Abstract

Amid recent surge in private internet broadcasting, BJs are broadcasting provocative contents, swearing, rude comments, dangerous behaviors, etc., every day for greater profits and revenue from viewers paying certain amount as subscription fees.

If this continues, concern will be mounting over the prospect that imitative crimes or criminal behavior preview, etc., featured by private internet broadcasting may be put on the airwaves. If such broadcasting practice is not restricted properly, adolescent crimes will also be affected adversely.

This study was intended to examine problems arising from private internet broadcasting, discuss legal restriction on such private internet broadcasting regulated in Korea, and present related regulatory measures.

Many problems have arisen from downside of private internet broadcasting which may also have many different beneficial and useful contents. To facilitate private internet broadcasting culture take root by promoting more useful and diverse contents, some regulatory measures need to be taken.

First, clear guidelines need to be laid out for threshold of broadcasting and criteria for contents when contracts are signed with individual BJs. Besides, education would be needed on broadcasting contents, along with review of qualification of BJs. Moreover, revenue amount needs to be adjusted to change current practice of paying thousands of won (Korean currency unit) at a time.

Second, advancement of internet has made it tricky to apply conventional criteria related to exercise of jurisdiction and limitation in all aspects of routine lives.

Third, unambiguous criteria for harmful broadcasting need to be established.

Criminal behaviors in private internet broadcasting correspond to crimes committed actually offline, not merely via information communication networks, and are broadcast exactly as they are occurring. If they are not regulated in advance, private internet broadcasting can be a breeding ground for even more serious or imitative crimes.

Prevention is the most important because private internet broadcasting can be used only as a means of making money without regard to its potential criminality in this era taking monetary side as top priority, although private internet broadcasting also provides useful information and fun.

[Keywords] Policing, Private Internet Broadcasting, Internet Crime, Jurisdiction, International Crime

1. Introduction

Industry related to internet has made rapid strides as Korea is thrust into limelight as global internet powerhouse. Korea takes top spot worldwide in terms of internet infrastructures, smartphone distribution, and outrips the rest of the countries globally in internet speed. However, Korea has witnessed significant adverse effects arising in connection with internet.
Many crimes have resulted from recent expansion of private internet broadcasting, along with cybercrimes that have occurred over the last few years. Korea has approximately 7,000 internet broadcasting channels, out of which Africa TV has about 350,000 private broadcasting channels. The number of internet BJs (Broadcasting Jockeys) is estimated to reach about 1.5 million.

Internet broadcasting has easy access. As it is not pay-basis and has an increasing viewership amid rise in one-person families, viewers made decision on sponsorship after watching the broadcasts. Thus, internet broadcasting enables two-way communication, more far-reaching communication and more active participation of viewers, compared to ordinary media.

However, there is no way to stop global spread of cyberspace called 'internet' which has become a form of broadcasting, and concern has been raised about ambiguous restriction on internet.

Recently, lewdness, swearing, rude comments, dangerous behaviors, etc., are inundating the viewers of private internet broadcasting. If this goes unchanged, broadcasting programs may adopt the contents of private internet broadcasting and feature provocative contents such as imitative crime or criminal behavior previews. If such broadcasting practice is not restricted properly, youth crimes will be also affected adversely.

This study was intended to examine problems of private internet broadcasting, discuss legal restrictions on private internet broadcasting regulated in Korea, and present related regulatory measures.

2. Theoretical Background

2.1. Concept of private internet broadcasting

Internet broadcasting refers to a new concept novel media broadcasting programs via internet through combination of communication and broadcasting amid rapid spread of internet. Unlike existing broadcasting by station using public airwaves, internet broadcasting targets all netizens worldwide for viewership beyond home country. For that reason, internet broadcasting has come under the spotlight as new media with unlimited potentials[1].

Private internet broadcasting is a platform enabling real-time broadcasting anytime and anywhere using PC or mobile devices (smartphone, tablet PC, etc) without need for special technology or equipment[2].

Internet broadcasting, which is a technology converging communication and broadcasting, represents new form of broadcasting using the internet based on existing mode of broadcasting. Specifically, internet broadcasting allows users to select information at their convenient time, unlike existing broadcasting, and is characterized by two-way communication for instant feedback of many different ideas as it combines the strengths of broadcasting and internet. This new media is opening up the boundaries of space into augmented space rendered within reality beyond virtual reality. Human communication is reproduced through hybrid communication shutting between reality and virtual reality. Many parts of life have been migrated into the space rendered by digital media, unfolding themselves under new system[3].

Particularly, blogs, Facebook, YouTube, podcast, internet broadcasting, etc., which are founded on internet, have been classified into the category of new media. All these correspond to communication media featuring and highlighting individuals to the world, unlike old media such as televisions or telephones used to convey knowledge and information to users.

Countless number of individuals is engaged in real-time internet broadcasting using their unique contents through private internet broadcasting service platform. Literally, internet broadcasting is a type of broadcasting providing audio or video (audiovisual) contents via internet[4]. Previously, people could watch TV for shortened time due to works, learning and routine activities, and therefore, could obtain information or watch programs on their mobile phones whenever they could find time while being the move. In that regard,
internet broadcasting may be the type optimized for contemporary society.

