

What happened with Content Blocking in Japan in 2018?

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APNIC Cooperation SIG

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Purpose of this presentation

- To overview what happened
- To overview the discussion point

Highest Level Summary for What happened

- 2017~ Rise of “Manga-Mura” the Manga piracy site
- April 13, 2018
Cabinet’s Decision for Content Blocking
- June to October, 2018
Task Force for the countermeasure
- October 15, 2018
Task Force concluded with no outcome

Cabinet's Decision and Subsequent Task Force

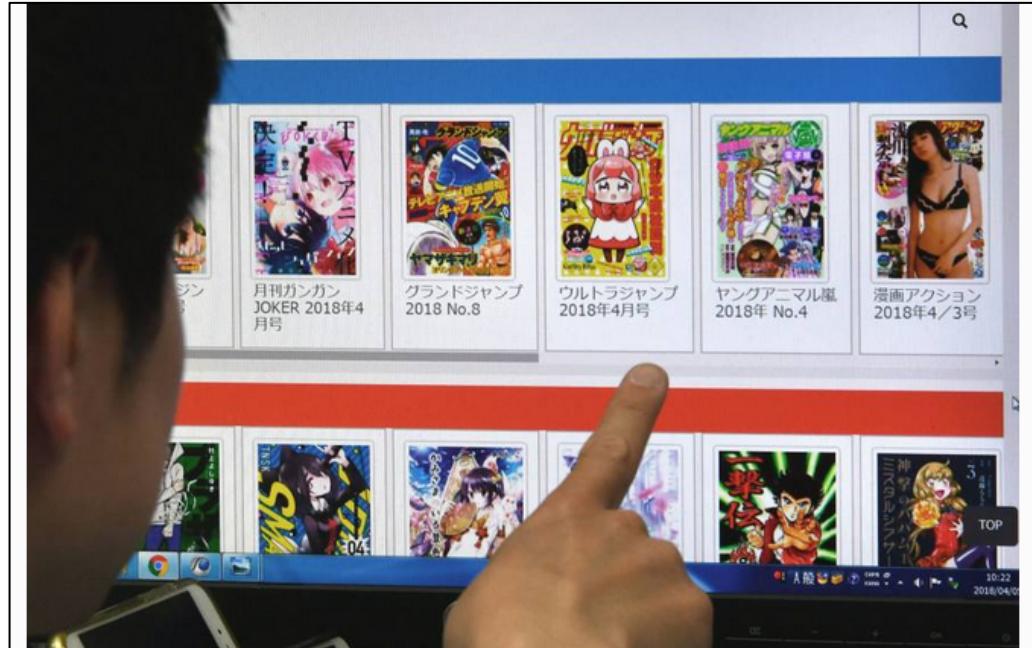
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April 13, 2018

Japan calls for 'emergency measure' blocking access to websites that pirate manga and anime

- <https://www.japantimes.co.jp/news/2018/04/13/national/japan-calls-emergency-measure-blocking-access-websites-pirate-manga-anime/>



A man looks at one of Japan's most notorious 'leech sites,' which aggregate links to content that has been uploaded on other sites regardless of legality. The government on Friday said it plans to urge internet service providers to restrict access to notorious piracy websites. | YOSHIAKI MIURA

NATIONAL

Japan calls for 'emergency measure' blocking access to websites that pirate manga and anime

April 13, 2018

Cabinet Meeting for Anti-Crime Measures

<https://www.kantei.go.jp/jp/singi/titeki2/kettei/honpen.pdf> (Japanese)

- *Need a countermeasure for Piracy Websites for Manga, anime, etc.*
- *For the three most harmful piracy sites, it is appropriate that the access providers block the access to them, as their spontaneous efforts, for the time being.*
- *Intellectual Property Strategy Headquarter of Cabinet Secretary should do **due consideration with experts and operators involved** toward legislation and other measures needed.*

June 22, 2018

Task Force on countermeasures for piracy sites on the Internet launched

- Under Committee on Examination, Evaluation and Planning, Intellectual Property Strategy Headquarter, Cabinet Secretary
- 内閣府 知的財産戦略本部
検証・評価・企画委員会
インターネット上の海賊版対策に関する検討会議

