



Korea Communications Commission

News Release

KCC sanctions Facebook for user service infringement through arbitrary connection reroute

- Prevention countermeasures demand improved operations / enforcement of penalty -

The Korea Communications Commission (Chairman Lee Hyo-seong, hereafter “KCC”) conducted a plenary session on Wednesday, March 21, resulting in the determination that Facebook Ireland Limited (a main international business unit of Facebook, hereinafter “Facebook”) is disrupting services by impeding on Facebook user connections through SKT/SKB and LGU+ networks, having rerouted the connection in violation of user services according to the Telecommunications Business Act. This resulted in ① publicly announcing the demand for Facebook’s corrective measures, ② improving operations practices, and ③ the enforcing of a monetary penalty of 396 million KRW.

The KCC is currently aware of the user services infringement involving the disrupted connection following Facebook’s arbitrarily rerouting of SKT/SKB and LGU+ network connections, and has been conducting an investigation into the matter since August, 2017 in order to determine whether such unsound practices are in fact in violation of the Telecommunications Business Act.

The investigation looked into the current network status of the four primary domestic communications agencies, frequency of user complaints, and related emails, while the commission conducted questioning of Facebook’s U.S.-based headquarters officials and Hong Kong’s Facebook network manager, in addition to carrying out the on-site investigation of Facebook Korea and thoroughly examining perspectives on the matter from Facebook executives, especially regarding the implementation of corrective measures.

Facebook was discovered to have attempted to connect through the KT network (SKB connection was rerouted through Hong Kong); however, despite the currently valid contract period with KT, they arbitrarily rerouted SKT's connection through Hong Kong in December of 2016 without user notification or detailed deliberation with domestic operators. During the months of January and February 2017, Facebook had also been found to reroute the connection with the LGU+ network through Hong Kong and the U.S.

As SKT traffic was rerouted through Hong Kong, the SKB network capacity grew insufficient, which caused SKB traffic to partly be rerouted elsewhere through other international networks and causing a bottleneck with user connections. This resulted in Facebook's connection response speed to slow by an average of 4.5 times (29ms → 130ms) the normal rate during user peak hours from 8pm to 12am. Furthermore, with LGU+ wireless traffic also being rerouted abroad, the LGU+ wireless network connection response speed decreased by 2.4 times (43ms → 105ms) on average.

* Connection Response Speed : The amount of time required for a single terminal's signal transmission to return from the connected network.

The disruption in connection forced Facebook users of domestic communications networks to experience poor connection services or a complete lack of connection, resulting in the significant increase of user inquiries and complaints immediately following the rerouted connection, with SKB showing a rise of 12 times the daily average (0.8) to 9.6 reported cases, and LGU+ by 172 times the daily average (0.2) to as many as 34.4 reported cases. In addition, online community sites reported approximately 300 posts in regard to Facebook's faulty connection, with a majority of users taking issue with the service.

Facebook failed to actively follow up on claims by domestic communications agencies of poor network connection which provoked the disruption of network services following the rerouting of connections that resulted in major service quality setbacks. Domestic communications agencies were then forced to increase network capacity at additional cost in order to alleviate connection issues. Only once the controversy began to emerge regarding the arbitrary rerouting of connections, Facebook restored connections in October and November of last year.

Facebook's actions have been determined to fall under that of 'an act restricting or interfering with the registration or use of telecommunication services without reasonable cause', essentially deeming the rerouting of connections as a violation of the Telecommunications Business Act, infringing upon user services, which has currently resulted in the demand for corrective measures and penalty enforcement.

Facebook is the leading social networking brand in the world, maintaining the highest market share; however, despite being a massive business operation wielding significant influence on the market with as many 12 million users on a daily basis in Korea alone, Facebook temporarily manipulated the market, inflicting a loss directed at its mass user base. Considering their cooperation with the investigation and voluntary ceasing of unlawful action, the decision was made to limit punishment to a monetary fine of 396 million KRW.

In response, Facebook has claimed that no such violation was committed, as 1) they are not responsible for the quality of connection services as a content provider, 2) the disrupted connection response speed did not have a direct impact on user services, and 3) maintaining quality of connection services is not guaranteed within their Terms of Service.

The KCC rejected the aforementioned claims, as 1) deliberate manipulation of connection routes holds them legally responsible despite being a content provider, 2) the plummet in connection response speed by as much as 2.4 and 4.5 times as an overall network indicator proves the decrease in connection service quality in comparison with past standards, and 3) the unconditional exemption clause* stated within the Facebook Terms of Service is not in

actual accordance with the law.

* “Facebook does not guarantee services to be free of interference, delay, or fault.”

Chairman Lee Hyo-seong stated, “This unprecedented, new form of unlawful behavior heavily influencing the supplementary communications services market due to the infringing of domestic user services following the rerouting of connections without the consent of domestic communications agencies is significant in itself. In the future, the KCC will need to act preemptively by first understanding beforehand the kinds of unlawful actions that may be committed within the internet platform industry.”

Apart from the demand for corrective measures, the KCC went on to strongly advise the need to revise the Facebook Terms of Service to prevent further injustices to its users.