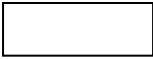


99-10 OECD

③

OECD

姜 聲 鎮

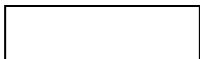


가
가 400 ,
500 , 98
500
OECD 가 . 1997 , 1998
(CCP) (ICCP)
1998 「
1999 「 가 」 .
1999 5 4 4 , 가
() , , ,
,



.	.....	9
.	OECD	..... 14
1.	.....	17
가.	.....	19
나.	.....	19
다.	.....	22
2.	.....	22
가.	.....	22
나.	.....	24
3.	.....	28
가.	.....	28
나.	.....	34
나.	.....	37
1.	.....	37
2.	.....	38
가.	.....	38
나.	.....	40
다.	.....	41
4.	.....	44
3.	.....	45
가.	.....	45

.		-47	
.		-49	
.		-49	
.		-50	
.	가 ()」		54
1.			55
2. 가			58
가.		-59	
.	1	-61	
.	2	-62	
.	3 가	-74	
.	4	-75	
.			76
1.			76
2.			78
			86
1	Ministerial Declaration on Consumer Protection in the Context of Electronic Commerce		91
2	Draft Recommendation of the Council Concerning Guidelines for Consumer Protection in the Context of Electronic Commerce		97
	Executive Summary		113



< 2-1 > OECD

< 2-2 >

< 3-1 > DAC 純

< 3-2 > DAC ODA/GNP

< 3-3 > DAC ODA

< 3-4 > DAC ODA

(1996)

< 3-5 > DAC

< 3-6 > DAC ODA

< 4-1 > ODA

< 4-2 > ODA ()

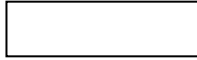
< 4-3 > ODA

< 4-4 >

< 4-5 >

< 4-6 >

< 5-1 >



- < 2-1> ODA
- < 3-1> DAC (net)
- < 3-2> DAC ODA (net)
(1950 1997)
- < 3-3> 1997 DAC ODA (net)
- < 3-4> DAC ODA /GNP
(1997)
- < 3-5> ()
- < 3-6> LLDCs
- < 3-7>
- < 3-8>
- < 4-1> ODA
- < 4-2> (1997)

(Business-to-Consumer Electronic Commerce)가
 가 , 1997
 9,600 , 1998 1 4,000
 , 2001 3 , 2005 10
 .¹⁾
 가 , 가
 . 1997
 (Forrester Research) 1998 - -
 가 29 .
 1998 가 78
 .²⁾
 (ECOM) 3)

1) OECD. Sep. 1998. *Draft Recommendation of the Council Concerning Guidelines for Consumer Protection in the Context of Electronic Commerce* [DSTI/CP(98)4/REV2] ; OECD. *Measuring Electronic Commerce: International Trade in Software* [DSTI/ICCP/IE(98)3/FINAL].

2) James L. McQuivey, et. al. Nov. 1998. *Retail's Growth Spiral*. [<http://www.forrester.com>]

3) 井關勝博. 1999. 5. 27. インタ - ネットショッピングにおける信頼性確保の爲のオンラインマ - ク制度 . 3

1998	- -			191
7,000	5 4,000		.	
가 2003	385	83	가	
	.		가	.
	가	,		
	.	가		
	,		, 1996	
	1998 1	150 , 1999 2		
350			. ⁴⁾	
가	,	1999 2		
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500		. ⁵⁾	1997	
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1997	,	,	,	
가	.	1998 2	'	
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4) ' 1 , 1999 5 가 720 . 1999 5 14 ' .

5) . 1999. 2. ' ' .

가 ‘ , ‘ ,
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 , (ㄴ) , (ㄷ)
 , (ㄹ)

(ㄴ) 가
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 가 가 . 1998 12

1999

1

1998

, 1999

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 .⁷⁾ (ㄱ)
 , (ㄴ) , (ㄷ)
 , (ㄹ) , (ㄷ) , (ㄴ)
 , (ㄹ)
 . 1998

6) . 1998. 2. 「

7) . 1999. 2. 「1999

가 가 .
 가 (ㄱ) , (ㄴ)
 , (ㄷ)

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가 가 , 가 가
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가 .

가

. 8)

8) OECD. *Proceedings of the Ottawa Ministerial Conference* [SG/EC (99)1].

OECD()

가

가 가
가

OECD

OECD

OECD

가

OECD

가

, OECD가

가? ,

OECD

가? OECD

가

()

가 가

OECD

OECD, WTO, APEC, UNCITRAL, ISO, ICC⁹⁾

가 가 .
가 OECD
1990 - -
1997 .¹⁰⁾
5 , 7
.¹¹⁾
OECD
1995 5
OECD . (Committee
for Information, Computer and Communications Policy: ICCP)

9) . OECD(Organization for Economic Co-operation and Development:), WTO (World Trade Organization:), APEC (Asia Pacific Economic Cooperation:), UNCITRAL(United Nations Commission on International Trade Law:), ISO(International Organization for Standardization:), ICC (International Chamber of Commerce:).

10) OECD ICCP. *Business-to-Consumer Electronic Commerce Survey of Status and Issues* [DSTI/ICCP/AH(97)1].

