

Abstract

Nowadays, we have totally accepted that Internet Network System play an important role in daily life of people. The system has progressive develop from its beginning whereas social demand to use it has vastly increase and expand in every occupation worldwide. The consequence of this phenomenon, however, is innumerable Internet misuse, especially civil law violation.

An attempt to solve this problem faces obstacles about applying substantive law. Since Internet misuse is difficult to identify the wrongdoers, there is an emergent concept that Internet Service Providers take benefit from their subscribers should take part in responsible for any damage occurs on their service under the determinate conditions. This concept is adopted by many countries such as The United States of America, England, Germany, Japan and China. These countries have enacted specific law indicating duties and liabilities of Internet Service Providers under the conditions which they approve.

In Thailand, there is specific law indicating definition and liability of Internet Service Providers, that is, article 3 and 15 of the Computer-Related Crime Act, B.E. 2550 (2007). However, this Act only defines criminal liability of Internet Service Providers which violate article 14 but excluding all civil liabilities. Thus, consideration about the latter must apply the right to claim for damage in the Civil and Commercial Code. According to this Code, we can not identify liability of Internet Service Providers because some patterns they serve are not clearly hold to the term "doing" in regard to violation. Moreover, none of the case about liability of Internet Service Providers is determined by the Court and liability defined in other related Acts studied in this thesis are also unclear, so the problem will be continued.

For these reasons, I propose to enact special law to define liability of Internet Service Providers particularly. This law should clearly define duties and responsibilities of Internet Service Providers classified as their type of services and this law should to be a standard of determining all liabilities of Internet Service Providers. Furthermore, I propose to oblige some type of Internet Service Providers which can approach their

contents to check and detect the contents appeared on their service in order to prevent the law violation, too.

Finally, since Internet Service is one kind of public services, an organization or any commission should be set up in order to properly control all Internet Service Providers. Supporting this idea, I propose that Board of the National Telecommunications Commission (NTC) formed by Telecommunications Business Act, B.E. 2544(2001) should take responsibility for this affair. In addition, Internet service providers should, at the same time, check each other by establishing the Internet Service Providers Association of Thailand to make the rules, orders or any issuances relating to their services which will lead them to reach international standard eventually.