2.2. Internet crime & jurisdiction

2.2.1. Internet crime & current status

The terms, cybercrime and internet crime, have been used together, as their definition remained ambiguous even to date since 1999 when internet began to spread.

According to the Cyber Crime Investigation Theory of the Police, cybercrime collectively refers to the crimes occurring in cyberspace formed by or through computer system connected via information communication networks such as internet.

Private internet broadcasting-related crimes can be classified into the category of internet crime committed particular by using information communication networks. The data published by the National Policy Agency can be analyzed for crimes involving private internet broadcasting that uses telecommunication and illegal contents.

The number of cases involving personal position information infringement slid from 635 in 2014 to 296 in 2015 while cases of copyright violation rose from 7,198 in 2014 to 8,832 in 2015. The number of criminal cases involving illegal contents, such as obscene cyber contents, illegal cyber gambling, cyber defamation, cyber stalking, etc., increased from 14,643 in 2015 to 17,388 in 2015[5].

Statistical data on crimes related to private internet broadcasting have remained unavailable thus far.

As most crimes occur in cyberspace, only statistical data on crimes committed in cyberspace were examined. Currently, punishment is imposed on cybercrimes under the Act on the Punishment of Sexual Crimes and the Protection, Criminal Code, Personal Information Protection Act, etc., through prosecution and complaint.

2.2.2. Jurisdiction in cyberspace

Many problems and difficulties entail from application to behaviors in cyberspace. As there is no boundary in cyberspace, all behaviors occurring in cyberspace can be viewed simultaneously in all countries around the globe which results in many challenging problems.

In other words, the issues related to legal jurisdiction may arise in cyberspace. Jurisdiction refers to the authority of a state(country) to apply domestic laws to certain doers, cases, and objects(or properties)[6].

The issue of jurisdiction is taking on an added importance in cyberspace because behaviors occurring in cyberspace via internet are far more likely to raise the issue of jurisdiction compared to offline behaviors, not just merely because of increasing behaviors in cyberspace.

Advancement of internet is making it complicated to exercise jurisdiction and apply conventional criteria in all aspects of routine life[7].

3. Cases of Crime in Private Internet Broadcasting & Related Problems

Currently, platforms for private internet broadcasting have been diversified, particularly Africa TV, Daum TV Pod, Twitch, etc., in Korea. Besides, myriads of private broadcasting have emerged on the internet.

Previously, entertainers showed off their talents to unspecific many people. Now, thousands of or tens and thousands of individuals are showing off their talents and turning to private internet broadcasting.

The problem is that BJs are reaping huge profit from private internet broadcasting, unlike in the past, and people are reacting enthusiastically to them and imitating them.

Thus, problem lies in the fact that videos, more provocative and harder to imagine, are being produced and broadcast.

3.1. Cases of crime

Criminal behaviors are often exposed via private internet broadcasting without being filtered for profits. Here, some related cases were presented.
A BJ was arrested by the Police on charges of broadcasting illegal racing via internet. According to Mapo Police Station, 3 BJs, including 2 persons with only family names revealed[Eom(aged 30, male), Lee(aged 37, male)], were indicted without detention for violation of Road Transportation Act on the 23rd day of this month. There were accused of receiving ‘star balloons’ from viewers while broadcasting in real-time a reckless driving race featuring 3 luxurious foreign-made cars speeding at 180km on a 20km section of Gangbyeonbuk-ro at 1:00AM on November 29 last year.

Shockingly, video footage of real sexual intercourse between an underage girl and adult man was broadcast via internet to receive the star balloon. They are violating the laws to make money.

Last January, Mokpo Branch of Gwangju District Public Prosecutor’s Office brought to justice 2 persons(with only family names revealed such as Oh(aged 25, male), Kim(aged 21, male)) on charges of disseminating obscene video footage to pay-per-view audiences which showed a threesome sex between an underage girl(A, aged 18) and 2 adult men at an one-room located in Gangnam-gu, Seoul.

They were accused of earning KRW 7 million by broadcasting a 20-minute length footage showing sexual intercourse scene to about 300 pay-per-view audiences, each paying more than KRW 20,000, via private internet broadcasting which was preceded by prior notice of the obscene broadcasting in November last year.

They were also accused of internet broadcasting of the pictures of specific body parts, such as legs, of women which they secretly took at Seocho-gu and Gangnam-gu and adjacent areas in Seoul, in April and May, respectively, by approaching them on pretext of interview(in violation of Act on the Special Cases of Punishment of Sexual Crimes and the Protection)[8].

In addition, immoral and anti-social behaviors have arisen from deviant acts of BJs bent on making money, such as real-time broadcasting to show the interior of adult entertainment establishments, exposure of privy body parts by male or female BJs, promotion of illegal internet gambling site while forcing 2-year old child to drink, smoking act of adolescents dressed in school uniform. Furthermore, new crimes have increased which involve blackmail and extortion, like hacking and manipulating computers of BJs remotely and threatening to shoot and disseminate videos showing naked body or sexual intercourse[9].