11) U.S. Government. July 1. 1997. *A Framework for Global Electronic Commerce*. [<http://www.iitf.nist.gov>]

(Global Information
Infrastructure and Global Information Society)

(Statement of Policy Recommen-
dation) 5

OECD

가

가

¹²⁾

OECD (Com-
mittee on Fiscal Affairs: CFA), (Committee on
Consumer Policy: CCP)

(Directorate for Science,
Technology and Industry: DSTI), (Directorate
for Financial, Fiscal and Enterprise Affairs: DAFFE)

. OECD

가

1997 11

1998 10

OECD

12) OECD. *Global Information Infrastructure and Global Information Society* [OECD/GD(96)93]. [http://www.oecd.org/dsti/gd_docs/gdlist_e.html]

1999 10

OECD

< 1 >

OECD

◦ (DSTI)	◦ (ICCP)	◦ ◦ ◦ ◦ ◦ ◦
◦ (DAFFE)	◦ (CCP) ◦ (CFA)	◦ ◦
◦ (DFAF)	◦ (AGR)	◦
◦ (Trade Directorate)	◦ (TC)	◦
◦ 學際的 (AUMI)		◦ ◦
◦ (DEELSA)	◦ (ELSA)	◦ ◦
◦	◦ (PUMA)	◦ - - EC

: . 1998. 12. 「OECD
」p. 4

OECD < 1>
 . OECD 가
 , , , .
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 .¹³⁾
 OECD (CCP)
 OECD
 (ICCP) (DSTI)
 .
 가
 1.
 OECD . . (‘ ,)
 .
 1980 가
 가 (Guidelines on the Protection of Privacy
 and Transborder Flows of Personal Data) . 가

13) OECD. *Electronic Commerce Proposed Meeting to Follow Up the Ottawa Ministerial [SG/EC(99)2]*.

1990

(Global Information Society: GIS)가

가 . 1994 EDI

, 1995 ‘

’(the Economics of the Information Society)

, , , ,

.

1996

.

(Working Party on Telecommunication and Information Services: WPTISP)

, (Working Party on Information

Economy: WPIE)

, ,

(Working Party on Information Security and Privacy: WPISP)

1997

.

.¹⁴⁾

가

1997 2 「 - - :

14) OECD ICCP. *Overview of OECD Work Bearing on Electronic Commerce*; . 1998. 「 OECD 」

OECD가

15) 6 「 : 16) 9
「 17) 가 .

가. 「 - - : 」

- -

OECD 1996

가 , 1996

- - 5

3 4

(Forrester Research)

2000

- -

66

1

. 「 : 」

가 (Ad-hoc

15) OECD. *Business-to-Consumer Electronic Commerce: Survey of Status and Issue*. [OECD/GD(97)219].

16) OECD. 1997. *Electronic Commerce - Opportunities and Challenges for Government*, Paris. [<http://www.oecd.org/dsti/sti/it/ec/index.htm>] ;
. 1998. 「 : 」

17) OECD. 1998. *Intermediation and Electronic Commerc.* [DSTI/ICCP/IE(98)4/Final].

Group of High-level Private Sector Experts on Electronic Commerce) , (John Sacher)

OECD

1997

가

가

OECD

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가

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		° CIO , °
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		° , TV, ° - -
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		° ,
		° ° °
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		° ,

: OECD. 1997. 6. *Electronic Commerce: Opportunities and Challenges for Government*

가
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 가
 , CD, 가
 가
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2.

가.

가 2
 .
 (ㄱ)
 , (ㄴ) , (ㄷ)
 , (ㄹ) . , (ㅁ)
 , (ㅂ)
 , (ㅇ)

가 .

가

18)

가

, 24

, 가

가

가

가

(ㄱ)

, (ㄴ)

, (ㄷ)

, (ㄹ)

가

(ㄱ)

, (ㄴ)

, (ㄷ)

18) OECD. *Dismantling the Barriers to Global Electronic Commerce*. [<http://www.oecd.org/dsti/iccp/e-commerce/dismantl.htm>]

(㉑) , (㉒) ,

(㉓) .

‘ ,

가 ,

가

가

가 ,

가

.

29 OECD , , 700 가 1998 10

7 9 ‘OECD

’ 1997 11 가

. 가

(Action Plan)

< 3>

10 8	1	:	°
10 8	2	:	° ,
10 8	()	OECD :	° OECD

가 가
 가 ,
 19) (< 3>).
 가
 20) 가 . 1997
 9,600 , 2005 10
 1,000

19)

20) OECD. *Consumer Protection in the Electronic Marketplace* [DSTI/CP (98)13 / REV2].

. . . .

가 ,

가 ,

가 가 - - .

1

, ,

· (ㄱ) , (ㄴ)

, (ㄷ)

가

가

가

1)

가
가 가 ,
가 .

2)

가
가 ,
가 .

3)

가 .
가 , ,
가 .

4)

가 .

가 .

5)

가

가

가 .

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6)

가

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가

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3.

가.

OECD

(CCP) 1969

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6 ,

1

7

21)
 .²²⁾ 80
 , 90
 .
 가
 1996 , 1997 , 1994
 (chargebacks) ,²³⁾ ,²⁴⁾ ,²⁵⁾

21)
 ○ OECD (1989)
 ○ (1977)
 ○ (1977)
 ○ (1979)
 ○ (1981)
 ○ - (1982)
 ○ (1983)(. 1997. 11. "OECD
 가 , " 「 」).

22)
 OECD
 1997 2 ()
) ,
 (DAFFE) (DSTI) ,

23) OECD. *Parcel Delivery in the Global Marketplace* [DAFFE/CP(95)9]; *International Parcel Delivery: Main Issues for Discussion* [DAFFE/CP(96)14].

24) OECD. *Consumer Redress in the Global Marketplace: 'Chargebacks'* [OECD/GD(96)142].

25) OECD. *Overview of Distant Selling Codes of Practices in Member Countries* [DAFFE/CP/CM/WD(96)1].

1997 OECD 가
 1997 3 ‘
 : ,26)
 , ,
 , (ㄱ)
 , (ㄴ)
 가 , (ㄷ)
 , (ㄹ)
 , (ㅁ)

가 (Recommendation of the Council Concerning Guidelines for Consumer Protection in the Context of Electronic Commerce)(

가)
 1997 가 가
 가
 Steering Group

26) OECD. *Gateways to the Global Market: Consumers and Electronic Commerce* [DAFFE/CP(96)12].

