



How to Protect Juveniles from Harmful Media Product in Smart Environment: Regulatory Issues and Alternatives

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Abstract

Background/Objectives: This study focused on the regulation to protect juvenile and suggested alternatives for smart era, specially reviewing the deliberation system on various harmful media products to them.

Methods/Statistical analysis: Literature was reviewed focusing on the researches of the problems of the legal system of deliberation on the harmful media products to juvenile; specifically, the debates of the definition of 'harmful media product', the rating system by age, which is currently the standard of 'under 19', the subjective and ambiguous criteria of deliberation; and the protection of juvenile's autonomy of sexual matters. The controversies of self-regulation were also included.

Findings: According to the secondary research data, the juveniles of the age of 12-19 spent approximately 150 minutes a day using mobile Internet, 2015. 65.5% of middle and high school students experienced all of adult motion pictures such as video, DVD, CD, broadcast TV, Cable TV and cinema; 52.6% experiencing smartphone adult stuff; and 33.2% experiencing adult game, in 2014. With considering of rapid and easy diffusion of the media products among peer groups of juveniles, this may influence to their

behaviors and mental health. However, there are problems in the legal system to regulate the harmful media products, as follows; the dispersed and scattered deliberative bodies are not flexible in responding to the thousands of problems and difficulties promptly and clearly; the criteria of examining media products are subjective and ambiguous; and the rating system is followed by age. Self-regulation may be a way to supplement these weaknesses, but it is also criticized for the inconsistent determination of each organization that examines autonomously the harmfulness of media products.

Improvements/Applications: The paradigm of protecting juvenile from harmful media products should be changed from 'prohibition' to 'management' including the improvements of the rating system, deliberation criteria and deliberative bodies.

Key Words : Juvenile Protection, Harmful Media Product, Regulation of Juvenile Protection, Negative Effect of Smart Media, Act on Juvenile Protection.

1 Introduction

Children and adolescents need the protection of the country and their parents to grow as human beings who are responsible for their decisions because they are physically and mentally immature^{1,2,3}. Thus, the importance of juvenile protection has not been changed, past and present and the country legislated to protect them from various harmful media products. Currently various smart media devices by the rapid development of IT make our daily lives much more convenient than the past, but at the same time encounter the negative influences of the smart changes. Especially, the negative aspects appear among young and curious groups who spend much time using mobile Internet, at least more than 150 minutes a day as shown in Fig. 1 and 2⁴.

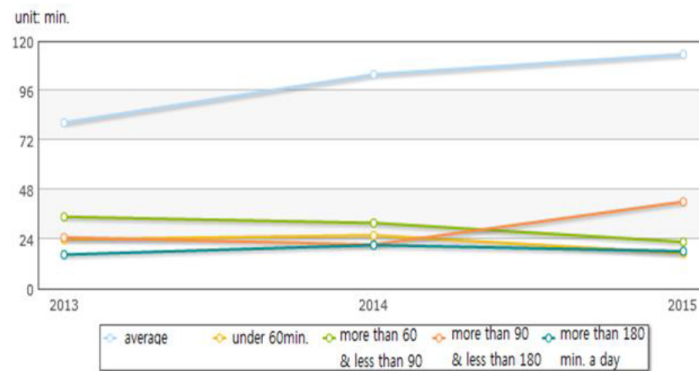


Figure 1: Annual trends of mobile Internet usage in Korea

Age	less than 60 min. a day	more than 60 & less than 90 min. a day	more than 90 & less than 180 min. a day	more than 180 min. a day	average min. a day
Total mobile Internet users of more than 12 and less than 59	17.2	22.6	42.1	18.1	113.6
12-19	7.6	17.5	43.5	31.4	145.1
twenties	4.9	14.9	48.1	32.1	151.0
thirties	11.0	25.0	45.4	18.6	117.7
forties	22.8	29.3	38.7	9.2	91.3
fifties	38.0	23.2	35.1	3.7	73.5

Figure 2: Mobile Internet usage by age in 2015

The figures show the level of possibility for them to be exposed to lots of harmful Internet contents must be high and thereby might cause adolescent crimes. In fact, 65.5% of middle and high school students experienced all of adult motion pictures such as video, DVD, CD, broadcast TV, Cable TV and cinema; and 52.6% experiencing smartphone adult stuff in 2014 (Figure 3⁵). Despite the seriousness of the current situations, the issue of protecting adolescents from the harmful media products doesn't seem to get attentions as much from academic or related policy areas. This study focused on the legal system to protect juvenile and suggested alternatives for smart era, specially reviewing the deliberation system on various media products which are harmful to them.

