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This English translation of the "Act on Regulation of Transmission of Specified Electronic Mail" has been prepared (up to the revisions of Act No. 87 of 2005 (Effective May 1, 2006)) in compliance with the Standard Bilingual Dictionary (March 2006 edition).

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Act on Regulation of Transmission of Specified Electronic Mail (Act No. 26 of April 17, 2002)

Chapter I General Provisions (Articles 1 and 2)

Article 1 (Purpose)

The purpose of this Act, in light of the recognized need to prevent hindrances to transmission and reception of Electronic Mails due to simultaneous transmission, etc. of Specified Electronic Mails to many persons, is, by specifying measures, etc. for proper transmission of Specified Electronic Mails, to prepare a preferable environment for the use of Electronic Mails, and thereby to contribute to the sound development of an advanced information and communications society.

Article 2 (Definitions)

In this Act, the meanings of the terms listed in the following items shall be as prescribed respectively in those items.

- (i) The term "Electronic Mail" means telecommunications (referring to telecommunications as specified under Article 2 item i) of the Telecommunications Business Law (Act No. 86 of 1984)) to transmit information, including texts, to specified persons by having screens of communications terminals (including input/output devices; the same shall apply in the following article) used by said specified persons display said information, and which uses communications methods specified in the applicable Ministry of Internal Affairs and Communications (hereinafter referred to as "MIC")

ordinance.

- (ii) The term "Specified Electronic Mail" means Electronic Mail, which a person who sends Electronic Mail (limited to an organization for profit and a person in cases where the person is engaged in business; hereinafter referred to as a "sender"), sends persons other than the following persons as a means of advertisement for their own sales activities or for others.
 - (a) A person who has notified the sender of the request or the consent to send Specified Electronic Mail prior to the transmission thereof (except a person who has notified said sender of the request not to send said Electronic Mail after said notification)
 - (b) A person who has a business relationship with a person engaged in sales activities relating to advertisement thereof
 - (c) Other person who is specified in the applicable cabinet order
- (iii) The term "Electronic Mail Address" means codes, including characters, numerical characters and marks, for identifying a user of Electronic Mail.
- (iv) The term "Fictitious Electronic Mail Address" means an Electronic Mail Address falling under all of the followings:
 - (a) An Electronic Mail Address as produced by using a program (referring to a set of orders to a computer, and orders of which are combined for obtaining a result) with a function to automatically generate many Electronic Mail Addresses
 - (b) An Electronic Mail Address actually not being used by anyone as an Electronic Mail Address
- (v) The term "Electronic Mail Service" means telecommunications service pertaining to Electronic Mail as provided for in Article 2 item iii) of the Telecommunications Business Law.

Chapter II Measures for Appropriate Transmission of Specified Electronic Mail (Article 3 through Article 13)

Article 3 (Obligation of Labeling)

Any sender shall, as specified in the applicable MIC ordinance, upon transmission of Specified Electronic Mails, make such a Specified Electronic Mail correctly display the following matters on a screen of a communications terminal being used by a person who receives said Specified Electronic Mail:

- (i) The fact that said mail is a Specified Electronic Mail
- (ii) Personal name or legal name and address of said sender
- (iii) Electronic Mail Address of said sender for receiving the notification under the following article
- (iv) Other matters specified in the applicable MIC ordinance

Article 4 (Prohibition of Transmission to Persons Who Refuse to Receive Specified Electronic Mail)

Any sender shall not send Specified Electronic Mails to persons, who received Specified Electronic Mails from the sender, and who, as specified in the applicable MIC ordinance, have notified said sender of the request not to send Specified Electronic Mails (in cases where requesting said sender not to send Specified Electronic Mails pertaining to given matters, of the request) , against their wish.

Article 5 (Prohibition of Transmission Using Fictitious Electronic Mail Address)

Any sender shall not send Electronic Mails to Fictitious Electronic Mail Addresses for the purpose of sending many Electronic Mails for their own or other's sales activities.