가 . . 가
(Project Team) 1997 .

(John Rothchild)

7 가 15 가 ,
1997 9 8 54 가

가

3

, 1998 3 18

OECD

(DSTI)

3

, 가 1998 4 4

. 가 OECD

가 , 1999 5

4 (Draft 4 / Revision 4)

, 1998 9

55 '가 '(Working Group for
Guidelines)

10 가가

(David White)

가 (難産)

가 가 ,

가 1997

가

가

가

OECD

가

가

EU

가

EU

가

가

가

27)

가

가

(Business, Industry Advisory Committee:

BIAC)

(Consumers Interna-

tional: CI)

가

27) 가

가

가

가

가 ()

가? 가

가 가

1998 9

28) , 1999

29) ,

가 4 4

, 5

1999 9 9 10 57

가

() ,

() 1999 가

28) OECD. *Project Plan: Consumer Protection for Electronic Commerce [DAFFE/CP(97)9/REV1]*.

29) OECD. *Consumer Protection Guidelines for Electronic Commerce Draft Timetable II for the period March 1999-September 1999 (DSTI Room Documents No.1 March 23-24 1999)*.

1)

가

가

2)

가
가 가

3)

)

4)

가

가

가

.

. 「 」

1.

OECD 가 1998 9

가

.가 ()

10

가

가 ()

(Ministerial

Declaration on Consumer Protection in the Context of Electronic
Commerce ; ‘ ,) .

가

,

1999 5

가

OECD

가

가

,

가 ³²⁾ (ㄱ) (ㄴ)
 , (ㄴ) 가 , (ㄷ)
 , (ㄹ)

OECD 가 , (ㄱ)
 , (ㄴ) , (ㄷ) , (ㄹ)
 (ㄴ) 가 .
 OECD 가
 , 가 1999

2.

가.

가 가 가 ,
 가 가 가
 가 가
 가 가
 가 가

32) < 1 > .

가
 가
 5,800 가 70%
 가
 , 가 16%
 (CommerceNet / Nielsen)
 가 .³³⁾
 - - 가
 .
 OECD
 , , , , , 가
 .
 80% .³⁴⁾ 가
 가
 . 1995 9
 가 214 , 1998 2 6,500 ,
 1999 3 1 3,600
 .³⁵⁾

33) CommerceNet and Nielsen Research, "CommerceNet / Nielsen Media Demographic and Electronic Commerce Study, Spring 1997." [http://www.commerce.net/work/pilot/nielsen_96/press_97.html]
 34) OECD. *Webcasting and Convergence: Policy Implications* [DSTI/GD (97) 221].
 35) OECD. Aug. 1998. *The Economic and Social Impact of Electronic Commerce* [DSTI/ICCP (98) 15 / PART1].

가 “

가 ”

가

³⁶⁾

OECD

‘ 가 ’ 가

가

가

가

가

³⁷⁾ ‘ 가 ’ 1998

10

가

가

가

가

가

가

가

36) The Department of Commerce. 1998. *The Emerging Digital Economy* ; (), 1999. 『 pp. 211-219. : 21 .

37) . 1998. 9. 『 ()

가

32

가

가 10%

38)

“

가 ,

”

가

가 가

가

1998

가

60.9%가

39) 가

가

가 가

1998

(Business Week)

가

38) http://www.ey.com/wired/pricing_survey

39) EC . 1998. 12. 22. 「'98
p. 12.

1,152 , 1998
가 7,752 .⁴³⁾
1998 10

1999 4
18
가 ,
가

가

가
가
50% 가 가
가 (E-mail)

가

50%
가

43) National Consumer League. Sept 10. 1997. *Media Advisory* ;
1998. 5. ^ㅍ

가 .44) 107

, 38.4% 가 , 가

43% .45)

“ ” .

44) 가 (physical goods) (digitized goods)

, 가 가 .
가
가 , 가 ,
가 가 .

45) . 1998. 11. ㉔

(Alternative Dispute

Resolution: ADR)

가

3.

가.

“ , ” 가

가

, ()

가 ,⁴⁶⁾

가 (Fair Trade Commission Act) ,

가
 (commercial message) (contents)
 가 . 가 가
 .47)

. 1997 7 ‘
 , 1998 11 「
 (The Internet Tax Freedom Act), 「
 (The Digital Millennium Copyright Act), 「
 (The Government Paperwork Elimination Act) 「
 (The Children's Online Privacy Protection Act)

46) . 1998. 9. “ ”
 . 「 ;
 . 1998. 「 : .
 47) . . p. 6.

가

48)

“

”

가

49) ‘

가

가

가

가

가

가

(digitized goods)

가

-
- 48) U.S. Government Working Group on Electronic Commerce. Nov. 1998. *First Annual Report*, p. iii.
 - 49) U.S. July 1, 1997. Government. *A Framework for Global Electronic Commerce*. [<http://www.iitf.nist.gov/eleccomm/ecom.htm>]

2 3 가 (code of conducts) . OECD 1998 ,⁵⁰⁾ 가 「⁵¹⁾ 「 (BBB) 「 (ICC) 「 가 ,⁵²⁾ 가 가

50) OECD. *A Global Action Plan for Electronic Commerce Prepared by Business with Recommendations from Governments* [SG/EC (98)11/REV2].

51) http://www.fmmc.go.jp/associations/cba/index_english.html

52) 1998 9 21 . . (Committee on Commerce, Science, and Transportation)가 「WWW

「 (Robert Pitofsky) “ 가 3

1998 3

가 ”

(FTC, *Privacy Online: A Report to Congress*). [<http://www.ftc.gov/reports/privacy3/index.thm>]

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 .
 “
 ”
 .
 . ‘ ‘ ‘ ‘
 가 . 가
 .
 가 가
 가 가
 ,
 .
 .
 “ ‘ ‘ ‘ ‘
 ”
 .
 ‘ ‘ ‘ ‘
 .