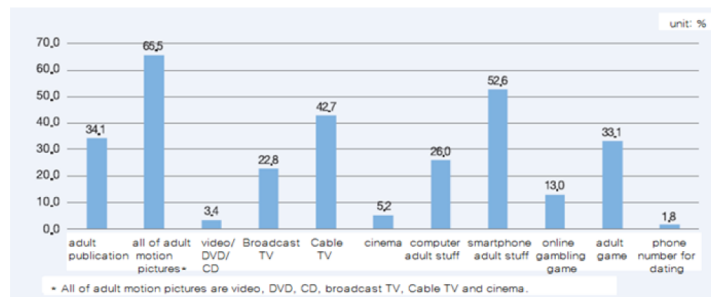


Figure 3: The rate of juveniles (i.e. middle and high school students) experiencing harmful media products in 2014

2 Literature Review

2.1 Situations

Compared to the heated argument on the negative effects of sensational or suggestive media contents on children and adolescents, especially by Internet^{6,7,8}, it was rare to be concerned about the problems of the legal system of deliberation on the harmful contents^{9,10,11}. According to the Act of Juvenile Protection (hereinafter referred to as 'JPA')¹², the term 'harmful media product' to juveniles includes any of the media products which are such as; confirmed or decided by CJP (the Commission on Juvenile Protection) as juvenile harmfulness and announced in public accordingly by the Minister of GE&F based on paragraph (1) of Article 7 and Article 11; and reviewed or identified by the competent reviewing body as juvenile harmfulness and announced in public accordingly by the Minister of GE&F based on the proviso to paragraph (1) of Article 7 and Article 11¹³. More specific types of the products include motion pictures and video products; game products; phonorecords, music files, music video products, and music video files; performances; code, words, sound, or visual information transmitted through a telecommunications system; broadcast programs; periodicals like daily newspapers and magazines; publications; and outdoor advertisements.

The legal criteria for reviewing media products are whether the products; (a) are lustful or obscene to stimulate juveniles' sexual

desire; (b) incite them to outrage or crime; (c) encourage violent behaviors such as sexual violence and drug usage; (d) induce them gambling and cause speculative spirit; (e) obstruct their good formation in personalities and citizenships; and (d) are apparently harmful for their health mentally or physically in their all environments or not. Furthermore, the criteria shall be applied based on the socially accepted ideas and the artistic, scientific, literary and other aspects of the products and their characteristics shall be considered. More specific criteria are prescribed by Presidential Decree¹⁴.

2.2 Problems

Although the deliberation criteria are detailed, their subjectivities cannot be excluded. It cannot be judged clearly all the time that those media products are harmful to all juveniles under the age of 19 since they are different from one another based on how they are raised in what environments. Besides, in recent, those media products by digital smartphone device are rapidly and easily used and diffused by juveniles since they are tend to be bound to their peer groups and their indiscreet usages can influence to their behaviors and mental health^{15,16}. Furthermore, the complex and dispersed regulation system as presented in Table 1¹⁷ is not flexible in responding to the thousands of problems and difficulties promptly and clearly. The scattered deliberative bodies lack unity in terms of legal characteristics and the Acts can be overlapped with one another to decide rating.

Table 1. Current deliberative bodies by media products for juvenile protection

Deliberative body	Concerned media	Ministry & office concerned/ act	Types of deliberation
The Commission on Juvenile Protection	All media products	Ministry of Gender Equality and Family/ Juvenile Protection Act	Post deliberation
Korea Publication Ethics Commission	Publication	Ministry of Culture, Sports and Tourism/ the Act for Promoting Publishing Industry	Post deliberation
Korea Media Rating Board	Motion picture, video, CD	Ministry of Culture, Sports and Tourism/ the Act for Promoting Motion Pictures & Video Products	Pre rating

