

## Amended Provider Liability Limitation Act (Act on Measures against Information Distribution Platforms)

Corporate Newsletter

May 24, 2024

Authors:

[Noriya Ishikawa](#)

[n.ishikawa@nishimura.com](mailto:n.ishikawa@nishimura.com)

[Akiko Takiguchi](#)

[a.takiguchi@nishimura.com](mailto:a.takiguchi@nishimura.com)

### 1. Introduction

In recent years, harm caused by the sending of information that infringes personal rights, such as slander, via SNS or other telecommunication services has become an increasingly serious issue. In Japan, amendments have been made to the law concerning accelerated court proceedings for disclosure of **sender**<sup>1</sup> information requests. However, due to insufficient institutionalization of removal processes, issues remain for victims requesting post deletions.

Addressing these issues, the applicable law will be amended to require large platform operators to accelerate their responses to deletion requests and make their operations transparent, referring to similar systems elsewhere, such as the Digital Services Act in the EU and similar acts in other foreign countries. In doing so, the applicable law will be renamed<sup>2</sup> as the “Act on Measures against Infringements caused by Information Distribution through Specified Telecommunications” (the so-called “Act on Measures against Information Distribution Platforms” or, herein, the “**Act**”), an official translation of which will be published in English. Such amendment will become effective on the date specified by a Cabinet Order within a period not exceeding one year from May 10, 2024.

### 2. Outline of Measures Required to be Taken by Large Platform Operators

#### (1) Large Platform Operators

The Minister of Internal Affairs and Communications can designate large platform operators that are defined as those whose average number of monthly users are above a certain scale (the exact figures and calculation period will be specified in the applicable ministerial ordinance of the Act), and who have a particular need to accelerate deletion procedures and to make such procedures' operation status transparent (“**LPO**”) (Act; Art. 20, para. 1). Designated LPOs are required to file an application with the Minister of Internal Affairs and Communications within three months from the date of its designation as an LPO (Act; Art. 21, para. 1). Overseas operators also may be subject to the regulations under the Act.

The primary issues include the difficulty in identifying contact points for deletion applications, diffusion of information if deletion requests go inappropriately addressed, uncertainty as to whether an infringing content

---

<sup>1</sup> “**Sender**” means a person who records information in a recording medium of specified telecommunications facilities used by a specified telecommunications service provider, or a person who inputs information into a transmission device of specified telecommunications facilities.

<sup>2</sup> The law's current title is the “Act on the Limitation of Liability of Specified Telecommunications Service Providers for Damages and the Right to Demand Disclosure of Sender Identification Information.”

has been deleted if there were no notifications, and uncertainty over what will be deleted in cases where the operators' deletion policies are abstract. Accordingly, the Act requires LPOs to take the following measures.

## **(2) Accelerate the Procedures**

### **(a) Establishment and Publication of the Measure for Deletion Requests**

LPOs shall establish and publish measure for deletion requests by those claiming right infringement (Act; Art. 22, para. 1). First, LPOs shall ensure that deletion requests are capable of being made online (Act; Art. 22, para. 2, item 1). Also, as it is necessary to ensure that the measure for deletion requests does not impose an excessive burden on the applicant (Act; Art. 22, para. 2, item 2), for example, it is advisable to make it possible to apply in Japanese and to clearly and comprehensibly indicate the contact address for deletion requests. In addition, it is necessary to clearly indicate the date and time on which the deletion request was accepted (Act; Art. 22, para. 2, item 3).

### **(b) Establishment of System to Respond to Deletion Requests**

Upon receipt of a deletion request, LPOs shall conduct necessary investigations without delay, whether or not the rights of those who made the request have been infringed by the distribution of information (Act; Art. 23) and, in certain cases, shall appoint a person with sufficient knowledge and experience to conduct such investigation (Act; Art. 24, paragraph 1). The number of persons with sufficient knowledge and experience shall be greater than or equal to the number specified by the applicable ministerial ordinance of the Act (Act; Art. 24, para. 2).

### **(c) Decision and Notice of the Deletion Request**

LPOs shall decide whether the information is to be deleted based on the results of the investigations described in (b), and, in principle, within the period specified in the applicable ministerial ordinance of the Act within 14 days from the date of receipt of the request, notify the person requesting deletion as to whether the information has been deleted (and, if not, the reason therefor) (Act; Art. 25, para. 1). In order not to undermine LPO's ability to make proper decisions, in cases where there are unavoidable reasons, such as making inquiries to the sender relating to the potentially infringing information or the need to conduct more specialized investigations by a person with sufficient knowledge and experience, it is sufficient for LPOs to give notice of the reason for further consideration to the person requesting deletion within the period specified above (Act; Art. 25, para. 2).

## **(3) Transparency of Operation Status**

### **(a) Establishment and Publication of Deletion Policy**

From the viewpoint of transparency and effectiveness for users, in principle, LPOs can delete alleged infringing information only by complying with their deletion policy, which must be established by themselves and made publicly available by the period set out under the applicable ministerial ordinance of the Act (Act; Art. 26, para. 1). The policy should stipulate the information to be deleted and the standards for deletion as concretely as

possible, and should be easily understood by users and other stakeholders (Act; Art. 26, para. 2). It is notable that LPOs are required to make efforts to create and publish materials that organize examples of infringing information deleted according to the policy approximately once a year (Act; Art. 26, para. 4).

(b) Notice to the Sender When Deleted

In the event of a deletion, LPOs must notify or make it easily accessible to the sender that the deletion has been made and the reason for the deletion including the relationship between the deletion and the above policy (if relevant) without delay (Act; Art. 27).

(c) Publication of Operation Status

From the viewpoint of ensuring accountability by LPOs, it is necessary to publicly announce once a year the status of operations, including the status of response to deletion requests, the status of notification to the people requesting deletion, the status of notification to the sender and the status of measures taken, such as deletion, in accordance with the applicable ministerial ordinance of the Act (Act; Art. 28).

### 3. Enforcement

LPOs may be required to submit reports regarding their operations to the extent necessary (Act; Art. 29), and in the event of a violation of the regulations, LPOs shall be subject to corrective measures recommendations (Act; Art. 30, para. 1) or orders for corrective measures (in the case of non-compliance with a recommendation) (Act; Art. 30, para 2).

In order to respond to the business needs of our clients, we publish newsletters on a variety of timely topics. Back numbers can be found [here](#). If you would like to subscribe to the N&A Newsletter, please fill out [the N&A Newsletter subscription form](#).

This newsletter is the product of its authors and does not reflect the views or opinion of Nishimura & Asahi. In addition, this newsletter is not intended to create an attorney-client relationship or to be legal advice and should not be considered to be a substitute for legal advice. Individual legal and factual circumstances should be taken into consideration in consultation with professional counsel prior to taking any action related to the subject matter of this newsletter.

Public Relations Section, Nishimura & Asahi [newsletter@nishimura.com](mailto:newsletter@nishimura.com)