가? “ , . 가 ” . 가? , . 2 < 4> , , . (contact points) .

1992
(International Marketing Supervision Network: IMSN)⁵³⁾가

53) 1991 EFTA EU IMSN OECD 1992 30 가 , 가 , 1999 2000 가 .

< 4 >

가 .	. . .
OECD	◦ (97. 3)
	◦ (98. 10)
	◦ (98. 10)
	◦ (98. 10)
APEC	◦ 9 APEC (97. 11)
	◦ APEC (98. 11)
WTO	◦ (98. 5)
UNCITRAL	◦ (96. 5)
	◦ . (98. 11)
	◦ . (98. 9)
	◦ . (98. 6)
	◦ . (98. 5)
	◦ .EU (97. 12)
	◦ . (97. 10)
	◦ Bonn (97. 7)

3

. 54)

, EU

54) IMSN, "About IMSN / RICC." [http://www.imsnricc.org/imsn/aboutimsn.htm]

55)

, (joint action) . 가 ‘
, (Internet Sweep Day) .

1997

20

56)

가

가

55) <http://europa.eu.int/comm/dg24/policy/developments>

56) ACCC. March 16. 1998. *The International Internet Sweep Day Result presented in the IMSN meeting. Ireland.*

. 「 가 () 」

() 가 () (‘ 가
())

,
가

. 1999 5
4 4 57)

가 가

. 가 () OECD
(Preamble) 가 (Annex)

(Explanatory Memorandum) . 가

, OECD

. 1999 5

. 가

.

57) OECD 가 4 <
2 > (OECD DSTI. 1995. 5. Working Draft Rev 4.1) .

1.

가 ,
 가 ,
 . 가 ()
 가 OECD .

(ㄱ) 1998 10 7 9

(ㄴ) 1980 가 OECD
 가 1998

(ㄷ) 1998

(ㄹ) 1992 OECD 가 1997
 OECD 가

가

가 , ,
 가 .
 OECD 가
 가
 가 .
 가

(ㄱ)

(ㄴ)

가
가

(ㄷ)

(ㄹ)

(ㅁ)

가

1998

가

가

가

가

가

가

, 40

, 가

. 96%

4

TV, ,
(Information Appliance)가

40%

. 58)

가

(ㄱ)

가

(ㄴ) 가

(ㄷ)

58)鈴木茂樹 1999. 5. 27. 電子商取引を巡る日本の動向
(ECOM) 3

(㉔) 가 , , , .

(㉕) 가 , .

· , 가 ()

· , OECD 가 가

() 가 .

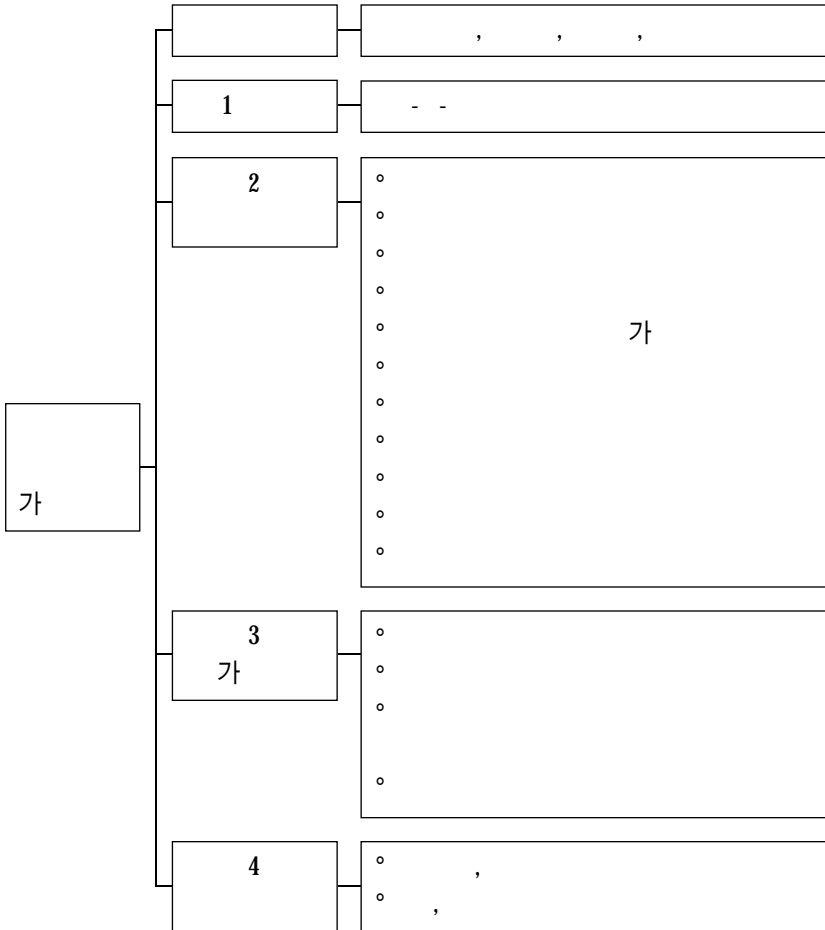
2. 가

가 , , , 가

OECD 가

· 가 < 1> .

< 1> OECD 가



가.

가 () 4 4
(Electronic Commerce), (Consumer),

< 5>

2	4
<p style="text-align: center;">가 가</p> <p style="text-align: center;">가 , , ,</p> <p style="text-align: center;">, ,</p> <p style="text-align: center;">.</p>	<p style="text-align: center;">가 가</p> <p style="text-align: center;">, , , , , ,</p> <p style="text-align: center;">.</p>

(Business), (Goods and Services) 가

.

가 . 4

3 , , , ,

가 가 .

가 ()

가 .

2 4

< 5> .

