *<Effective on November 29, 2014>*

(2) The definitions stated herein, except otherwise provided for in Paragraph (1), shall be subject to the National Informatization Framework Act.

Article 3 (Duties of Information and Communications Service Provider

and Users)

(1) Any information and communications service provider shall protect the personal information of users, and contribute to the protection of the rights and interests of such users and to the enhancement of its information utilization capability by rendering the information and communications services in a safe and sound manner.

(2) Every user shall endeavor to help a sound information society take hold.

(3) The government may assist the organizations of information and communications service providers and the organizations of users in carrying out their activities designed to protect the personal information and the youth in the information and communications networks.

Article 4 (Policy for Promotion of Information and Communications Network Utilization and Data Protection, etc.)

(1) The Minister of Science, ICT and Future Planning or the Korea Communications Commission shall formulate a policy to lay the foundation for building an information society through the promotion of utilization and the secure management and operation of information and communications networks, and the protection of personal information of users (hereinafter referred to as the "promotion of the utilization of information and communications networks and data protection, etc.).

(2) The policy referred to in Paragraph (1) shall contain the matters stated in the following subparagraphs:

1. Development and distribution of technologies related to the information and communications networks;
2. Standardization of the information and communications networks;
3. Activation of utilization of the information and communications networks such as the development of information contents and applied services of the information and communications networks subject to Article 11;
4. Facilitation of joint utilization of information via information and communications networks;
5. Activation of utilization of the Internet;

6. Protection of personal information collected, processed, stored and utilized via information and communications networks, and development and distribution of related technologies;
 7. Protection of the youth in the information and communications networks;
 8. Enhancement of safety and reliability of the information and communications networks; and
 9. Other matters necessary to promote the utilization of the information and communications networks and data protection, etc.
- (3) In formulating the policy referred to in Paragraph (1), the Minister of Science, ICT and Future Planning or the Korea Communications Commission shall endeavor to coordinate such policy with the basic plan for promoting informatization as prescribed in Article 6 of the National Informatization Framework Act.

Article 5 (Relation with Other Acts)

The promotion of utilization of information and communications networks and data protection, etc. shall be governed by this Act except specially provided for in other acts; *provided, however*, that, in case this Act and the Electronic Financial Transactions Act compete to apply with respect to the communications billing services stated in Chapter VII, this Act shall prevail.

CHAPTER II PROMOTION OF INFORMATION AND COMMUNICATIONS NETWORK UTILIZATION

Articles 6 - 17 *Omitted.*¹⁾

CHAPTER III UTILIZATION OF ELECTRONIC MESSAGES VIA RELAYER

Articles 18 - 21 *Omitted.*

1) Translation of the provisions of Articles unrelated with data protection is omitted.

CHAPTER IV PROTECTION OF PERSONAL INFORMATION

Section 1. Collection of Personal Information

Article 22 (Consent to the Collection and Utilization of Personal Information, etc.)

(1) Any information and communications service provider shall, when it intends to gather user's personal information, notify the user of the whole matters stated in the following subparagraphs, and obtain his/her consent thereof. The same shall apply to any change of the following subparagraphs:

1. The purpose of collection and utilization of personal information;
2. The items of personal information collected hereunder; and
3. The period of retention and utilization of personal information.

(2) The information and communications service provider may collect and utilize the user's personal information without consent subject to Paragraph (1) in case any of the following subparagraphs applies:

1. Where, as for the personal information, which is necessary to perform the contract for the provision of information and communications services, it is evidently difficult to obtain ordinary consent on account of economical and technological reasons;
2. Where it is necessary to calculate the fees for the provision of information and communications services; or
3. Where special provisions exist in this Act or other acts.

Article 23 (Restrictions on Collecting Personal Information, etc.)

(1) No information and communications service provider shall collect the personal information, including ideology, belief, **family and relative relations, academic record, medical record and other social career**, etc., which is likely to excessively infringe upon the right, interest and privacy of the relevant user; *provided, however*, that the same shall not apply **to the necessary minimum extent** where the consent of the user is obtained pursuant to Article 22(1) or the subject of collecting personal information is specified in other acts.

(2) Any information and communications service provider shall, when it

collects the personal information of users, collect **only** the minimum **personal information to the extent** necessary to provide the information and communications services.

(3) The information and communications service provider shall not refuse the relevant services on the grounds that the user does not provide any other **personal information than the necessary minimum personal information. In this case, the necessary minimum personal information shall mean the inevitable information necessary to perform the fundamental function of the relevant service.**

<Effective on November 29, 2014>

Article 23-2 (Restriction of Use of Resident Registration Numbers)

(1) The information and communications service provider shall not collect and use the resident registration numbers of users except otherwise applicable to any of the following subparagraphs:

1. Where it has been designated as an identification agency pursuant to Article 23-3;
2. Where the collection and use of resident registration numbers of users are permitted by statutes; or
3. Where the information and communications service provider regards it as inevitable to collect and use the resident registration numbers of users for the conduct of business, as notified by the Korea Communications Commission.

(2) Although the collection and use of resident registration numbers are permitted pursuant to subparagraphs 2 or 3 of Paragraph (1), alternative means to identify the user other than his/her resident registration number (hereinafter referred to as the "alternative means") shall be provided to the users.

<This Article Wholly Amended on February 17, 2012>

Article 23-3 (Designation, etc. of Identification Agency)

(1) The Korea Communications Commission may, upon assessing the following matters, designate the person, who is determined capable of safe and trustful conduct of developing, providing and managing the alternative means (hereinafter referred to as the "identification

operations") as the identification agency:

1. Physical, technical and managerial measures and planning to ensure the safe and secure identification operations;
 2. Technological and financial capability to conduct the identification operations; and
 3. Appropriateness of facilities to conduct the identification operations.
- (2) When the identification agency wants to have recess of the whole or part of identification operations, it shall notify the recess plan and period to users 30 days prior to the start day and report it to the Korea Communications Commission. In this case, the recess period shall not exceed six months.
- (3) When the identification agency wants to repeal its identification operations, it shall notify the repeal plan to users 60 days in advance, and report it to the Korea Communications Commission.
- (4) Necessary matters for the detailed assessment criteria pursuant to Paragraphs (1) through (3), designation procedure and the recess, repeal, etc. of identification operations shall be prescribed by the Presidential Decree.

<This Article Newly Inserted on April 5, 2011>

Article 23-4 (Suspension of Identification Operations and Cancellation of Designation)

- (1) When any of the following subparagraphs is applicable to the identification agency, the Korea Communications Commission may order the suspension of the whole or part of identification operations for a period of not more than six months or cancel the designation of identification agency; *provided, however*, that the cancellation of designation shall be mandatory in case of subparagraph 1 or 2:
1. Where it has been designated as an identification agency by fraud or other unfaithful means;
 2. Where it has failed to stop its operations in violation of the order to suspend the identification operations;
 3. Where it has failed to start the identification operations within six months from the designation day, or has recess of the identification operations continuously for more than six months; or

4. Where it does not satisfy the criteria pursuant to Article 23-3(4).
(2) The criteria for administrative disposition pursuant to Paragraph (1), its procedure and other necessary matters shall be prescribed by the Presidential Decree.

<This Article Newly Inserted on April 5, 2011>

Article 24 (Restrictions on Utilizing Personal Information)

No information and communications service provider shall utilize the personal information collected pursuant to Article 22 and the proviso of Article 23(1) for other purpose than the purpose consented by the relevant user or referred to in each subparagraph of Article 22(2).

Article 24-2 (Consent to the Provision of Personal Information, etc.)

(1) Any information and communications service provider shall, when it intends to provide user's personal information to a third party, notify the user of the whole matters stated in the following subparagraphs except the cases falling under subparagraphs 2 and 3 of Article 22(2), and obtain his/her consent thereof. The same shall apply to any change of the following subparagraphs:

1. The receiver of personal information;
2. The purpose of utilizing personal information of such receiver;
3. The items of personal information provided hereunder; and
4. The period of retention and utilization of personal information by the receiver.

(2) The receiver of the personal information of users provided by the information and communications service provider pursuant to Paragraph (1) shall not provide such personal information to a third party, nor utilize such personal information for other use than the purpose of being provided except the cases specified in other acts.