Task Force on countermeasures for piracy sites on the Internet - Members

- Co-Chairs:
 - Prof. Ichiya NAKAMURA, Keio University
 - Prof. Jun MURAI, Keio University
- And 18 other members from
 - 6 from associations for telecom and Internet
 - Including myself
 - 5 from publishers and publisher associations
 - 1 from consumer association
 - 6 Jurists – experts for Intellectual Property, Constitution, Telecom Policies, etc

Task Force on countermeasures for piracy sites on the Internet - Meetings

- 9 meetings plus 1 workshop in four months from June 22 until October 15
 - #1: June 22 #2: June 26
 - #3: July 18 #4: July 25
 - Workshop: August 10
 - #5: August 24 #6: August 30
 - #7: September 13 #8: September 19
 - #9: October 15
- Headquarter's Web site has all materials and minutes of the Task Force meetings

Task Force on countermeasures for piracy sites on the Internet - Conclusion

- A background
 - Cabinet Secretary seemed to have the intention to submit a bill to legislate the content blocking to the Ordinary Diet Session for FY2018 (in winter)
- Task Force was polarized between for- and against-blocking arguments
- Against-blocking members refused to produce the Task Force report.
- It concluded without any report

Discussion Points

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Discussion Points

- Secrecy of Communications
- Approaches to address the piracy

Discussion Point #1 Secrecy of Communications

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Secrecy of Communications in Japanese jurisdiction

- Secrecy of Communications : 通信の秘密
 - The constitution of Japan, Article 21
 - Telecommunications Business Act, Article 4
- Tips from APNIC Blog:
Routers and switches violate Japanese law, but seems not illegal by Akimichi OGAWA
 - <https://blog.apnic.net/2016/08/02/routers-switches-violate-japanese-law-not-illegal/>

Secrecy of Communications in Japanese jurisdiction

- Acquiring anything from what subscribers send to the network would violate the *Secrecy of Communications*
 - Even the header of Internet Protocol packets
- With that, four exceptions:
 - To achieve the proper purpose of business
 - For an emergent need to address the current risk
 - Without any other means to avoid such situation
 - Gain by this conduct is more than the loss by the violation

Secrecy of Communications in Japanese jurisdiction

Routing: definitely
needed to serve

- Acquiring anything from what subscribers send to the network would violate the *Secrecy of Communications*
 - Even the header of Internet Protocol packets
 - With that, four exceptions:
 - **To achieve the proper purpose of business**
 - For an emergent need to address the current risk
 - Without any other means to avoid such situation
 - Gain by this conduct is more than the loss by the violation

Secrecy of Communications in Japanese jurisdiction

Blocking is tolerated
for Child Porn

- Acquiring anything from what subscribers send to the network would violate the *Secrecy of Communications*
 - Even the header of Internet Protocol packets
 - With that, four exceptions:
 - To achieve the proper purpose of business
 - For an emergent need to address the current risk
 - Without any other means to avoid such situation
 - Gain by this conduct is more than the loss by the violation

Secrecy of Communications in Japanese jurisdiction

How about for
Content Blocking?

- Acquiring anything from what subscribers send to the network would violate the *Secrecy of Communications*
 - Even the header of Internet Protocol packets
 - With that, four exceptions:
 - To achieve the proper purpose of business
 - For an emergent need to address the current risk
 - Without any other means to avoid such situation
 - Gain by this conduct is more than the loss by the violation

Apparently not

Is it emergent?