가 (com-puter networks) (electronic net-works)

. 59)

59) 가 , electronic communication networks , EU telecommunications networks , BIAC

(electronic means),

60)

61)

1

3

가

- -

- -

electronic commerce infrastructure

WTO

“

”(the

production, advertising, sale and distribution of products via telecommunication networks) “telecommunication networks”

(WTO. 1998. 3. *Electronic Commerce and the Role of the WTO*,

p. 3 ; . 1998. ㉞

♣

, p. 19).

60)

가 .

61)

가

가

(

2).

. 2

가

10

가

1) (Transparent and Effective Protection for Electronic Commerce)

가

가

가

OECD

2) (Fair Business Practices)

4

. 가

()

가

(ㄱ)

(ㄴ)

(ㄷ)

(ㄹ)

(ㅁ)

가
 , OECD 가
 가
 가
 가
 가

3) (Online Advertising and Marketing)

가
 가
 OECD 가

. 62)

가

(ㄱ)

(ㄴ)

(ㄷ)

(ㄹ)

(ㅁ)

가

62)

a)

b)

c)

가

d)

,가

e)

가

f)

가

g)

가

가

4)
(Online Identification on the Business)

가 . ,
,

. 가 가

(ㄱ)

(ㄴ)

(ㄷ) ,

(ㄹ) , 가

(ㅁ) 가 가 ,

(ㄴ) ,

5) (Contractual Information)

, 가 .
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 가

. III

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 가 가

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 가 가 , OECD 가
 가

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(ㄷ) (, , , ,)
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(ㄹ)

(ㄺ)

(ㄻ) 가

(㉠) (

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(㉡)

(㉢)

(㉣) ,

(㉤)

가 . 가 가
 가 가 “
 가 가 ”
 . “
 가 ,
 가 ”

가 ,

가

BIAC

,

.

6) (Confirmation Process)

가 . 가 “

” ,

가

.

- (ㄱ)
- (ㄴ)
- (ㄷ)
- (ㄹ)
- (ㅁ)

7) (Consumer Complaints and Dispute Resolution)

가 . ,

가 .

(ㄱ) . ,

(L)

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3

(E)

가

(Cooling-off)가

가
Directive on Distant Contract)

EU
가

(EU
EU

가

가

가

가

(㉞) 3

(㉟)

가 가

(mandatory rules)

2
가

“

가

가

” 63)

가

, 4

, EU
가

가

가 ,

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63) In no case should the applicable law result in depriving the consumer of the protection afforded to him or her by the rules of the mandatory law of the country in which he or she resides.

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**MINISTERIAL DECLARATION ON CONSUMER PROTECTION
IN THE CONTEXT OF ELECTRONIC COMMERCE**

to be made by OECD Ministers
at the Conference "A Borderless World :
Realising the Potential of Global Electronic Commerce"
7-9 October 1998, Ottawa, Canada

The Governments of OECD Member Countries*

CONSIDERING :

that both the volume and value of consumer transactions on the global network are increasing exponentially ;

that global networks offer consumers substantial benefits, including convenience and access to a wide range of goods, services and information ;

that the potential benefits will not be realized if consumer confidence in commerce conducted over global networks is eroded

* Including the European Communities.

by the presence of fraudulent, misleading and unfair commercial conduct ;

that confidence in commercial activities conducted over global networks will be fostered by transparent and effective consumer protection mechanisms and is essential to encourage consumer participation in the electronic marketplace ; and

that global co-operation among governments, businesses, consumers, and their representatives, is a necessary prerequisite to achieving effective and predictable consumer protection in the context of electronic commerce.

RECOGNISING :

the need for government, business, consumers and their representatives to continue to work together on the development of a framework for global electronic commerce that includes effective protection for consumers ; and

the continuing dialogue within the OECD among governments, businesses, consumers, and their representatives, to examine consumer-related issues, and, in particular, the ongoing work of the organisation, through its Consumer Policy Committee, to develop guidelines for consumer protection in the context of electronic commerce.

DECLARE THEIR DETERMINATION TO ensure that consumers who participate in electronic commerce are afforded a transparent and effective level of protection for electronic transactions by :

reviewing and adapting laws and practices, if necessary, to address the special circumstances of electronic commerce ;

supporting and encouraging the development of effective market-driven self-regulatory mechanisms that include input from consumer representatives, and contain specific, substantive rules for dispute resolution and compliance mechanisms ;

encouraging the development of technology also as a tool to protect consumers ;

taking steps to educate users, fostering informed decision-making by consumers participating in electronic commerce, and increasing business awareness of the consumer protection framework that applies to their online activities ; and

increasing awareness among judicial and law enforcement officials of the need for effective international co-operation to protect consumers and combat cross-border fraudulent, misleading and unfair commercial conduct.

FURTHERMORE, THEY AFFIRM THEIR DETERMINATION :

to develop effective guidelines whose purpose is to enhance consumer confidence in electronic commerce transactions while encouraging the development of the global marketplace; and

to urge the OECD to complete its work to draft guidelines within 1999, more specifically as pertains to consumer protection issues including, for example, full and fair disclosure of essential information, advertising, complaint handling, dispute resolution, redress as well as other relevant issues in consumer protection.