(3) The information and communications service provider, etc. as stated in Article(1) shall, upon obtaining the consent to the provision pursuant to Paragraph (1) and the consent to entrusting handling of personal information pursuant to Article 25(1), separate such consent from the consent to the collection and use of personal information pursuant to

Article 22, and shall not refuse to provide its service on ground that the user would not give consent to it.

Article 25 (Entrusting Handling of Personal Information)

(1) The information and communications service provider and the receiver of the personal information of users provided by such provider pursuant to Article 24-2(1) (hereinafter referred to as the "information and communications service provider, etc.") shall, if they entrust the work of collecting, storing, processing, utilizing, providing, managing, destroying (hereinafter collectively referred to as "handling") the personal information of users to a third party, notify the user of the whole matters stated in the following subparagraphs, and obtain his/her consent thereof. The same shall apply to any change of the following subparagraphs:

1. The person entrusted handling of personal information (hereinafter referred to as the "trustee"); and
2. Particulars of entrusted work of handling of personal information.

(2) The information and communications service provider, etc. may skip the notice and consent procedure as prescribed in Paragraph (1) in case the whole matters of each subparagraph of Paragraph (1) are made public pursuant to Article 27-2(1) or notified to users in such a manner like sending e-mails as stated in the Presidential Decree, which is necessary to perform the contract for the provision of information and communications services **and to augment the users' convenience, etc.**

The same shall apply to any change of the subparagraphs of Paragraph (1). *<Effective on November 29, 2014>*

(3) The information and communications service provider, etc. shall, when it intends to entrust handling of personal information, define the purpose in advance for which the trustee shall handle the personal information of users. The trustee shall not handle the personal information of users beyond such purpose.

(4) The information and communications service provider, etc. shall manage and supervise the trustee lest it should violate the provisions in this Chapter.

(5) The trustee, who caused damage to the users regarding the work

entrusted hereunder in violation of the provisions in this Chapter, shall be deemed as an employee of the information and communications service provider, etc. only with respect to compensation for such damage.

Article 26 (Transfer of Personal Information following the Business Transfer, etc.)

(1) In the event that the information and communications service provider, etc. transfers the personal information of users to others owing to the transfer of business in whole or in part, or merger, etc., it shall notify the users of the whole matters prescribed in the following subparagraphs in such a manner like sending e-mails, posting at the Website and so forth as stated in the Presidential Decree:

1. The fact that the personal information is to be transferred;
2. The name (referring to the company name in case of a juridical person; hereafter the same shall apply in this Article), address, telephone number and other contact points of a person who has received the personal information (hereinafter referred to as the "business transferee, etc.");
3. The method and procedure to withdraw the consent in case the user would not want the transfer of personal information.

(2) The business transferee, etc. shall, without delay upon the transfer of personal information, notify the users of such fact and the name, address, telephone number and other contact points in such a manner like posting at the Website, sending e-mails and so forth as stated in the Presidential Decree. *<Effective on November 29, 2014>*

(3) The business transferee, etc. may utilize or provide the personal information of users within the scope of the initial purpose for which the information and communications service provider, etc. is allowed to utilize or provide such personal information; *provided, however*, that the same shall not apply where the users have consented specifically.

Article 26-2 (Method to Obtain Consent)

The method how to obtain the consent pursuant to Article 22(1), the proviso of Article 23(1), Article 24-2(1) and (2), Article 25(1), the

proviso of Article 26(3) or Article 63(2) (hereinafter collectively referred to as the "consent to the collection, utilization, provision, etc. of personal information") shall be stated by the Presidential Decree in view of the media for collecting personal information, the nature of business operations, the number of users, and so forth.

Section 2. The Management and Destruction of Personal Information

Article 27 (Designation of Person in Charge of Data Protection)

(1) The information and communications service provider, etc. shall designate the person in charge of data protection to protect the personal information of users and deal with complaints of users related with the personal information; *provided, however*, that the same may not apply to the information and communications service provider, etc. who satisfies the number of employees and users, and other criteria specified by the Presidential Decree.

(2) In case the information and communications service provider, etc. subject to the proviso of Paragraph (1) do not designate the person in charge of data protection, its owner or representative shall become the person in charge of data protection.

(3) Qualification requirements for the person in charge of data protection and other matters necessary to designate the person shall be prescribed by the Presidential Decree.

Article 27-2 (Disclosure of Personal Information Policy Statement)

(1) In case of handling the personal information of users, the information and communications service provider, etc. shall establish and disclose the personal information policy statement in such a manner as stated in the Presidential Decree so that users may identify the policy with ease at any time.

(2) The personal information policy statement subject to Paragraph (1) shall contain each and all following items:

1. The purpose of collection and utilization of the personal information, particulars of personal information collected hereunder and the

- method of collection thereof;
2. The name (referring to the company name in case of a juridical person) of a person who has received the personal information, the purpose of utilization, and particulars, of the personal information in case the personal information is provided to a third party;
 3. The period of retention and utilization of personal information, the procedure and method of destruction of personal information (including the ground of preservation and the particulars of personal information to be preserved in case of preserving such information subject to the proviso except each subparagraph of Article 29)
 4. The content of business for which handling of personal information is entrusted and the trustee (including the handling policy statement, if applicable);
 5. The rights of users and legal representatives, and how to excise the rights;
 6. The installation and operation of the device collecting automatically the personal information like the Internet logon files, etc. and how to deny such device;
 7. The name or a person in charge of data protection, or the department to protect the personal information of users and deal with complaints of users related with the personal information, and the contact points like telephone numbers.

(3) In case of change of the personal information policy statement pursuant to Paragraph (1), the information and communications service provider, etc. shall make public without delay the reason and changes thereof in such a manner as stated in the Presidential Decree so that users may identify the change of policy statement with ease at any time.

Article 27-3 (Notification and Report of Personal Information Leakage, etc.)

(1) Upon knowing the loss, theft and leakage of personal information (hereinafter referred to as "leakage, etc."), the information and communications service provider, etc. shall, without delay, inform each of the following subparagraphs of the relevant users, and report it to the Korea Communications Commission or the Korea Internet &

Security Agency, and shall not delay, without justifiable reasons, such notification and report exceeding 24 hours from the time when it got to know the fact; *provided, however*, that it may take other measures, if there is such a justifiable reason as whereabouts of users are still unknown, as replaceable with the notification as prescribed by the Presidential Decree: *<Effective on November 29, 2014>*

1. Personal information items affected by leakage, etc.;
2. Time when leakage, etc. took place;
3. Measures that users may take;
4. Countermeasures that the information and communications service provider, etc. may take; and
5. Department where users may place inquiries, etc. and other contact points.

(2) Upon receiving the report pursuant to Paragraph (1), the Korea Internet & Security Agency shall, without delay, inform the fact of the Korea Communications Commission. *<Effective on November 29, 2014>*

(3) The information and communications service provider, etc. shall explain the justifiable reasons pursuant to the main sentence and proviso of Paragraph (1) to the Korea Communications Commission. *<Effective on November 29, 2014>*

(4) The method, procedure, etc. of notification and report pursuant to Paragraph (1) and other necessary matters shall be prescribed by the Presidential Decree. *<Effective on November 29, 2014>*

(5) The information and communications service provider, etc. shall prepare for the leakage, etc. of personal information, and explore ways to establish measures to minimize the damage to victims.

Article 28 (Data Protection Measures)

(1) In dealing with the personal information of users, the information and communications service provider, etc. shall take such technological and managerial measures as mentioned in the following subparagraphs to prevent the loss, theft, leakage, alteration of, or damage to, the personal information by the standard as specified by the Presidential Decree.

1. To establish and implement the in-house management plan to deal with the personal information more safely;
 2. To install and operate the access control system like firewall to block illegal access to the personal information;
 3. To take measures to prevent the forgery or falsification of logon files;
 4. To take security measures using encryption technologies in order to store and transmit the personal information more safely;
 5. To take such preventive measures as download and operation of the vaccination softwares to protect from computer viruses; and
 6. To take other protective measures necessary to secure the safety of the personal information.
- (2) The information and communications service provider, etc. shall limit the persons to deal with the personal information of users to the minimum.

Article 28-2 (Prohibition of Leakage of Personal Information)

- (1) Any person who deals with, or once dealt with, the personal information of users shall not damage, infringe upon or leak out the information acquired in the course of business.
- (2) No one shall be provided with the personal information for profit or unjust purposes while knowing such information has been leaked out.