3.2. Problem of private internet broadcasting

3.2.1. Uncontrollable contents & revenue structure

Current problems lies in the mammonism that money holds the best value in capitalist society as illustrated in cases of BJs engaged in private internet broadcasting and bent on earning money even by unfair means. Particularly, Africa TV has revenue structure creating profits through star balloon and takes 40% commission. Thus, BJs are crazy for star balloons while viewers sometimes splurge, as if they were gambling, to give start balloons which in turn make them treated well and feel happy or superior.

Such broadcasting structure led to dissemination of videos that may provoke viewers such as self-injuring behaviors, cruel behaviors, violent behaviors, personal attack, illegal racing, real sexual intercourse, etc. Those videos are clearly giving rise to crimes not in virtual world but in real world which are spreading throughout the world via a media called ‘internet’.

Another issue is that adolescents are exposed to such videos that are not filtered, as well as adults.

3.2.2. Occurrence of crimes & issue of jurisdiction

Internet space provides a platform for unrestrained communication which is absolutely beyond control, and creates opportunities to encounter diverse and alternative entities. However, many immoral communication behaviors and criminal behaviors have
come to the fore as difficult and tricky problems citizens or countries speeding up internet civilization[9].

No law has been enacted to regulate criminal behaviors occurring in private internet broadcasting. Punishment is imposed only on criminal behaviors occurring offline and is limited to the portion of broadcasting using information and communication networks. In fact, restricting real-time private internet broadcasting is a challenge.

The most serious problem is that behaviors occurring in internet virtual space can be viewed simultaneously by all people accessing the internet throughout the world and therefore is unavoidably related to many countries. For example, uploading and viewing obscene contents in home country would correspond to territorial principle in connection with dissemination of obscene contents in virtual space, which is clearly punishable in Korea. However, such contents will be viewed by people in whole world if the uploading location is taken into consideration. In that regard, the issue of criminal jurisdiction cannot be overlooked, and furthermore, modes of punishment can be problematic.

3.2.3. Meager punishment for internet broadcasting

Regulation of internet broadcasting is based on internal rules or guidelines designed at the discretion of internet broadcasting platform operators. As star balloon, a new concept subscription fee, is the source of revenue for internet broadcasting platform operators, they will not go too far in regulating even when they monitor respective broadcasting. Even if they regulate, they may map out new policies or ease internal regulations, etc., to save BJs who bring revenues, thus encouraging crimes.

According to recent media report, internet broadcasting platform operators have revised or formulated policies, depending on situations and needs, and brought BJs back to broadcasting job even after they aroused criticism. In that way, internet broadcasting platform operators can take advantage of the fact that they can give BJs a slap on the wrist by revising internal policies anytime. Such platform which encourages even more provocative or exciting broadcasting is likely to be relegated to a space for deviation and means for earning money[10].

4. Regulatory Measures & Conclusion

Many problems have arisen from downside of private internet broadcasting which may also have many different beneficial and useful contents. To facilitate private internet broadcasting culture take root by promoting more useful and diverse contents, some regulatory measures need to be taken.

First, clear guidelines need to be laid out for threshold of broadcasting and criteria for contents when contracts are signed with individual BJs. Besides, education would be needed on broadcasting contents, along with review of qualification of BJs. Moreover, revenue amount needs to be adjusted to change current practice of paying thousands of won(Korean currency unit) at a time. That aims to prevent side effects comparable to those of game or gambling. For that, government should take measures to preclude promotion of negative commercialization.

Second, advancement of internet has made it tricky to apply conventional criteria related to exercise of jurisdiction and limitation in all aspects of routine lives. For such issues, a new paradigm is required[7].

New countermeasures need to be explored and international cooperation is essential. Out of such needs, international discussion has made progress to strengthen cooperation on criminal judicature for some crimes. In the meantime, international criminal law is confronted with a challenge to resolve issues arising from internet by properly limiting the exposure to the risk of unexpected criminal punishment which may result from behaviors in cyberspace[11].

Third, unambiguous criteria for harmful broadcasting need to be established. Harmful broadcasting itself should be regulated by enacting special laws governing private internet broadcasting and securing correct personal
information of those caught in involvement in criminal behaviors in broadcasting.

In-broadcasting criminal behaviors may be reduced by banning the broadcasting after providing information to each private internet broadcasting platform operators in tandem with special management in the event that in-broadcasting criminal behaviors constitute serious and violent crimes.

Companies also need to be punished strictly by laws if platform operators went ahead with broadcasting even the knowledge of in-broadcasting criminal behaviors.

Criminal behaviors in private internet broadcasting correspond to crimes committed actually offline, not merely via information communication networks, and are broadcast exactly as they are occurring. If they are not regulated in advance, private internet broadcasting can be a breeding ground for even more serious or imitative crimes.

Prevention is the most important because private internet broadcasting can be used only as a means of making money without regard to its potential criminality in this era taking monetary side as top priority, although private internet broadcasting also provides useful information and fun.

5. References

5.1. Journal articles


5.2. Thesis degree


5.3. Books


5.4. Additional references


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