Article 6 (Prohibition of Transmission under False Sender Information)

Any sender shall not send Electronic Mails, as a means of advertisement for their own or other's sales activities, falsifying the following information on the sender (hereinafter referred to as "sender information") among information for sending and/or receiving Electronic Mails:

- (i) Electronic Mail Address used for sending said Electronic Mails
- (ii) Codes, including characters, numerical characters and marks, for identifying telecommunications facilities (referring to telecommunications facilities stipulated in Article 2 item ii) of the Telecommunications Business Law) for sending said Electronic Mails

Article 7 (Administrative Order)

Where the Minister of Internal Affairs and Communications (hereinafter referred to as "Minister") deems that with respect to transmission of Electronic Mails, including simultaneous transmission of Specified Electronic Mails to many persons, a sender does not comply with the provisions of Article 3 or Article 4, or where the Minister deems that a sender has sent Electronic Mails to Fictitious Electronic Mail Addresses or Electronic Mails using false sender information, and when the Minister deems that it is necessary for preventing the occurrence of disturbances upon transmission and reception of Electronic Mails, the Minister may order said sender to take necessary measures for improvement of the methods for Electronic Mail transmission.

Article 8 (Petition to the Minister)

- (1) A person who has received Specified Electronic Mail or Electronic Mail using false sender information may, when the person finds that Electronic Mail has been

sent in violation of the provisions of Article 3, Article 4 or Article 6, petition the Minister to take proper measures.

- (2) A person who is offering Electronic Mail Services may, when the person finds that Electronic Mail has been sent to Fictitious Electronic Mail Addresses in violation of the provisions of Article 5, petition the Minister to take proper measures.
- (3) The Minister shall, when receiving petition pursuant to the provisions of the preceding two paragraphs, implement necessary investigation, and when he or she finds necessary based upon results of the investigation, take measures based upon this Act and the other proper measures.

Article 9 (Dealing with Complaints, etc.)

Any sender of Specified Electronic Mails shall, in good faith, deal with complaints, inquiries, etc. on transmission of Specified Electronic Mails by the sender.

Article 10 (Information Provision and Technological Development, etc. by Telecommunications Carriers)

- (1) Any telecommunications carrier (referring to a telecommunications carrier stipulated in Article 2 item v) under the Telecommunications Business Law; hereinafter the same shall apply.) offering Electronic Mail Services shall endeavor to provide users of said services with information on services that contribute to prevention of the occurrence of disturbances upon transmission and reception of Electronic Mails caused by Specified Electronic Mails, Electronic Mails to be sent to Fictitious Electronic Mail Addresses, or Electronic Mails using false sender information (hereinafter referred to as "Specified Electronic Mail, etc.").
- (2) Any telecommunications carrier offering Electronic Mail Services shall endeavor to develop or introduce technologies for contributing to prevention of the occurrence of disturbances upon transmission and reception caused by Specified Electronic Mail, etc.

Article 11 (Refusal of Provision of Telecommunications Services)

A telecommunications carrier may, in cases where many Electronic Mails addressed to fictitious Electronic Mail Addresses have been simultaneously sent and when it is considered that there is a risk of causing disturbances in smooth offering of its Electronic Mail Services, or where it is considered that there is a justifiable reasons to refuse the provision of Electronic Mail Services for prevention of the occurrence of disturbances upon transmission and reception of Electronic Mails, refuse to provide a person who sends Electronic Mails having a risk of causing said disturbances with Electronic Mail Services to the extent of preventing said disturbances.

Article 12 (Instruction and Advice to Corporations for Telecommunications Carriers)

The Minister shall endeavor to give necessary instructions and advices for services to a juridical person incorporated pursuant to the provisions of Article 34 of the Civil Code (Act No. 89 of 1896), which provides member telecommunications carriers with services, including the provision of information, contributing to prevention of the occurrence of disturbances upon transmission and reception of Electronic Mails caused by Specified Electronic Mails, etc.

Article 13 (Disclosure of Status of Research and Development, etc.)

The Minister shall, at least once a year, disclose the status of research and development on technologies for contributing to prevention of the occurrence of disturbances upon transmission and reception of Electronic Mails caused by Specified Electronic Mails, etc. and the introduction status of such technologies by telecommunications carriers providing Electronic Mail communications services.

Chapter III Registered Agency for Proper Transmission (Article 14 through Article 27)

Article 14 (Registration of Registered Agency for Proper Transmission)

(1) The Minister may have a person who is registered by the Minister (hereinafter referred to as the "registered agency for proper transmission") conduct the following services (hereinafter referred to as the "services for proper transmission of Specified Electronic Mail, etc."):

- (i) To give instructions or advices to a person who intends to file a petition with the Minister pursuant to the provisions of Article 8 paragraph (1) or paragraph (2)
 - (ii) To conduct investigations on facts pertaining to petition in Article 8 paragraph (3), when requested by the Minister
 - (iii) To collect and provide information or materials concerning Specified Electronic Mail, etc.
- (2) The registration in the preceding paragraph shall be made upon request from a person who intends to conduct the services for proper transmission of Specified Electronic Mail, etc.