Article 29 (Destruction of Personal Information)

- (1) The information and communication service provider, etc. shall, **without delay**, destroy the relevant personal information **lest it should be restored or recovered** in case any of the following cases applies; *provided, however*, that the same shall not apply where other acts require the preservation of such information:
 1. When the purpose of collecting or utilizing the personal information consented pursuant to Article 22(1), the proviso of Article 23(1) or Articles 24-2(1) and (2), or the relevant purpose as specified by any of the subparagraphs of Article 22(2) has been attained;
 2. When the period of retention and utilization of personal information consented pursuant to Article 22(1), the proviso of Article 23(1) or

- Articles 24-2(1) and (2) has expired;
3. When the period of retention and utilization of personal information subject to Article 27-2(2)3 in case of collecting or utilizing the personal information without the consent of users pursuant to Article 22(2) has expired; or
 4. When its business has been closed.
- (2) The information and communication service provider, etc. shall take necessary measures, including the destruction of personal information and others as prescribed by the Presidential Decree, to protect the personal information of users who would not use the information and communications services for the period as prescribed by the Presidential Decree. *<Newly Inserted on February 17, 2012>*

Section 3 User's Right

Article 30 (User's Right, etc.)

- (1) Every user may at any time withdraw his/her consent given to the information and communications service provider, etc. for the collection, utilization or provision of the personal information.
- (2) Every user may request the access to, or provision of, any of the following items related with him/her, and if his/her personal information is found to be erroneous, he/she may request the correction thereof:
 1. The personal information of users retained by the information and communications service provider, etc.;
 2. The content of how the information and communications service provider, etc. has utilized, or provided to a third party, the personal information of users; or
 3. The status at which the information and communications service provider, etc. has obtained consent for the collection, utilization or provision of the personal information.
- (3) In case a user withdraws his/her consent pursuant to Paragraph (1), the information and communications service provider, etc. shall, without delay, take necessary measures, i.e., destroying his/her personal information collected *lest it should be restored or recovered*.
- (4) The information and communications service provider, etc. shall,

upon receiving a request for the access to, provision of, personal information pursuant to Paragraph (2), take necessary measures without delay.

(5) The information and communications service provider, etc. shall, immediately upon receiving a request for the correction of erroneous personal information pursuant to Paragraph (2), correct the erroneous information or take necessary measures, i.e., explaining why it failed to correct such information, and shall not utilize or provide the relevant personal information until the correction thereof; *provided, however*, that the same shall not apply where other acts require the provision of such information.

(6) The information and communications service provider, etc. shall make the withdrawal of consent pursuant to Paragraph (1), or how to request access to, provision of, or correction of errors in, the personal information much easier than the method how to collect the personal information.

(7) The provisions of Paragraphs (1) through (6) shall apply *mutatis mutandis* to the business transferee, etc. In this case, the information and communications service provider, etc. shall be deemed the business transferee, etc.

Article 30-2 (Notification of Personal Information Use Statement)

(1) The information and communications service provider, etc., which satisfies the criteria as prescribed by the Presidential Decree, shall notify periodically the use statement (including the provision pursuant to Article 24-2 and entrusting handling of personal information pursuant to Article 25) of personal information collected pursuant to Articles 22 and 23(1) proviso; *provided, however*, that the same shall not apply where such personal information as contact points to be notified was not collected.

(2) The type of information to be notified to the users pursuant to Paragraph (1), notification interval and method and other matters necessary to notify the use statement shall be prescribed by the Presidential Decree.

<*This Article Newly Inserted on February 17, 2012*>

Article 31 (Legal Representative's Right)

- (1) The information and communications service provider, etc. shall, when it intends to obtain consent for the collection, utilization or provision of the personal information from a minor of age below 14, obtain the consent therefor from his/her legal representative. In this case, the information and communications service provider may demand from the child the necessary minimum information, including the name, etc. of the legal representative, so as to obtain the consent.
- (2) The legal representative may exercise user's right as for the personal information of the relevant child pursuant to Articles 30 (1) and (2).
- (3) The provisions of Article 30 (3) through (5) shall apply *mutatis mutandis* to the withdrawal of consent, and the request for the access to, or the correction of, the personal information by the legal representative pursuant to Paragraph (2).

Article 32 (Damages)

If a user suffers any damage caused by the violation of the provisions in this Chapter on part of the information and communications service provider, etc., such user may claim for the damages against the information and communications service provider, etc. In this case, the information and communications service provider, etc. may not be released from the damages if it fails to prove non-existence of its intention or negligence.

Article 32-2 (Claim for Statutory Damage)

- (1) The user may, when all of the following subparagraphs are satisfied, claim for compensation of considerable amount up to three million won in place of damages pursuant to Article 32 against the information and communications service provider, etc. within the period as prescribed by the Presidential Decree. In this case, the accused information and communications service provider, etc. cannot evade the responsibility unless it proves non-existence of intention or negligence:
 1. Where the information and communications service provider, etc. violates provisions in this Chapter intentionally or negligently; and
 2. Where the personal information was lost, stolen or leaked.

(2) The court may, upon the claim pursuant to Paragraph (1), acknowledge a reasonable amount of damages within the scope of Paragraph (1) based upon the examination of evidence and review of all the arguments during the proceedings.

<This Article Newly Inserted and Effective on November 29, 2014>

Section 4 *Deleted*

Articles 33 through 40 *Deleted*²⁾

CHAPTER V PROTECTION OF THE YOUTH IN INFORMATION
AND COMMUNICATIONS NETWORKS

Articles 41 through 44-10 *Omitted*

CHAPTER VI SECURING STABILITY OF INFORMATION
AND COMMUNICATIONS NETWORKS, ETC.

Articles 45 through 47-3 *Omitted*

Article 47-4 (Data Protection of Users)

(1) The government may advise to the users to observe by establishing necessary standards for the data protection of users, and take necessary measures, i.e., checking the weak points and providing technological assistance, so as to prevent the incidents and block the dissemination thereof.

(2) through (4) *Omitted*

Articles 48 through 48-4 *Omitted*

2) The provisions regarding the Personal Information Dispute Mediation Committee were deleted on March 29, 2011 when the Personal Information Protection Act was promulgated.

Article 49 (Protection of Secrets, etc.)

No one is allowed to damage the information of other persons or infringe upon, steal or leak the secrets of other persons, which are processed, stored or transmitted via the information and communications networks.

Article 49-2 (Prohibition of Collection of Personal Information by Means of Deceptive Activities)

(1) No one shall collect, or entice other person to provide with, the personal information of other person by means of deceptive activities in the information and communications networks.

(2) Any information and communications service provider shall report to the Korea Communications Commission or the Korea Information & Security Agency immediately upon finding out the violation of Paragraph (1).

(3) The Korea Communications Commission or the Korea Information & Security Agency shall, upon receiving the report pursuant to Paragraph (2) or finding out the violation of Paragraph (1), take necessary measures prescribed in the following subparagraphs:

1. Collecting and disseminating the violation of Paragraph (1);
2. Forecasting or warning of similar violations; and
3. Emergency measures to prevent further violations including requests for blocking the access paths to the information and communications service provider.

Article 50 (Restrictions on Transmitting Advertisement Information Made for Profit)

(1) Anybody, who intends to transmit [via electronic transmission media](#) any advertisement information made for profit, shall obtain the [prior explicit consent](#) of the relevant addressee; *provided, however*, that the same shall not apply to any of the following subparagraphs:

1. Where somebody, who collects directly from the addressees the contact points through transactions of goods and services, intends to transmit the advertisement information made for profit [within the period as prescribed by the Presidential Decree regarding the same](#)

kind of goods, etc. provided by himself and traded with the receiver; and

2. Where a call center operator solicits over the telephone with his/her voice pursuant to the Act Regarding Visiting Sales, Etc.

(2) Notwithstanding Paragraph (1), anybody, who intends to transmit via electronic transmission media any advertisement information made for profit, shall not transmit advertisement information made for profit if the addressee expresses refusal of such information or withdraw prior consent.