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**DRAFT RECOMMENDATION OF THE COUNCIL CONCERNING
GUIDELINES FOR CONSUMER PROTECTION
IN THE CONTEXT OF ELECTRONIC COMMERCE***

THE COUNCIL,

- (1) Having regard to the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960, in particular Article 5 ;

- (1b) Having regard to the OECD Ministerial Declaration on Consumer Protection in the Context of Electronic Commerce adopted by Ministers at the Ottawa Ministerial Conference on 7-9 October 1998 ;

- (1b-i) Having regard to the 1980 OECD Guidelines for the Protection of Privacy and Transborder Flow of Personal Data, and the OECD Ministerial Declaration on the Protection of Privacy on the Protection of Privacy on Global Networks (1998) ;

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- (1b-ii) Having regard to the OECD Ministerial Declaration on Authentication for Electronic Commerce (1998) ;
- (1b-iii) Having regard to the OECD Guidelines for Security of Information Systems (1992), and the OECD Guidelines on Cryptography Policy (1997) ;
- (3) Recognising that global networks may offer consumers substantial benefits, including convenience and access to a wide range of goods and services ;
- (1c) Recognising that certain special characteristics of electronic commerce; such as the ease and speed with which information can be provided and the lack of intrinsic geographical boundaries ; may create new commercial situations that are unfamiliar to consumers and may put their interests at risk ;
- (1d) Recognising that consumer confidence in electronic commerce is enhanced by developing transparent and effective consumer protection mechanisms that limit the presence of fraudulent and misleading or unfair commercial conduct online ;
- (1f) Recognising that global networks should be open and accessible to all consumers ;
- (1g) Recognising that the international nature of global networks makes it potentially more difficult, and even more important

for consumers and businesses to be aware of their rights and obligations in the electronic marketplace ; and

RECOMMENDS THAT MEMBER COUNTRIES :

- (8) Take the necessary steps to implement the Guidelines contained in the Annex attached to this Recommendation ;
- (7) Widely disseminate the Guidelines to all relevant governmental departments and agencies, to business sectors involved in electronic commerce, to consumer representatives, to the media, to educational institutions, and to other relevant public interest groups ;
- (9) Invite non-member countries to take account of the terms of this Recommendation in reviewing their consumer policies and regulations ;
- (10b) Consult, co-operate, and facilitate information sharing among themselves and other non-member countries, businesses, consumers, and their representatives, at both national and international levels, in providing consumer protection in the context of electronic commerce in accordance with the Guidelines contained in Annex I.
- (11c) Encourage businesses, consumers, and their representatives to

take an active role in promoting the implementation of the Guidelines

INSTRUCTS :

- (11) The Committee on Consumer Policy to exchange information on progress and experiences with respect to the implementation of this Recommendation, review that information and report to the OECD Council in 2001 and, as appropriate, thereafter.

**Annex to the Draft Recommendation of the Council
Concerning Guidelines for Consumer Protection in the
Context of Electronic Commerce**

GUIDELINES

DEFINITIONS

For the purposes of these Guidelines :

- (15) Electronic Commerce -Commercial transactions involving the transfer of information, goods, services or payments via electronic networks -including the use of Internet as the medium through which and services of economic value can be designed, produced, advertised, catalogued and inventoried, purchased, delivered and/or accounts settled.
- (13) Consumer -A natural person acting outside his or her trade or profession, who seeks, acquires or uses goods and services for personal, family or household use.
- (12) Business -Any natural or legal person acting in a commercial or professional capacity that sells and services either to consumers directly or through an agent.
- (12 a) Goods and Services -The full range of consumer purchases whether delivered physically or digitally.

PART ONE
SCOPE

These Guidelines apply only to business-to-consumer transactions carried out over electronic communication networks.

PART TWO
GENERAL PRINCIPLES

(17) I. TRANSPARENT AND EFFECTIVE PROTECTION FOR
ELECTRONIC COMMERCE.

(18) Consumers who participate in electronic commerce should be afforded a transparent and effective level of protection for electronic transactions that is equivalent to the level of protection afforded through other forms of commerce.

(18-2b) Governments, businesses, consumers, and their representatives should work together to ensure that such protection is applied by reviewing and adapting laws and practices, where necessary, to address the special circumstances of electronic commerce.

I-A. FAIR BUSINESS PRACTICES

(I-A-1) Businesses should not make any representation, or omission,

or engage in any practice that is likely to be deceptive, misleading, fraudulent or unfair.

(I-A-2) Businesses should not engage in any practice that causes, or is likely to cause, substantial injury to consumers.

(I-A-3) Whenever information is made available regarding a business or the goods and services it offers, it should be stated in a clear, conspicuous, accurate and easily accessible manner.

(I-A-4) Businesses should take into account the global nature of electronic commerce and respect the market characteristics of the markets in which they trade.

(I-A-5) Businesses should not exploit the special characteristics of global networks to hide their true identity or location, or to avoid compliance with consumer protection mechanisms.

II-A ONLINE ADVERTISING AND MARKETING

(II-A-1) Online advertising and marketing should be carried out in accordance with good marketing practices.

(II-A-2) Online advertisers and marketers should, at a minimum, respect the following principles where applicable:

- (i) Businesses should have substantiation for any express or implied claims.
- (ii) Advertising and marketing should be clearly identifiable as such.
- (iii) Businesses should be encouraged to develop and implement simple procedures that make it possible for consumers to decline the receipt of commercial e-mail messages.
- (iv) Businesses should not send unsolicited commercial messages to consumers who have indicated that they do not wish to receive such messages.
- (v) Businesses should take care not to exploit their natural credulity who address of children and other vulnerable groups who may not be able to appreciate the range of information that they are presented.

(19) II ONLINE IDENTIFICATION OF THE BUSINESS

- (20) Businesses engaged in electronic commerce with consumers should provide accurate information about their identity and the physical location, and about the products and/or services goods and services they offer online.
- (21) Such information should be easily accessible on the site where the offer is made, and can include, but not necessarily be limited to :
 - (i) the name of the business;

- (ii) the physical address of the business, or if not applicable its address for registration purposes;
- (iii) e-mail address, telephone, and facsimile numbers that allow consumers to quickly and effectively contact the business;
- (iv) if existing any relevant registration or license number;
- [(vi) where the business is subject to an authorisation or certification scheme, the activities covered by that scheme, and the coordinates of the authorising or certifying authority ; and]
- [(vii) if existing, relevant codes of conduct.]