Article 15 (Disqualification)

Any person who falls under any of the following items shall not be registered under paragraph (1) of the preceding article

- (i) Any person who has been sentenced to a fine of severer punishment for violation of this Act or an order based upon this Act, if a period of two years has

not elapsed since the day the punishment was completed or the day when the punishment is no more inflicted.

- (ii) Any person whose registration was rescinded pursuant to the provisions of Article 25, if a period of two years has not elapsed since the day of the rescission.
- (iii) Where the applicant is a juridical person, any of whose officers who execute its business falls under any of the preceding two items.

Article 16 (Criterion for Registration)

(1) The Minister shall grant registration to any person who has applied for registration pursuant to the provisions of Article 14 paragraph (2), if the applicant for registration complies with all of the following items. In this case, the procedures necessary for registration shall be specified by the applicable MIC ordinance.

- (i) A person who has graduated from a university, or technical college, provided for in the School Education Act (Act No. 26 of 1947) as having mastered subjects concerning telecommunications and has one year or longer of experience in the business of Electronic Mail communications services, or a person who has knowledge and experiences equivalent thereto or higher, is engaged in the services for proper transmission of Specified Electronic Mail, etc.
- (ii) The following measures are taken in order to properly implement the services for proper transmission of Specified Electronic Mail, etc.:
 - (a) A full-time administrator is appointed at a unit to implement the services for proper transmission of Specified Electronic Mail, etc.
 - (b) Documents are prepared for ensuring management and proper implementation of the services for proper transmission of Specified Electronic Mail, etc.
 - (c) In accordance with the descriptions in the documents under b), a dedicated unit is set up for ensuring management and proper implementation of the services for proper transmission of Specified Electronic Mail, etc.

(2) The registration shall be made by entering the following matters in the registration book of registered agencies for proper transmission:

- (i) Date of registration and registration number
- (ii) Name and address of a registered agency for proper transmission and, in the cases where the person is a juridical person, name of the representative
- (iii) Name and address of the office where a registered agency for proper transmission conducts the services for proper transmission of Specified Electronic Mail, etc.

Article 17 (Renewal of Registration)

(1) The registration under Article 14 paragraph (1) shall, if it is not renewed at the

registered agency for proper transmission concerned every three years, cease to be effective by passage of the period.

- (2) The provisions of Article 14 paragraphs (2) and the preceding two articles shall apply, mutatis mutandis, to the renewal of registration under the preceding paragraph.

Article 18 (Obligation Pertaining to Implementation of Services for Proper Transmission of Specified Electronic Mail, etc.)

Any registered agency for proper transmission shall conduct the services for proper transmission of Specified Electronic Mail, etc. fairly through methods complying with requirements listed in each item of Article 16 paragraph (1) and the standards specified by the applicable MIC ordinance.

Article 19 (Notification of Changes)

Any registered agency for proper transmission shall, when intending to change matters listed in item ii) or item iii) of Article 16 paragraph (2), notify the Minister to that effect two weeks prior to the day of said changes.

Article 20 (Operational Rules and Procedures)

- (1) Any registered agency for proper transmission shall establish its operational rules and procedures concerning the services for proper transmission of Specified Electronic Mail, etc., and shall notify the Minister of the operational rules and procedures prior to the commencement of the services for proper transmission of Specified Electronic Mail, etc. The same shall apply when such rules and procedures are to be revised.
- (2) The operational rules and procedures shall specify the methods of carrying out the services for proper transmission of Specified Electronic Mail, etc. and other matters specified in the applicable MIC ordinance.

Article 21 (Suspension and Discontinuation of Service)

Any registered agency for proper transmission shall, when intending to suspend or discontinue the services for proper transmission of Specified Electronic Mail, etc., notify the Minister to that effect in advance, as specified in the applicable MIC ordinance.

Article 22 (Preparation of Financial Statements, etc. and Access, etc. Thereto)

- (1) Any registered agency for proper transmission shall, within three months after the end of every business year, prepare an inventory of properties, a balance sheet and a profit and loss statement or income and expenditure account statement, and an operating report or a business report (including an electromagnetic record (any

record which is produced by electronic, magnetic, or any other means unrecognizable by natural perceptive function, and is used for data-processing by a computer. Hereinafter in this article the same shall apply.) in cases where electromagnetic records are produced instead of those paper documents. In the following paragraph and Article 35, referred to as "financial statements, etc.") and retain thereof for a five-year period at its office.