(3) Anybody, who intends to transmit any advertisement information made for profit via electronic transmission media to the addressee during the hours from 9:00 p.m. to 8:00 a.m. the next day, shall obtain the separate prior consent of the relevant addressee in spite of Paragraph (1); *provided, however, that the same shall not apply to the media as prescribed by the Presidential Decree.*

(4) Anybody, who transmits advertisement information made for profit via electronic transmission media, shall indicate concretely the matters stated in the following subparagraphs in such a manner as prescribed by the Presidential Decree:

1. The name and contact points of the sender; and
2. Other matters regarding the measure and methods to easily indicate the refusal of, or withdrawal of consent to, such information.

(5) Anybody, who transmits advertisement information made for profit via electronic transmission media, shall not take any measure specified in the following subparagraphs:

1. Measures to avoid and hinder the refusal or withdrawal of consent of the addressee of advertisement information;
2. Measures to automatically generate the contact points of addressee i.e., by combining numbers, codes or letters into new telephone numbers or e-mail addresses;
3. Measures to automatically register telephone numbers or e-mail addresses in order to transmit advertisement information made for profit;
4. Measures to conceal the identity of the sender of advertisement information or the source of advertisement transmission; or

5. Various measures to induce reply by deceiving the addressee for the purpose to transmit advertisement information made for profit.

(6) Anybody, who transmits advertisement information for profit via electronic transmission media, shall take necessary measures in such a manner as prescribed by the Presidential Decree lest the addressee should be charged the monetary cost incurred when telephoning a message to refuse, or withdraw the consent of, such information.

(7) Anybody, who transmits advertisement information for profit via electronic transmission media, shall, when the addressee expresses prior consent pursuant to Paragraph (1), or refusal to receive or withdrawal of consent to receive pursuant to Paragraph (2), inform to the addressee the result after processing prior consent, refusal to receive or withdrawal of consent as prescribed by the Presidential Decree.

(8) Anybody, who has obtained the consent pursuant to Paragraphs (1) or (3), shall confirm periodically whether the addressee really consented to receive such advertisement information as prescribed by the Presidential Decree.

<This Article Wholly Amended and Effective on November 29, 2014>

Article 50-2 *Deleted on May 28, 2014*

Article 50-3 (Entrusting Transmission of Advertisement Information Made for Profit)

(1) Anybody, who entrusts other person with a task to transmit advertisement information made for profit, shall control and supervise him/her lest the trustee should violate [Article 50](#).

(2) Anybody, who is entrusted by a person with a task to transmit advertisement information made for profit pursuant to Paragraph (1), shall be deemed an employee of such person in compensating the damage caused by violating the relevant acts related with such task.

Article 50-4 (Restrictions on Information Transmission Services, etc.)

(1) The information and communications service provider may take measures to refuse to provide the relevant services in any of the following subparagraphs:

1. Where obstacles occur or are expected to occur in providing services owing to transmitting or receiving advertisement information;
 2. Where users would not want to receive advertisement information; or
 3. *Deleted*
- (2) The information and communications service provider, which intends to take measures to refuse pursuant to Paragraph (1) or (4), shall include such provisions as how to refuse the relevant services in an end-user agreement with the user of such services.
- (3) The information and communications service provider, which intends to take measures to refuse pursuant to Paragraph (1) or (4), shall notify such fact to interested parties including the user of such services; *provided, however*, that the prompt notification is required without delay after taking such measures in case of impossibility of prior notice.
- (4) When a service provided to users based on an agreement with the information and communications service provider is used to transmit advertisement information made for profit in violation of Articles 50 or 50-8, its provider shall refuse to provide such service or explore ways necessary to fix the weak points of the information and communications networks or services. *<Effective on November 29, 2014>*

Article 50-5 (Installation of Advertisement Programs for Profit, etc.)

The information and communications service provider, which intends to show up advertisement information made for profit or install the programs to collect personal information in the users' computer or other data processing devices as prescribed by the Presidential Decree, shall obtain the consent of users. In this case, it shall notify the usage of such programs and the method how to delete.

Article 50-6 (Distribution of Softwares to Block the Transmission of Advertisement Programs Made for Profit)

- (1) The Korea Communications Commission may develop and distribute softwares and computer programs by which the addressee can conveniently block or report the advertisement information made for profit transmitted in violation of Article 50.
- (2) The Korea Communications Commission may provide necessary

support to the relevant public institutions, corporations, associations, etc. in order to promote the development and distribution of softwares and computer programs to block and report pursuant to Paragraph (1).

(3) The Korea Communications Commission may advise the information and communications service provider to take such necessary measures as development of technologies, education, public relations, etc. for the protection of addressees when the services of the information and communications service provider are used to transmit the advertisement information made for profit in violation of Article 50.

(4) Necessary matters for the development and distribution pursuant to Paragraph (1) and the support pursuant to Paragraph (2) shall be prescribed by the Presidential Decree.

Article 50-7 (Restrictions on Posting Advertisement Information Made for Profit)

(1) Anybody, who intends to post any advertisement information made for profit on the Internet homepage, shall obtain prior consent of the webmaster or homepage manager; *provided, however*, that the same does not apply to a bulletin board which anybody has an easy access and may post messages without authorization.

(2) Notwithstanding Paragraph (1), anybody, who intends to post any advertisement information made for profit on the Internet homepage, shall not post advertisement information made for profit if the webmaster or homepage manager expresses explicit refusal of posting such information or withdraw prior consent.

(3) A system operator or administrator of the Internet homepage may take such measures as deleting the advertisement information made for profit which is posted in violation of Paragraph (1) or (2).

<This Article Wholly Amended and Effective on November 29, 2014>

Article 50-8 (Prohibition of Transmission of Advertisement Information for Illegal Act)

Nobody shall transmit advertisement information regarding goods or services prohibited by this Act or other acts via the information and communications networks.

Article 51 (Restrictions on Outflow of Material Information into Foreign Countries)

(1) The government may have each information and communications service provider or the relevant user of information and communications services take measures necessary to prevent material information regarding the domestic industry, economy, science and technology, etc. from being flowed out of Korea into foreign countries via the information and communications networks.

(2) The scope of material information referred to in Paragraph (1) shall be as follows:

1. Security information related with the national security and major policy information; or
2. Information regarding state-of-the-art technologies or equipment developed domestically.

(3) The government may have each information and communications service provider dealing with the information referred to any of the subparagraphs of Paragraph (2) take the following measures:

1. Establishing systemic and technological devices to prevent improper utilization of the information and communications networks;
2. Taking systemic and technological measures to block the illegal destruction or manipulation of information; or
3. Taking measures to prevent the leakage of material information acquired in the course of handling information by the information and communications service provider.

Article 52 (Korea Information & Security Agency)

(1) The government shall establish the Korea Information & Security Agency (hereinafter referred to as "KISA") to implement efficiently such policies as to enhance the information and communications networks (excluding the establishing, improving and managing such networks), as to promote the safe usage, and as to support the international cooperation and going abroad related with broadcasting and communications.

(2) KISA shall be a juridical person.

(3) KISA shall conduct the business referred to in the following

subparagraphs:

1. To survey and research into legal regimes, policies and systems for the utilization and protection of the information and communications networks, and the international cooperation and going abroad related with broadcasting and communications;
2. To do research and analysis of statistics related with the utilization and protection of the information and communications networks;
3. To analyze negative effects of informatization and to research into countermeasures;
4. To conduct public relations, education and training for the utilization and protection of the information and communications networks;
5. To secure data protection in the information and communications networks, and to achieve technological development and standardization related with the Internet address resources;
6. To help establish the policy for the knowledge-based information security industries, and to conduct related technological development and training of human resources;
7. To implement and support authentication and assessment in respect of data protection including a diagnosis of the safety of data protection, authentication of data protection management system, assessment and authentication of data protection system, etc.;
8. To do research into effective measures for data protection, and to support the development and distribution of data protection technologies;
9. To support the operation of the Dispute Mediation Committee and to operate the Reporting Center for Personal Information Infringement;
10. To do counseling and process claims regarding the transmission of advertisement information and the Internet advertisement;
11. To deal with and analyze causes of the incidents infringing upon the information and communications networks, and to operate the incident response system;
12. To manage the authentication of electronic signature pursuant to Article 25(1) of the Electronic Signature Act;
13. To support the efficient operation of the Internet and the promotion

- of utilization thereof;
14. To help protect the stored information of the Internet users;
 15. To support the service policy related with the Internet;
 16. To protect users in the Internet, and to help flow and disseminate sound information;
 17. To conduct business regarding the Internet addresses under the Act on the Internet Resources;
 18. To support operation of the Internet Address Dispute Mediation Committee pursuant to Article 16 of the Act on the Internet Resources;
 19. To assist the international cooperation, going abroad and overseas public relations related with broadcasting and communications;
 20. Other activities incidental to the business of subparagraphs 1 through 19; and
 21. Other tasks prescribed by this Act, and other acts and regulations to be conducted by KISA, or entrusted by the Minister of Science, ICT and Future Planning and the Minister of Security and Administration, the Korea Communications Commission, or the head of other administrative agencies;
- (4) The government may make contributions to cover expenses necessary for the operation of KISA.
- (5) The provisions regulating the incorporated foundation in the Civil Act shall apply *mutatis mutandis* to the matters not prescribed by this Act with respect to KISA.
- (6) Other person than KISA shall not use the name of the Korea Information & Security Agency.
- (7) Other matters necessary to operate, and conduct business of, KISA shall be prescribed by the Presidential Decree.