II-B CONTRACTUAL INFORMATION

- (25) Consumers should be provided with all information related to the terms and conditions of a sale.
- (26) This information should be provided before the conclusion of the contract and can include, but not necessarily be limited to :
 - (i) all costs to the consumer, such costs can include, but not necessarily be limited to: delivery, postage and handling, insurance, taxes and duties ;
 - (ii) period for which the offer is valid;
 - (iii) terms of delivery;
 - (iv) terms, conditions, and methods of payment, indicating the

- currency and including any available credit options;
 - (v) the possibility of any restrictions, applicable limitations or conditions of purchase, including: parental /guardian approval requirements for minors and other vulnerable populations, and any geographic limitations to the validity of the offer ;
 - (vii)
 - (viii) information relating to after-sales service ;
 - (ix) details of any cooling-off period ;
 - (x) conditions related to return, exchange, cancellation and/or refund policy information ; and
 - (x-ii) any applicable warranty provisions ;
- (27) Additional information should be provided to address particular aspects of goods and services delivered digitally, such as technical requirements or transmission details.
- (28b) Consumers should have an adequate opportunity to view the contractual information before being asked to accept the offer
- [(28c) Fair contract terms must be used, taking into account the special characteristics of electronic consumer transactions.]

II-C CONFIRMATION PROCESS

- (29) Consumers should be able to indicate clearly that they intend

- to make a purchase in a manner that allows them to both maintain a complete and accurate record of the transaction and to identify themselves.
- (30) Mechanisms should be developed and implemented online to provide consumers with a multi-step confirmation process. Such mechanisms could allow a consumer to :
- (i) express his or her interest in buying ;
 - (ii) review and accept the contractual information ;
 - (iii) receive notice from the business acknowledging receipt of the order ;
 - (iv) correct or reject any errors ; and
 - (v) confirm and accept the offer.
- (32) IV. CONSUMER COMPLAINTS AND DISPUTE RESOLUTION
- (33) Governments, business and consumer representatives should work together to develop mechanisms and transparent procedures to address and respond to consumer complaints, and assist consumers in obtaining redress and pursuing the resolution of disputes arising from business-to-consumer electronic commerce.
- (34) Governments, business and consumer representatives should employ computer technologies innovatively facilitate the education of consumers, provide easy-to-use mechanisms for the redress of consumer complaints, and provide support for

alternative dispute mechanisms.

- (34c) Businesses should establish fair and effective policies and internal mechanisms to address and respond to consumer complaints and difficulties within a reasonable time, in a reasonable manner, without undue cost or burden to the consumer, and without prejudice to judicial redress.
- (34b) Such policies and internal mechanisms should be based on business practices set forth in voluntary, self-regulatory codes related to consumer protection should that set forth standards of business practice and that establish affordable, effective consumer complaint and dispute resolution mechanisms for online consumers, and promote voluntary alternative dispute resolution mechanisms. Such voluntary practices and procedures can include, but not be limited to :
- (i) providing online information about the existence of consumer complaint services and relevant dispute resolution mechanisms ;
 - (ii) the timely receipt, acknowledgment, and handling of consumer complaints ;
 - (iii) dealing with complaints fairly, thoroughly and in manner which would assist any further examination which may be necessary such as referral to a dispute resolution mechanism ; and
 - (iv) providing a notice to consumers regarding any available third party dispute resolution mechanisms ; and

- (vi) promptly informing the consumer of the outcome.
- (31b) Existing cooling-off rules should be applied to online business-to-consumer transactions.

APPLICABLE LAW AND COMPETENT FORUM

- (23b) Business-to-consumer cross-border transactions, whether carried out electronically or by more conventional means, are subject to the existing framework of legislation on jurisdiction and applicable law.
- (23c) Governments should consider whether the existing rules of conflict of law and jurisdiction should be modified to take account of special characteristics of the online medium.
- (23d) In reviewing the rules on conflict of law and jurisdiction, governments should consider :
- (i) provisions in which a choice of law made by the parties would not deprive the consumer of the protection afforded to him or her by the mandatory rules of the law of the country in which he or she resides ;
 - (ii) giving the consumer the right to have any dispute heard in the courts of the state where he or she resides ;
 - (iii) giving the consumer the right to have any judgement made in the court of the state in which he or she

resides recognised and enforced by the court of the other state where the business is established ;

- (iv) ensuring that consumers are not deprived of their rights through the use of a third party jurisdiction ;
- (v) ensuring that product safety laws are respected.]

(35) V. PRIVACY

- (36) Business-to-consumer electronic commerce should be conducted in accordance with the recognised privacy principles set out in the 1980 OECD Guidelines for the Protection of Privacy and Transborder Flow of Personal Data, and taking into account the OECD Ministerial Declaration on the Protection of Privacy on the Protection of Privacy on Global Networks (1998), to provide appropriate and effective protections for consumers.

(38c) VII. EDUCATION AND AWARENESS

- (38d) Governments, business and consumer representatives should work together to foster informed online decision-making by consumers, and to increase business awareness of the consumer protection framework that applies to their online activities.

- (38e) Governments, business, the media, educational institutions and consumer representatives should make use of all effective

means to educate consumers and businesses, including innovative techniques made possible by global networks.

PART THREE
NATIONAL IMPLEMENTATION

- (39) In implementing the principles set forth in Part Two at the national level, Member countries should :
- a) review and adapt laws and practices, if necessary, to address the special circumstances of electronic commerce, having in mind the principles of technology and media neutrality ;
 - b) encourage the development of effective self-regulatory mechanisms that include input from consumer representatives, and contain specific, substantive rules for dispute resolution and compliance mechanisms ;
 - c) encourage private sector leadership in the development of technology also as a tool to protect and empower consumers ;
 - [f) work with business and consumer representatives to encourage the designation of national contact points for consumer information, advice and complaints concerning electronic commerce and encourage their international co-operation and communication.]