(2) Parties concerned, including a person who received Specified Electronic Mail, may, whenever within the business hours of a registered agency for proper transmission, make the following requests. However, when making the request of item ii) or item iv), fees set forth by the registered agency for proper transmission shall be paid.

(i) Where financial statements, etc. are written documents, a request for inspection of said documents or copy thereof

(ii) A request for certified transcript or extract of the documents under the preceding item

(iii) Where financial statements, etc. are produced as electromagnetic records, a request for inspection or copy of matters recorded on said electromagnetic records which are displayed in a manner stipulated in the applicable MIC ordinance

(iv) A request for the matters recorded on said electromagnetic records under the preceding item in an electromagnetic manner stipulated in the applicable MIC ordinance or a request for delivery of written documents containing said matters

Article 23 (Order for Compliance)

When the Minister finds that a registered agency for proper transmission has failed to comply with any of the items in Article 16 paragraph (1), the Minister may order said registered agency for proper transmission to take necessary measures for compliance with all such provisions.

Article 24 (Order to Improve Business Activities)

The Minister may, when he or she finds that a registered agency for proper transmission is violating the provisions of Article 18, order said registered agency for proper transmission to implement the services for proper transmission of Specified Electronic Mail, etc. pursuant to the provisions of the same article or to take necessary measures for improving the methods of the services for proper transmission of Specified Electronic Mail, etc.

Article 25 (Rescission, etc. of Registration)

The Minister may rescind its registration or order the suspension in whole or in part of its services for proper transmission of Specified Electronic Mail, etc. for a

specified period, if a registered agency for proper transmission:

- (i) Falls under Article 15 item i) or item iii)
- (ii) Violates the provisions of Article 19 through Article 21, Article 22 paragraph (1) or the following article
- (iii) Rejects a request pursuant to the provisions of each item of Article 22 paragraph (2) without justifiable reason
- (iv) Violates the order pursuant to the provisions of the preceding two articles
- (v) Obtains the registration under Article 14 paragraph (1) by wrongful means

Article 26 (Maintenance of Record Book)

Any registered agency for proper transmission shall, in accordance with the applicable MIC ordinance, prepare and maintain a record book, on which matters specified in the applicable MIC ordinance related to the services for proper transmission of Specified Electronic Mail, etc. shall be entered.

Article 27 (Public Notice)

The Minister shall, in the following cases, issue a public notice to that effect in the Official Gazette:

- (i) When registering an agency under Article 14 paragraph (1)
- (ii) When receiving a notification pursuant to the provisions of Article 19
- (iii) When receiving a notification pursuant to the provisions of Article 21
- (iv) Pursuant to the provisions of Article 25, when rescinding a registration of Article 14 paragraph (1), or ordering the suspension of the services for proper transmission of Specified Electronic Mail, etc.

Chapter IV Miscellaneous Provisions (Article 28 through Article 30)

Article 28 (Report and On-site Inspection)

- (1) Within the limit necessary for the enforcement of this Act, the Minister may order a sender of Specified Electronic Mail, etc. to report on the state of transmission thereof, or delegate ministerial staff to enter the office of the sender to inspect articles, including record books and documents.
- (2) Within the limit necessary for ensuring proper operations of the services for proper transmission of Specified Electronic Mail, etc., the Minister may order a registered agency for proper transmission to report on the state of the services for proper transmission of Specified Electronic Mail, etc. or assets, or delegate ministerial staff to enter the office of the registered agency for proper transmission to inspect the state of the services for proper transmission of Specified Electronic Mail, etc., or articles, including record books and documents.
- (3) Any ministerial staff who conducts the on-site inspection in accordance with the

provisions of the preceding two paragraphs shall carry an identification card and show it to persons concerned.

(4) The power of the on-site inspection under the provisions of paragraph (1) or paragraph (2) shall not be construed as being legitimate for the purpose of criminal investigations.

Article 29 (Administrative Work to Be Conducted by Prefectures)

As specified in the applicable cabinet order, part of administrative work under the jurisdiction of the Minister stipulated in this Act may become administrative work that shall be conducted by prefectural governors.

Article 30 (Transitional Measures)

When orders be established, amended or abolished in accordance with the provisions of this Act, necessary transitional measures (including those concerning the Penal Provisions) may be stipulated in those orders to such extent as deemed to be reasonably necessary in establishing, amending or abolishing those orders.