CHAPTER VII COMMUNICATIONS BILLING SERVICES

Articles 53 - 61 *Omitted*

CHAPTER VIII INTERNATIONAL COOPERATION

Article 62 (International Cooperation)

In performing the function stated in the following subparagraphs, the government shall cooperate with other states or international organizations:

1. Cross-border transfer of personal information and data protection;
2. Protection of the youth in the information and communications networks;
3. Prevention of the incidents threatening the safety of information and communications networks; and
4. Other activities to ensure safe and sound utilization of information and communications services.

Article 63 (Protection of Out-bound Personal Information)

(1) The information and communications service provider, etc. shall not enter into any international contract of which contents violate the provisions of this Act with respect to the personal information of users.

(2) The information and communications service provider, etc. shall obtain the consent of users when they intend to transfer the personal information of such users to abroad.

(3) The information and communications service provider, etc. shall, when they intend to obtain the consent pursuant to Paragraph (2), notify the user in advance of the whole matters stated in the following subparagraphs:

1. The items of personal information to be transferred;
2. The state to which personal information will be transferred, the date and time of transfer and the method thereof;
3. The name (referring to the company name and the contact points of the officer in charge of data protection in case of a juridical person) of a person who will be provided with the personal information; and
4. The purpose of utilization, and the period of retention and utilization, of personal information on the part of a person who will be provided with the personal information.

(4) The information and communications service provider, etc. shall take the protective measures as prescribed by the Presidential Decree when they transfer the personal information to abroad with the consent pursuant to Paragraph (2).

CHAPTER IX SUPPLEMENTARY PROVISIONS

Article 64 (Submission of Materials, etc.)

(1) The Minister of Science, ICT and Future Planning or the Korea Communications Commission may request the information and communications service provider, etc. (in this Article, including any person to whom Article 67 applies *mutatis mutandis*) to submit relevant goods, documents, etc. in case any of the following subparagraphs shall apply:

1. Where the violation of this Act is detected or knowingly suspected;
2. Where the violation of this Act is reported or any claim thereon is received; or
3. Where such other cases as prescribed by the Presidential Decree are necessary to protect the users.

(2) The Korea Communications Commission may request the information and communications service provider, etc. to have access to, or submit, data with respect to the name, address, resident registration number, period of utilization, etc. of the person who transmitted advertisement information made for profit in violation of this Act in order to take the measures stated in the following subparagraphs against such transmitter:

1. Corrective measures pursuant to Paragraph (4);
2. Imposition of fine for negligence pursuant to Article 76; and
3. Other measures amounting to the above-mentioned subparagraphs.

(3) When the information and communications service provider, etc. fails to submit materials pursuant to Paragraphs (1) and (2), or it is deemed to have violated this Act, the Minister of Science, ICT and Future Planning or the Korea Communications Commission may have its officials enter the business place of the information and

communications service provider, etc. to inspect its current business operations and examine ledger and books, or other documents, etc.

(4) The Minister of Science, ICT and Future Planning or the Korea Communications Commission may order that the information and communications service provider, etc. in violation of this Act should take necessary corrective measures, and demand such information and communications service provider, etc., who has been ordered to do so, to make such fact public. In this case, such necessary matters as the method how to make it public, the criteria and procedure thereof, etc. shall be prescribed by the Presidential Decree.

(5) The Minister of Science, ICT and Future Planning or the Korea Communications Commission may, when it ordered necessary corrective measures pursuant to Paragraph (4), make the fact public. In this case, such necessary matters as the method how to make it public, the criteria and procedure thereof, etc. shall be prescribed by the Presidential Decree.

(6) The Minister of Science, ICT and Future Planning or the Korea Communications Commission shall, when it requests the relevant information and communications service provider, etc. to submit or have access to data, etc. pursuant to Paragraphs (2) and (3), notify in writing (including the electronic message) of the reason for request, legal grounds, time limit of submission thereof or the date and time to have access thereto, the content of data to be submitted or accessed in detail.

(7) In case of inspection pursuant to Paragraphs (3), the inspection plan including the inspection date and time, reasons for inspection, particulars to be inspected shall be notified to the relevant information and communications service provider, etc. at least seven days before the scheduled inspection date; *provided, however*, that the same does not apply in case of emergency or when it deems such prior notification inappropriate to attain the inspection purpose because of probable destruction of evidences.

(8) The officials, who conduct the inspection pursuant to Paragraph (3), shall carry certificates showing their authority, produce them to persons concerned, and deliver them the document containing officials' names, inspection hours, purposes thereof, etc.

- (9) The Minister of Science, ICT and Future Planning or the Korea Communications Commission shall, when it received, had access to, or inspected the data, etc. pursuant to Paragraphs (1) and (3), notify in writing the relevant information and communications service provider, etc. of the inspection result (in case of making an order to take corrective measures subsequent to the inspection, including such order).
- (10) The Minister of Science, ICT and Future Planning or the Korea Communications Commission shall, for the purpose of request of submission or inspection of data, etc. pursuant to Paragraphs (1) and (4), may ask the head of KISA for technical advices and other necessary support.
- (11) Any request of submission of, access to, or inspection of, data, etc. pursuant to Paragraphs (1) and (4) shall be made within the minimum scope necessary to implement this Act, and shall not be misused for other purposes.

Article 64-2 (Preservation and Destruction of Materials, etc.)

- (1) The Minister of Science, ICT and Future Planning or the Korea Communications Commission shall not provide to a third party the documents, materials, etc. submitted or collected pursuant to Article 64 nor make them public, if and when it is requested by the relevant information and communications service provider, etc. to preserve such materials.
- (2) In case the Minister of Science, ICT and Future Planning or the Korea Communications Commission received the materials submitted via the information and communications networks, or made them digitalized, it shall take systemic and technological security measures lest the personal information, trade secrets etc. should be leaked out.
- (3) The Minister of Science, ICT and Future Planning or the Korea Communications Commission shall destroy immediately the documents, materials, etc. submitted or collected pursuant to Article 64, if there occurs a case applicable to any of the following subparagraphs except otherwise specifically provided in other acts. The same shall apply to the person to whom the Minister of Science, ICT and Future Planning or the Korea Communications Commission delegates or entrusts the

whole or part of its authority pursuant to Article 65:

1. Where the purpose for which the request for submission of materials, visit and inspection, order to take corrective measures, etc. take place pursuant to Article 64 has been attained;
2. Where an administrative judgment is filed in disobedience of the order to take corrective measures pursuant to Article 64(4), or, in case of the administrative lawsuit, the relevant administrative dispute settlement proceedings have been closed;
3. Where the fine for negligence is levied pursuant to Article 76(4) and there is no objection thereto until the period of objection is over pursuant to Article 76(5); or
4. Where any objection is raised against the imposition of fine for negligence pursuant to Article 76(4) and the non-litigation proceedings of the competent court with jurisdiction are over.

Article 64-3 (Imposition of Surcharge, etc.)