PART FOUR
GLOBAL CO- OPERATION

- (40) In order to provide effective consumer protection in the context of global electronic commerce :
- (41) Member countries should facilitate communication, cooperation, and, where appropriate, the development and enforcement of joint initiatives at the international level among businesses, consumer representatives and governments.
- (42) Governments and judicial, regulatory, and law enforcement authorities of Member countries should cooperate at the international level, as appropriate, through information exchange, coordination, communication and joint action to combat cross-border fraudulent, misleading and unfair commercial conduct.

Executive Summary

Consumer Protection Issues on Electronic Commerce in OECD and its Implications for Korea

Sung-Jin Kang

The business-to-consumer (B-to-C) electronic commerce on the global network has grown rapidly in Korea since 1996. In 1998, the number of Internet users reached 4 million and the estimated sales turnover of B-to-C electronic commerce was 42 million US dollars. A great number of new shopping malls have been entering the electronic marketplace and their number was estimated at about 500 as of May 1999. Electronic commerce allows consumers to conveniently purchase goods and services at a lower cost on the borderless global networks. However, it invokes new consumer issues such as fraudulent and misleading transactions, misuse of personal information and the difficulty of addressing consumer complaints.

Along with other areas, such as privacy, authentication, taxation and security, the issue of consumer protection has been an important agenda in international conferences on electronic commerce hosted by the OECD since 1997. The related committees in the OECD, in particular, the Information, Computer and

Communications Policy (ICCP) and the Committee on Consumer Policy (CCP), have been reviewing the way for dismantling constraints, increasing consumer trust and encouraging participation in electronic commerce.

The CCP drafted the Declaration on Consumer Protection in the Context of Electronic Commerce and submitted it to the Ottawa Ministerial Conference on Electronic Commerce in 1998. In order to develop B-to-C electronic commerce, the Declaration recommended that Member Countries encourage self-regulation by businesses, review existing legislation covering electronic commerce and developing technology as a tool of consumer protection, reinforcing consumer education, and promoting international cooperation.

The CCP is planning to finish formulating the Guidelines for Consumer Protection in the Context of Electronic Commerce by the end of 1999. In May 1999, the delegates from Member Countries reviewed the Draft Guidelines [Revision 4], which included general principles with regard to fair business practices, online advertising and marketing, contract information, confirmation process, and consumer complaint and dispute resolution.

However, it will not be so easy to reach conclusion by the end of 1999, as there is a great gap among the countries' positions concerning several issues, in particular, jurisdiction and applicable laws in international B-to-C electronic commerce. The EU and consumer representatives insist that the existing laws on jurisdiction and other applicable laws, such as the Brussels Convention and Rome Convention, should be applied on electronic commerce. On

the contrary, the delegation from the US and business associations said that it was premature to provide such provisions.

This report introduces the OECD's works on consumer protection issues in the field of electronic commerce along with some implications for consumer policy in Korea as follows :

First, it is necessary for the government to encourage market-driven self-regulation as a policy direction of B-to-C electronic commerce and to push ahead with governmental regulation as a tool for promoting effective enforcement of self-regulation.

Second, the government should develop implementation policies for the Electronic Commerce Act newly enacted in early 1999 and adapt existing laws like the Door-to-Door Sales Act to the specific characteristics of online transaction. In order to encourage fair business practices, the policy authorities had to develop and distribute model contract terms and revise the Fair Trade Commission's rules for labelling and advertising in the area of tele-marketing.

Third, the government should develop the so-called the 'Internet Fraud Watch Center' in order to monitor marketing practices, provide consumer information and enforce regulatory policies.

Fourth, the government needs to reinforce consumer education and awareness of businesses with regard to electronic commerce through the establishment of a 'Consumer Center for Electronic Commerce'.

Finally, the government should actively take part in international joint action such as 'Internet Sweep Day.' Through this effort and

others, Korea could exchange their own experiences and information for effective dispute resolution, and encourage mutual recognition of each legal scheme or decisions with other countries.

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- 90-02 Strategic Partnering Activity by European Firms through the ESPRIT Programme (90. 8) / L. K. Mytelka
- 91-01 Models of Exchange Rate Behavior: Application to the Yen and the Mark (91. 1) / Sung-Yeung Kwack
- 91-02 Anti-Dumping Restrictions against Korean Exports: Major Focus on Consumer Electronic Products (91. 5) / Tae-Ho Bark
- 91-03 Implications of Economic Reforms in CEECs for DAEs: With Emphasis on the Korean Case (91. 6) / Yoo-Soo Hong
- 91-04 The ANIEs-an Intermediate Absorber of Intraregional Exports? (91. 7) / Jang-Hee Yoo
- 91-05 The Uruguay Round Negotiations and the Korean Economy (91. 11) / Tae-Ho Bark
- 92-01 Changing World Trade Environment and New Political Economics (92. 9) / Jang-Hee Yoo
- 93-01 Economic Effects of Import Source Diversification Policy (ISDP) (93. 1) / In-Soo Kang
- 93-02 Korea's Foreign Direct Investment in Southeast Asia (93. 3) / Jai-Won Ryou · Byung-Nak Song
- 93-03 German Economy after Unification-Facts, and Implications for Korea (93. 6) / Sung-Hoon Park

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- 93-05 Structural Changes in Korea's Exports and the Role of the EC
Market (93. 10) / Chung-Ki Min
- 93-06 Tax Implications of International Capital Mobility (93. 12) / Joo-Sung Jun
- 93-07 Leveraging Technology for Strategic Advantage in the Global
Market (93. 12) / Yoo-Soo Hong
- 93-08 Changing Patterns of Korea's Trade in Goods and Services (93. 12) / Jin -
Soo Yoo
- 94-01 Current Status and Prospects for Korea-Russian Economic
Cooperation (94. 1) / Chang-Jae Lee
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