Chapter V Penal Provisions (Article 31 through Article 35)

Article 31

Any person who has violated the order to suspend business operations in accordance with the provisions of Article 25 shall be punished by imprisonment with work for a term not exceeding one year or to a fine not exceeding one million yen, or to both.

Article 32

Any person shall be punished by imprisonment with work for a term not exceeding one year or to a fine not exceeding one million yen, if he or she:

- (i) Has violated the provisions of Article 6
- (ii) Has violated the order in accordance with the provisions of Article 7

Article 33

Any person shall be punished by a fine not exceeding three hundred thousand yen, if he or she:

- (i) Has failed to submit a notification or submitted a false notification in accordance with the provisions of Article 21
- (ii) Has failed to make entries or made false entries, or failed to maintain records in violation of the provisions of Article 26
- (iii) Has failed to submit a report in accordance with the provisions of Article 28 paragraph (1) or (2), or submitted a false report, or has refused, hindered or

evaded the inspection in accordance with these provisions

Article 34

When any representative of a juridical person, or any agent, any employee or other staff of a juridical person or an individual has committed an act of violation listed in the preceding three articles with regard to the business of said juridical person or individual, not only the offender shall be punished but also said juridical person or individual shall be punished by the fine prescribed in the respective articles.

Article 35

Any person who has failed to retain financial statements, etc., has failed to enter the matters to be entered in financial statements, etc. or has made false entries in violation of the provisions of Article 22 paragraph (1), or has refused without justifiable reason a request under paragraph (2) of the same article shall be punished by a non-penal fine not exceeding two hundred thousand yen.

Supplementary Provisions

(Effective Date)

(1) This Act shall come into force as from the day specified in the applicable cabinet order within six months calculating from the day of promulgation.

(Review)

(2) The government shall, within three years calculating from the enforcement of this Act, after taking into account circumstances, including the level of technologies pertaining to telecommunications, and, considering the progress of implementation of this Act, take necessary measures based upon the results thereof.

Supplementary Provisions (Act No. 125 of July 24, 2003) Excerpts

Article 1 (Effective Date)

This Act shall come into force as from the day specified in the applicable cabinet order within nine months calculating from the day of promulgation. However, the provisions listed in the following items shall come into force as from the day specified respectively in those items.

Supplementary Provisions (Act No. 46 of May 20, 2003) Excerpts

Article 1 (Effective Date)

This Act shall come into force as from the day specified in the applicable cabinet

order within six months calculating from the day of promulgation. However, the provisions in the following article and Article 6 of the Supplementary Provisions shall come into force as from the day of promulgation.

Article 2 (Transitional Measures)

A person who wants to be registered under Article 14 paragraph (1) of the Act on Regulation of Transmission of Specified Electronic Mail (hereinafter referred to as the "New Act") may, even before the enforcement of this Act, apply for the registration. The same shall apply to the notification of administrative rules in accordance with the provisions of Article 14 paragraph (1) of the New Act.

Article 3

Any person who is being actually designated upon the enforcement of this Act under Article 13 paragraph (1) of the Act on Regulation of Transmission of Specified Electronic Mail before the amendment by this Act (referred to as the "Old Act" in the following article), until the day when six months has elapsed calculating from the day of enforcement of this Act, shall be deemed as being registered under Article 14 paragraph (1) of the New Act.

Article 4

In addition to what is provided for in the preceding article, acts committed prior to the enforcement of this Act, including disposition and procedures, based on the provisions of the Former Act (including orders based on the Former Act), that fall under the provisions in the New Act equivalent to those in the Former Act, shall be deemed as being acts committed, including disposition and procedures, based on the provisions of the New Act.

Article 5 (Transitional Measures Concerning the Penal Provisions)

With respect to the application of the Penal Provisions to any act committed before the enforcement of this Act, the provisions then in force shall still apply.

Article 6 (Delegation to Cabinet Orders)

In addition to the transitional measures specified under Article 2 through the preceding article of the Supplementary Provisions, other transitional measures necessary for the enforcement of this Act (including transitional measures concerning the Penal Provisions) shall be specified in the applicable cabinet order.

Article 7 (Review)

The government shall, within three years calculating from the day of enforcement of this Act, after taking into account circumstances, including the level of

technologies pertaining to telecommunications, and, considering the progress of implementation of this Act, take necessary measures based upon the results thereof.

Supplementary Provisions (Act No. 87 of July 26, 2005) Excerpts

This Act shall come into force as from the effective date of the Companies Act.