- (1) In case an action is in violation of any of the following subparagraphs, the Korea Communications Commission may impose the surcharge amounting to not more than three percent (3/100) of total sales related with such violation on the wrong-doing information and communications service provider, etc.. the surcharge of not more than 100 million won may be imposed to the violator of subparagraph 6:
 1. To collect personal information without obtaining the consent of a user in violation of Article 22(1);
 2. To collect personal information which is most likely to infringe upon the right and interest, or the privacy, of an individual without obtaining the consent of the subject in violation of Article 23(1);
 3. To utilize personal information in violation of Article 24;
 4. To provide personal information to a third party in violation of Article 24-2;
 5. To entrust handling of personal information without obtaining the consent of a user in violation of Article 25(1);
 - 5-2. To allow negligent management or supervision under Article 25(4) to cause the trustee in violation of Chapter IV;
 6. To leave the personal information of a user lost, stolen, leaked,

altered or damaged, and fail to take measures required by Articles 28(1) ii through v; or

7. To collect the personal information of a minor of age below 14 without obtaining the consent of his/her legal representative in violation of Article 31(1).

(2) In case the surcharge is imposed pursuant to Paragraph (1), if such information and communications service provider, etc. denies to submit data for the calculation of sales or submits false data, its sales amount may be estimated on the basis of financial statements and other accounting information of the information and communications service provider, etc. with a similar size, and the business data including the number of subscribers, tariff table of users, etc. *provided, however*, that, in such a case of no sales report at all or the difficulty to calculate the amount of sales as prescribed by the Presidential Decree, the surcharge of not more than 400 million won may be imposed to such operator.

(3) When imposing the surcharge pursuant to Paragraph (10), the Korea Communications Commission shall take the particulars stated in the following subparagraphs into consideration:

1. The substance and status of violations;
2. The duration and times of violations; and
3. The size of profit acquired out of violations.

(4) The surcharge pursuant to Paragraph (1) shall be assessed with the provision of Paragraph (3) taken into consideration, but the detailed criteria and procedure for the assessment of surcharge shall be prescribed by the Presidential Decree.

(5) When the person, who is required to pay the surcharge pursuant to Paragraph (1), fails to pay the surcharge until the due date, the Korea Communications Commission shall collect the additional charge amounting to six percent per annum (6% p.a.) of such surcharge for the period from the following day of the due date.

(6) When the person, who is required to pay the surcharge pursuant to Paragraph (1), fails to pay the surcharge until the due date, the Korea Communications Commission shall press for the payment by designating the extended period. If and when the person fails to pay the surcharge and the additional charge for the extended period pursuant to Paragraph

(5), the Korea Communications Commission finally shall collect the surcharge and the additional charge likewise by the disposition for recovery of the National Tax arrears.

(7) In case the surcharge imposed pursuant to Paragraph (1) is refunded owing to the court judgment, etc., the additional fee in the amount of six percent per annum (6% p.a.) of such surcharge to be refunded shall be paid for the period from the payment date of surcharge to the refund date.

Article 65 (Delegation and Entrustment of Authority)

(1) The authority of the Minister of Science, ICT and Future Planning or the Korea Communications Commission under this Act may be delegated or entrusted in part to the head of its administrative agency under the control of the Ministry of Science, ICT and Future Planning or the head of the Regional Post Agency in such a manner as prescribed by the Presidential Decree.

(2) The Minister of Science, ICT and Future Planning may entrust the project to promote the utilization of the information and communications networks, etc. pursuant to Article 13 to the National Information Society Agency (NIA) established pursuant to Article 14 of the Nation's Informatization Framework Act in such a manner as prescribed by the Presidential Decree.

(3) The Minister of Science, ICT and Future Planning or the Korea Communications Commission may entrust doing job to request the submission of, and inspect, the materials pursuant to Articles 64(1) and (2) to KISA in such a manner as prescribed by the Presidential Decree.

(4) The provision of Article 64(8) shall apply *mutatis mutandis* to the employees of KISA who are subject to Paragraph (3).

Article 65-2 *Deleted*

Article 66 (Confidentiality, etc.)

Any person who is or was engaged in the business stated in the following subparagraphs shall not leak secrets acquired while performing his/her duties to any other person, or use such secrets for other

purposes than the initial duties; *provided, however*, that the same shall not apply where other acts specifically prescribe otherwise:

1. *Deleted*
2. Authenticating the data protection and management system under Article 47;
- 2-2. Authenticating the personal information protection and management system under Article 47-3;
3. Assessing the data protection system under Article 52(3) iv;
4. *Deleted*
5. Mediating any dispute conducted by the Defamation Dispute Mediation Panel under Article 44-10.

Article 67 (Application *mutatis mutandis* to Broadcasting Service provider)

(1) The provisions of Chapter IV shall apply *mutatis mutandis* to the person who falls under Article 2 iii Items a through e and Article 2 vi, ix, xii and xiv of the Broadcasting Act, and would collect, use and provide to a third party personal information of audience and viewers.

In this case, the "information and communications service provider" and the "information and communications service provider, etc." shall be deemed the "person who falls under Article 2 iii Items Ga through Ma and Article vi, ix, xii and xiv of the Broadcasting Act," and the "user" shall be deemed the "audience and viewers," respectively.

(2) The provisions of Articles 22, 23, 23-2 through 23-4, 24, 24-2, 26, 26-2, 27, 27-2, 27-3, 28, 28-2, 29, 30, 30-2 and 31 shall apply *mutatis mutandis* to the trustee as prescribed in Article 25(1).

<*This Article Newly Inserted on February 17, 2012*>

Article 68 *Deleted*

Article 68-2 (Establishment of Korea Information Security Industry Association)

(1) Any person, who is doing business related with information security, may establish the Korea Information Security Industry Association (KISIA) subject to the authorization of the Minister of Knowledge and Economy for the sound development of the information security industry

and enhancement of overall industrial standard of information security.

(2) KISIA shall be a juridical person.

(3) Other matters necessary for the authorization procedure, operation and supervision of KISIA shall be prescribed by the Presidential Decree.

(4) The provisions regulating the incorporated association in the Civil Act shall apply *mutatis mutandis* to KISIA except otherwise provided for in this Act.

Article 69 (Legal Fiction of Officials in Applying Penal Provisions)

The officers and employees of NIA and KISA, who are conducting the job entrusted by the Minister of Science, ICT and Future Planning or the Korea Communications Commission pursuant to Articles 65(2) and (3), shall be deemed government officials in the application of Articles 129 through 132 of the Criminal Act.

Article 69-2 (Accusation)

When the Korea Communications Commission deems any of the subparagraphs of Article 64-3(1) to be applicable, the Commission may accuse the breaching information and communications service provider, etc. to the investigation authorities including the prosecution office.

<This Article Newly Inserted on February 17, 2012>

CHAPTER X PENAL PROVISIONS

Article 70 (Penal Provisions)

(1) Any person who has defamed other person by alleging openly facts via the information and communications networks with the purpose of slandering him/her shall be subject to imprisonment with **prison labor for not more than 3 years or by a fine not exceeding 30 million won.**

<Effective on November 29, 2014>

(2) Any person who has defamed other person by alleging openly false facts via the information and communications networks with the purpose of slandering him/her shall be subject to imprisonment with

prison labor for not more than 7 years or the suspension of qualification for not more than 10 years, or by a fine not exceeding 50 million won.
(3) The offense stated in Paragraphs (1) and (2) shall not be indicted against the will expressed by the victim.

Article 71 (Penal Provisions)

Any person referred to in the following subparagraphs shall be subject to imprisonment with prison labor for not more than 5 years or by a fine not exceeding 50 million won:

1. A person who has collected the personal information of users without the consent of users in violation of Article 22(1) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
2. A person who has collected the personal information likely to excessively infringe upon the right, interest and privacy of the individual without the consent of users in violation of Article 23(1) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
3. A person who has utilized the personal information of users, provided such personal information to a third party, or received such personal information knowingly for profit or unjust purposes in violation of Articles 24, 24-2(1) and (2) or 26(3) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
4. A person who has entrusted handling of the personal information without the consent of users in violation of Article 25(1) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
5. A person who has damaged, infringed upon or leaked the personal information of users in violation of Article 28-2(1) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
6. A person who has received the personal information for profit or unjust purposes knowing such information leaked out in violation of Article 28-2(2);
7. A person who has provided or utilized the personal information

without taking necessary measures in violation of Article 30(5) (including the case to which the provisions are applied *mutatis mutandis* in Articles 30(7), 31(3) and 67);

8. A person who has collected the personal information of a minor below 14 without the consent of his/her legal representative in violation of Article 31(1) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
9. A person who has conveyed or distributed malicious programs in violation of Article 48(2);
10. A person who has caused troubles in the information and communications networks in violation of Article 48(3); and
11. A person who has damaged the information of other person, or infringed upon, stolen or leaked the secrets of other person in violation of Article 49.