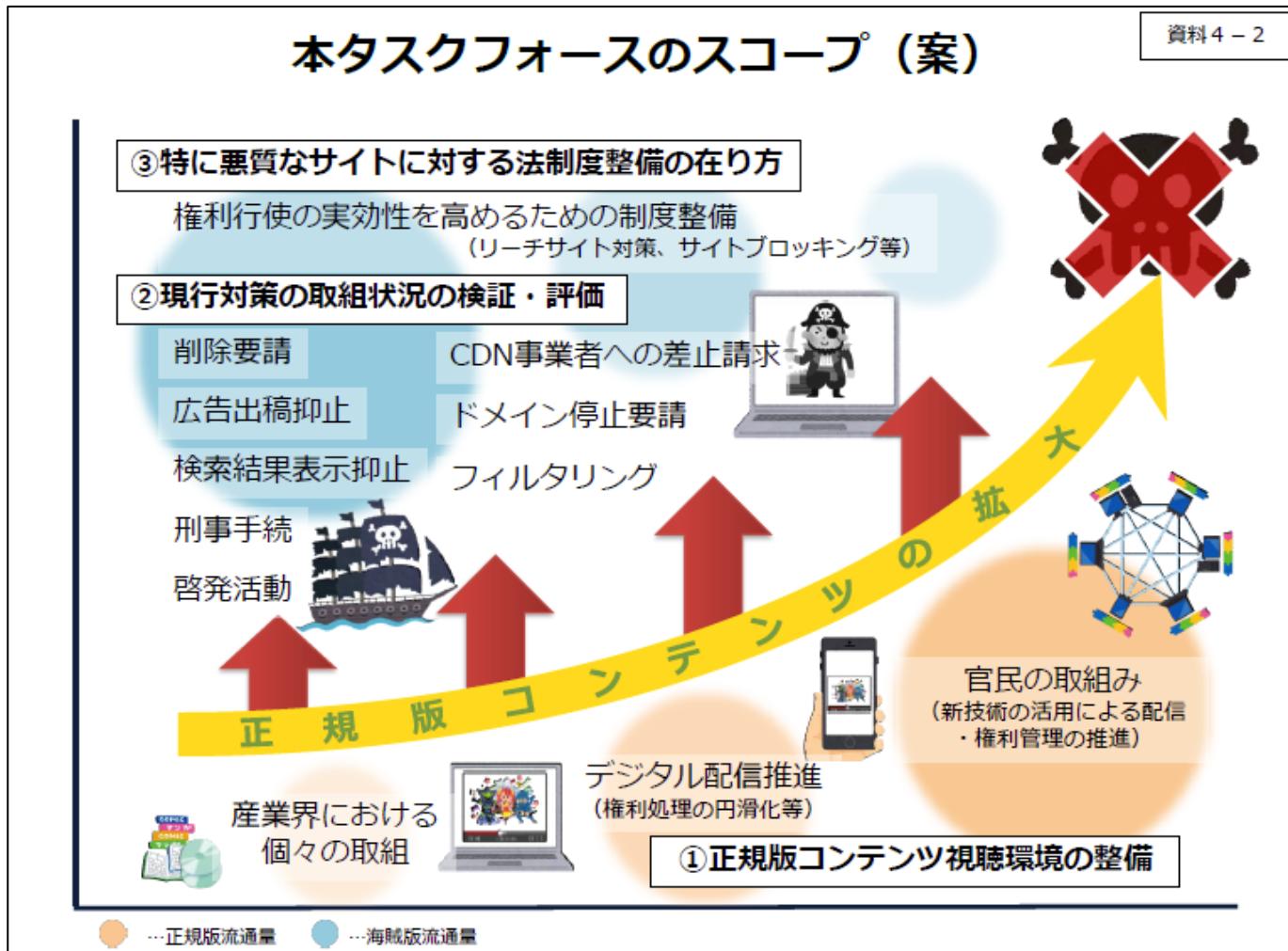
Any other means?

Is it the case?

Discussion Point #2 Approaches to address the piracy

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Multiple approaches

Measure	For-blocking argument	Anti-blocking argument
Reinforce DRM	Longer term solution	
Promote the distribution of legitimate content		
Moral education		
Outlaw downloading	Not yet	Now on the way (another problem)
Suppress search result	not enough to be effective	Getting more effective
Address Leech sites	Difficult to define the leech	On the way to define
Suppress ads	Not enough to be effective	action being taken
Removal request	CDN doesn't disclose the content origin	CDN does
Takedown at CDN	CDN doesn't take it down	Should be done at the origin
Identify and enforce	Difficult to enforce on those who are abroad	
Filtering at the client	Not enough to be effective	Already enforceable
Blocking at ISP	The only effective means	many other ways

Thank you , 고맙습니다 , ありがとうございます

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