Game Rating Board	Game product	Ministry of Culture, Sports and Tourism/ the Act for Promoting Game Industry	Pre rating
Korea Communication Standards Commission	Information or communication product	Korea Communications Commission/ the Act for Promoting the Use of Information & Comm. Network and Protecting Information Etc.	Post deliberation
	Broadcast program	Korea Communications Commission/ Broadcasting Act	Combined pre self-regulation and post deliberation

The process of deliberation and decision shows well how the system is not flexible to deal with rapidly changeable media contents. CJP and other bodies examine and decide independently whether the media products which they receive are harmful to juvenile or not by the Article 9 of JPA. Then, the Minister of GE&F makes the lists of harmful media products based on the results of the decision of each body and request that the Ministry of GA&HA (Government Administration and Home Affairs) publish in its official gazette as presented in Figure 4¹⁸. It takes too much time to be proceeded and each body may interpret differently the legal criteria of juvenile harmfulness since it is under different laws.

The problem of the inefficient and inflexible legal system may be solved by self-regulation. In other words, along with these legal bodies, the person or organization engaged in media products, such as producer or distributor, may examine autonomously juvenile harmfulness of media products and ask for CJP or an examining body to confirm its decision. CJP or the examining body that receive the request for confirmation of decision should confirm the decision and if it finds, after examining, that the decision is reasonable, then CJP may entrust such conformation to an examining body, if necessary¹⁹. This self-regulation may simplify the procedures and protect more freedom of expression by media than the system led by the government. Further, the juvenile's rights to pursue their own happiness may be respected. However, it has also problems that the results of examining media products whether they are harmful to juvenile or not vary from organization to organization due to subjective and ambiguous criteria of deliberation enough to provoke public criticism^{20,21,22,23}; and it is said that the

members of deliberation committee are not expert enough to be trusted by public and in fact, their appointments are closed.



Figure 4: The process of decision and notification of harmful media product to juvenile

In addition, there is a problem that the deliberation system for protecting juvenile from harmful media products follows basically rating system by age under the control of the country. According to subparagraph 1 of Article 2 of JPA, the term 'juvenile' refers to all persons under 19 including children or juveniles. This definition of age, without distinguishing between children and juveniles, applies to all deliberation systems for protecting juveniles is criticized due to violating to their constitutional rights of pursuing happiness²⁴. This implies that the juveniles of this current era are quite different from them in the past because they are grown up with Internet since infancy. They are skillful at handling computers and experienced much at Internet media contents, which are necessary parts of their daily lives to get knowledge, enjoy them and communicate with their peer groups. They are also educated well about human rights to make right decisions by themselves. This may influence their perspectives of sexual matters which are key points of deliberating criteria of maleficence which are very different from the current perspective of 'harmfulness' of media products to juveniles.

3 Conclusion

It is suggested for improvement of regulating system to protect juvenile from harmful media products, first of all, the whole paradigm of protecting juvenile from harmful media products should be changed

from 'prohibition' to 'management', 'supervision' or 'caring for'. It is reported that even though there is the regulation of adult authentication for certain media products that adults only may use but juveniles are prohibited from the media products notified by the government, they are easily approach the products and even diffuse them through their peer groups. This implies that it might be more reasonable and practical way to educate them with a mind of managing those harmful products rather than prohibiting.

Secondly, the rating system by the age including all persons under 19 regardless of children or adolescents should be revised by in-depth discussion. These days, even primary school children apply color makeup, and they think that's their rights. As mentioned earlier, they are well educated about human rights since they are very young, it is difficult to force them not to do this or to do that. Of course, they are still young and younger than ordinary adults, so they should be educated to choose right decision for their future, but this is an issue of education, not legal prohibition.

The ambiguity of deliberation criteria is the third problem to be solved. The abstract principles and subjective expression of the criteria may not have public reliabilities any more. Therefore, it is necessary to be improved towards more clear and objective principles.

The fourth suggestion is related that the Ministries and offices to deliberate the harmful media products to juveniles are diversified by media. This diversification may bring about inefficiency and unfairness in application of the deliberative criteria in smart era. For instance, the characteristics of the deliberative bodies are not unified due to each different base of the law, so it appears that the rating system by age is overlapped by JPA and the three Acts related culture, the Act for Promoting Motion Pictures & Video Products, the Act for Promoting Music Industry and the Act for Promoting Game Industry. In this context, it is suggested that a unified body for juvenile protection from all kinds of harmful media products should be built based on one unified Act.

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