Article 72 (Penal Provisions)

(1) Any person referred to in the following subparagraphs shall be subject to imprisonment with prison labor for not more than 3 years or by a fine not exceeding 30 million won:

1. A person who has infiltrated the information and communications networks in violation of Article 48(1);
2. A person who has collected the personal information of other person in violation of Article 49-2(1);
3. A person who has done business without registration required by Article 53(1);
4. A person who has lent money or arranged for it by conducting action applicable to any of the following Items:
 - a. To do transactions of communications billing services by pretending to sell or provide the goods or services, or exceeding the real sales, or to let others do so on his/her behalf; or
 - b. To purchase the goods or services at a discount which were bought or used by the user of communications billing services just after such user was induced to buy or use such goods or services by means of the communications billing services.
5. A person who has leaked the secrets to other person acquired while

performing his/her duties, or utilized such secrets for other purpose than the initial duties in violation of Article 66.

(2) A person stated in Paragraph (1) i who attempted to commit the crime shall be punished.

Article 73 (Penal Provisions)

Any person referred to in the following subparagraphs shall be subject to imprisonment with prison labor for not more than 2 years or by a fine not exceeding 20 million won:

1. A person who has lost, stolen, leaked, altered or damaged the personal information of users by failing to take such technological and managerial measures as prescribed in Articles 28(1) ii through v (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
- 1-2. A person who fails to destroy personal information in violation of Article 29(1) (including the case to which the provisions are applied *mutatis mutandis* in Article 67); <Effective on November 29, 2014>
2. A person who has provided media materials harmful to the youth for profit without indicating the harmful nature in violation of Article 42;
3. A person who has transmitted to the youth, or exhibit publicly without taking any measure off-limits to the youth the information to advertize the media materials harmful to the youth in violation of Article 42-2;
4. A person who has used the information of users for other purposes than filing civil or criminal lawsuits;
5. A person who has not observed the order of the Korea Communications Commission pursuant to Articles 44-7(2) and (3);
6. A person who has not preserved the relevant materials in violation of the order pursuant to Article 48-4(3);
7. A person who has enticed other person to provide with personal information in violation of Article 49-2 (1); or
8. A person who has not observed the order pursuant to Article 61.

Article 74 (Penal Provisions)

(1) Any person referred to in the following subparagraphs shall be subject to imprisonment with prison labor for not more than 1 year or by a fine not exceeding 10 million won:

1. A person who has put any label on goods, or sold such goods bearing such label or displayed such goods for the purpose of selling them in violation of Article 8 (4);
2. A person who has distributed, sold, rented, or openly displayed lascivious codes, letters, sounds, images or video clips in violation of Article 44-7(1) i;
3. A person who has repeatedly sent codes, letters, sounds, images or video clips inciting fears and uneasiness to other person in violation of Article 44-7(1) iii;
4. A person who has taken [measures in violation of Article 50\(5\)](#);
5. *Deleted*
6. A person who has transmitted advertisement information in violation of Article 50-8; or
7. A person who has not registered the change of the registry nor reported business transfer, or the merger and succession of business in violation of Article 53(4).

(2) The offense stated in Paragraph (1) iii shall not be indicted against the will expressed by the victim.

Article 75 (Joint Penal Provisions)

If a representative of a corporation, or the agent, manager or other employee of a corporation or an individual violated the provisions of Articles 71 through 73 or 74 (1) with respect to the business of such corporation or individual, the actor shall be punished, but also the corporation or individual shall be subject to a fine prescribed in the relevant Article; *provided, however*, that the same shall not apply where such corporation or individual was not negligent in taking due care and supervisory duty to do the relevant business.

Article 76 (Fine for Negligence)

(1) A person who is referred to in the following subparagraphs and abets other person to do the action applicable to Items 7 through 11

shall be subject to a fine for negligence not exceeding 30 million won:

1. A person who has denied services in violation of [Article 23\(3\)](#) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
2. A person who collects and uses resident registration numbers in violation of Article 23-2(1) or fails to take necessary measures in violation of Article 23-2(2) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
- 2-2. A person who has failed to notify or report to users, the Korea Communications Commission and KISA in violation of Article 27-3(1) (including the case to which the provisions are applied *mutatis mutandis* in Article 67), or delays exceeding 24 hours to notify or report with no justifiable reasons;
- 2-3. A person who has failed to explain or deceptively explained subject to [Article 27-3\(3\)](#);
3. A person who has failed to take technological and managerial measures as prescribed in Articles 28(1) i and vi (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
4. A person who has failed to destroy personal information in violation of [Article 29\(2\)](#) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
5. A person who has failed to take necessary measures in violation of Articles 30(3), (4) and (6) (including the case to which the provisions are applied *mutatis mutandis* in Articles 30(7), 31(3) and 67);
- 5-2. A person who has failed to notify the detailed statement on the use of the personal information in violation of the main sentence of Articles 30-2(1) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
6. *Deleted*
- 6-2. A person who has failed to report the designation of the chief privacy officer in violation of [Articles 45-3 \(1\)](#);
7. A person who has transmitted advertisement information made for profit in violation of [Articles 50 \(1\) through \(3\)](#);
8. A person who has failed to indicate advertisement information or

- indicated fraudulently in violation of Articles 50 (4) or (5);
9. A person who has got the addressee charged the cost in violation of Article 50 (6);
 - 9-2. A person who has failed to confirm the consent to receive in violation of Articles 50(8);
 10. A person who has installed the programs without obtaining the consent of users in violation of Article 50-5;
 11. A person who has posted advertisement information made for profit on the Internet homepage in violation of Article 50-7 (1) or (2); or
 12. A person who has not observed the order to take corrective measures delivered by the Minister of Science, ICT and Future Planning or the Korea Communications Commission pursuant to Article 64(4) in violation of Articles 71 through 74, subparagraphs 1 through 11 and Paragraph (2).
- (2) A person referred to in the following subparagraphs shall be subject to a fine for negligence not exceeding 20 million won:
1. A person who has failed to make public or notify the users of entrusting the handling of personal information in violation of Article 25(2) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
 2. A person who has failed to notify the users of transferring the personal information in violation of Articles 26(1) and (2) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
 3. A person who has failed to designate the officer in charge of data protection in violation of Article 27(1) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
 4. A person who has failed to make public the personal information policy statement in violation of Article 27-2(1) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
- (3) A person referred to in the following subparagraphs shall be subject to a fine for negligence not exceeding 10 million won:
1. A person who has failed to keep electronic messages in custody in violation of Article 20 (2);
 2. A person who has made public electronic messages in violation of

- Article 21;
- 2-2. A person who has conducted the identification operations without appropriate designation of the identification agency in violation of Article 23-3(1);
 - 2-3. A person who has failed to notify to users, or report to the Korea Communications Commission, the recess of the identification operations pursuant to Article 23-3(2) or the repeal of the identification operations pursuant to Article 23-3(3);
 - 2-4. A person who continues to conduct identification operations in spite of the suspension of identification operations or cancellation of designation of the identification agency pursuant to Article 23-4(1);
 - 2-5. A person who obtains the consent to the provision or to entrusting handling of personal information but has failed to separate such consent from the consent to the collection and use of personal information, or has refused to provide its service on ground that the user would not give consent to it, in violation of Article 24-2(3) (including the case to which the provisions are applied *mutatis mutandis* in Article 67);
 3. A person who has failed to designate the officer in charge of youth protection in violation of Article 42-3(1);
 4. A person who has failed to keep information in custody in violation of Article 43;
 5. A person who has failed to insure the information and communications facilities in violation of Article 46 (2);
 6. A person who has failed to take the authentication of the data protection management system in violation of Article 47-2;
 7. A person who has made fraudulent public relations on the result of authentication of the data protection management system in violation of Articles 47(7) and 47-3(3);
 8. *Deleted*
 9. *Deleted*
 10. A person who has failed to inform the user of software in violation of Article 47-4(3);
 11. A person who has not observed the order of correction pursuant to Article 48-2(4);

12. A person who has obstructed, rejected or dodged the entry and inspection of business pursuant to Article 48-4 (4);
 - 12-2. A person who has failed to inform to the addressee the result after processing prior consent, refusal to receive or withdrawal of consent in violation of Article 50(7).
 - 12-3. A person who fails to take necessary measure in violation of Article 50-4(4).
 13. A person who has used the name of KISA in violation of Article 52(6);
 14. A person who has failed to report the recess, closure or dissolution of business in violation of Article 53(4);
 15. A person who has failed to report the general terms and conditions of business in violation of Article 56(1);
 16. A person who has failed to take managerial and technological measures in violation of Article 57(2);
 - 17 through 21. *Omitted*³⁾
 22. A person who has failed to submit related goods and documents, etc. pursuant to Article 64(1) or submitted false goods and documents, etc.;
 23. A person who has denied the access to data and request of data production pursuant to Article 64(2); or
 24. A person who has rejected, obstructed or dodged the entry and inspection of business pursuant to Article 64(3).
- (4) The fine for negligence stated in Paragraphs (1) through (3) shall be imposed and collected by the Minister of Science, ICT and Future Planning or the Korea Communications Commission as prescribed by the Presidential Decree.
- (5) Any person who is dissatisfied with a fine for negligence imposed pursuant to Paragraph (4) may file an objection with the Minister of Science, ICT and Future Planning or the Korea Communications Commission within 30 days from the day of notification of such disposition.
- (6) If any person who has been subject to a fine for negligence

3) These are violators in relation to communications billing services.

pursuant to Paragraph (4) filed an objection pursuant to Paragraph (5), the Minister of Science, ICT and Future Planning or the Korea Communications Commission shall promptly notify the competent court of the fact, and the competent court shall, upon receiving the notification thereof, put the case on trial in accordance with the Non-Contentious Litigation Procedure Act.

(7) If any person fails to file an objection within the period under Paragraph (5) and would not pay the fine for negligence, the fine for negligence in question shall be collected likewise by the disposition for recovery of the national taxes in arrears.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2001.

Articles 2 - 3. *Omitted.*

Article 4 (Transitional Measures Regarding Application of Penal Provisions)

The application of the penal provisions to any act committed prior to the enforcement of this Act shall be governed by the previous provisions.

Article 5. *Omitted.*

Article 6 (Relations to Other Acts and Regulations)

If other acts and regulations cite the former "Act on the Promotion, etc. of Utilization of Information System" or its provisions at the time of enforcement of this Act and if there exist corresponding provisions thereto in this Act, this Act or the corresponding provisions in this Act shall be regarded as being cited.

ADDENDA

Omitted for the period from December 2001 to December 2003.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on the day of promulgation (*dated of January 29, 2004*); *provided, however*, that the revised provisions of Articles 28, 45 (4), 46-3, 47-2 (4) and 48-4 (6) shall enter into force on the day when 6 months elapse after the promulgation.

Article 2 (Transitional Measures Regarding Application of Fine for Negligence)

The application of the fine for negligence to any act committed prior to the enforcement of this Act shall be governed by the previous provisions.

ADDENDUM

This Act shall enter into force on the day when 3 months elapse after its promulgation (*dated of December 30, 2004*).

ADDENDUM

This Act shall enter into force on the day when 3 months elapse after its promulgation (*dated of December 30, 2005*).

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on the day of promulgation (*dated of February 29, 2008*) *for the establishment of the Korea Communications Commission*.

Articles 2 through 6. *Omitted*

Article 7 (Amendment to Other Acts)

15. The part of the Act on Promotion of Information and Communications Network Utilization and Data Protection, etc. shall be amended as follows: *Omitted*

Articles 8 through 12. *Omitted*

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on the day when 6 months elapse after its promulgation (*dated of June 13, 2008*)

Article 2 (Transitional Measures Regarding Application of Penal Provisions and Fine for Negligence)

The application of the penal provisions and the fine for negligence to any act committed prior to the enforcement of this Act shall be governed by the previous provisions.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on the day when 3 months elapse after its promulgation (*dated of April 22, 2009*) for the establishment of the *Korea Internet & Security Agency*.

Articles 2 and 3. *Omitted*

Article 4 (Amendment to Other Acts) *Omitted*.

Article 5 (Relations to Other Acts and Regulations)

If other acts and regulations cite the former "Act on Promotion of Information and Communications Network Utilization and Data Protection, etc." or its provisions at the time of enforcement of this Act and if there exist corresponding provisions thereto in this Act, this Act or the corresponding provisions in this Act shall be regarded as being cited.

ADDENDUM

This Act shall enter into force on the day of promulgation (*dated of March 17, 2010*).

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on the day when 6 months elapse after its promulgation (*dated of September 23, 2010*).

Articles 2 through 5. *Omitted*

Article 6 (Amendment to Other Acts)

9. The part of the Act on Promotion of Information and Communications Network Utilization and Data Protection, etc. shall be amended as follows: Article 68 shall be deleted.

Article 7. *Omitted*

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on the day when 6 months elapse after its promulgation (*dated of September 23, 2010*).

Articles 2 through 6. *Omitted*

Article 7 (Amendment to Other Acts)

7. The part of the Act on Promotion of Information and Communications Network Utilization and Data Protection, etc. shall be amended as follows: [. . .] the Framework Act on Electricity and Communications shall read the Electric and Communication Services Act.

Articles 8 and 9. *Omitted*

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on the day when 6 months elapse after its promulgation (*dated of September 30, 2011 in line with the enforcement the Personal Information Protection Act*).

Articles 2 through 5. *Omitted*

Article 6 (Amendment to Other Acts)

11. The part of the Act on Promotion of Information and

Communications Network Utilization and Data Protection, etc. shall be amended as follows: [. . .] the Minister of Public Administration and Security, the Minister of Knowledge and Economy or the Korea Communications Commission shall read the Minister of Knowledge and Economy or the Korea Communications Commission; and the Minister of Public Administration and Security or the Korea Communications Commission shall read the Korea Communications Commission, respectively.

Articles 7 *Omitted*

ADDENDA

Omitted for the period from April 2011 to September 2011.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on the day when 6 months elapse after its promulgation (*dated of August 18, 2012*); *provided, however*, that the revised provisions of Articles 45, 45-2, 45-3, 46-3, 47, 47-2, 47-3, 47-5, 52(3) vii, 66 and 76(3) vi through ix shall enter into force one year after its promulgation.

Article 2 (Transitional Measures Regarding the Restriction of Collection and Use of Resident Registration Number)

(1) The information and communications service provider, who has provided membership application method by means of resident registration number at the time of enforcement of this Act, shall destroy its resident registration number data within two years therefrom; *provided, however*, that the same shall not apply to any of the subparagraphs of Article 23-2(1).

(2) The failure to destroy the resident registration number data within the period prescribed in Paragraph (1) shall be deemed in violation of the revised provision of Article 23-2(1).

Article 3 (Transitional Measures Regarding the Repeal of Data Protection

Safety Diagnosis)

Article 4 (Transitional Measures Regarding the Authentication of Personal Information Protection Management System)

Article 5 (Transitional Measures Regarding Fine for Negligence)

The application of the fine for negligence to any act committed prior to the enforcement of this Act shall be governed by the previous provisions.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on the day when 6 months elapse after its promulgation (*dated of September 30, 2011*).⁴⁾

Articles 2 through 5. *Omitted*

ADDENDA

Article 1 (Enforcement Date)

(1) This Act shall enter into force on the day of promulgation (*dated of March 23, 2013*).⁵⁾

(2) *Omitted*

Articles 2 through 5. *Omitted*

Article 6 (Amendment to Other Acts)

687. The part of the Act on Promotion of Information and Communications Network Utilization and Data Protection, etc. shall be amended as follows: [. . .] the Minister of Knowledge and Economy shall read the Minister of Science, ICT and Future Planning.

ADDENDA

4) This amendment was in line with the enforcement of the Personal Information Protection Act.

5) This amendment was in line with the enforcement of the newly amended Government Organization Act.

Article 1 (Enforcement Date)

(1) This Act shall enter into force on the day when 6 months elapse after its promulgation (*dated of November 29, 2014*); *provided, however*, that the revised provisions of Articles 44(3), 44-5 and 76(1) vi shall enter into force on the day of promulgation.

Article 2 (Transitional Measures Regarding Surcharge and Fine)

The application of the surcharge and fine to any act committed prior to the enforcement of this Act shall be governed by the previous provisions.