

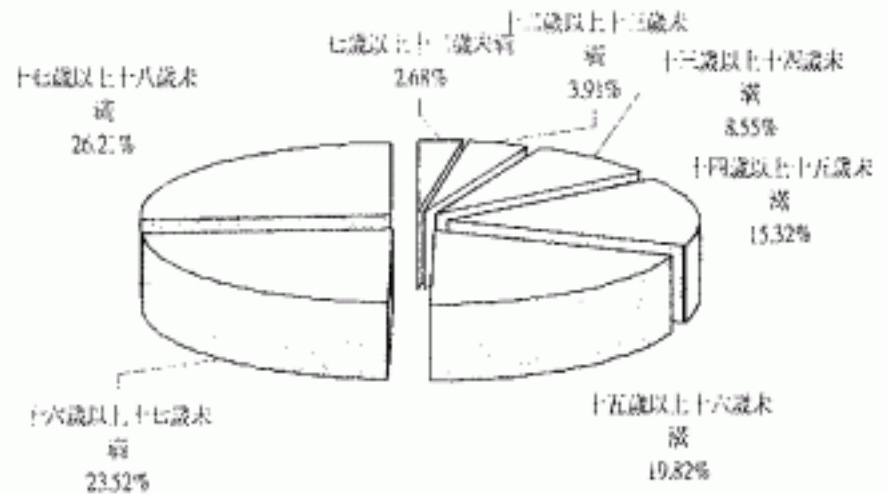
九十三年學年度 科技法律研究 系(所) 甲 組碩士班入學考試

科目 文獻評析 科號 5704 共 五 頁第 一 頁 *請在試卷【答案卷】內作答

以下題目，若以英文詢問者，請以英文回答；以中文詢問者，請以中文回答。

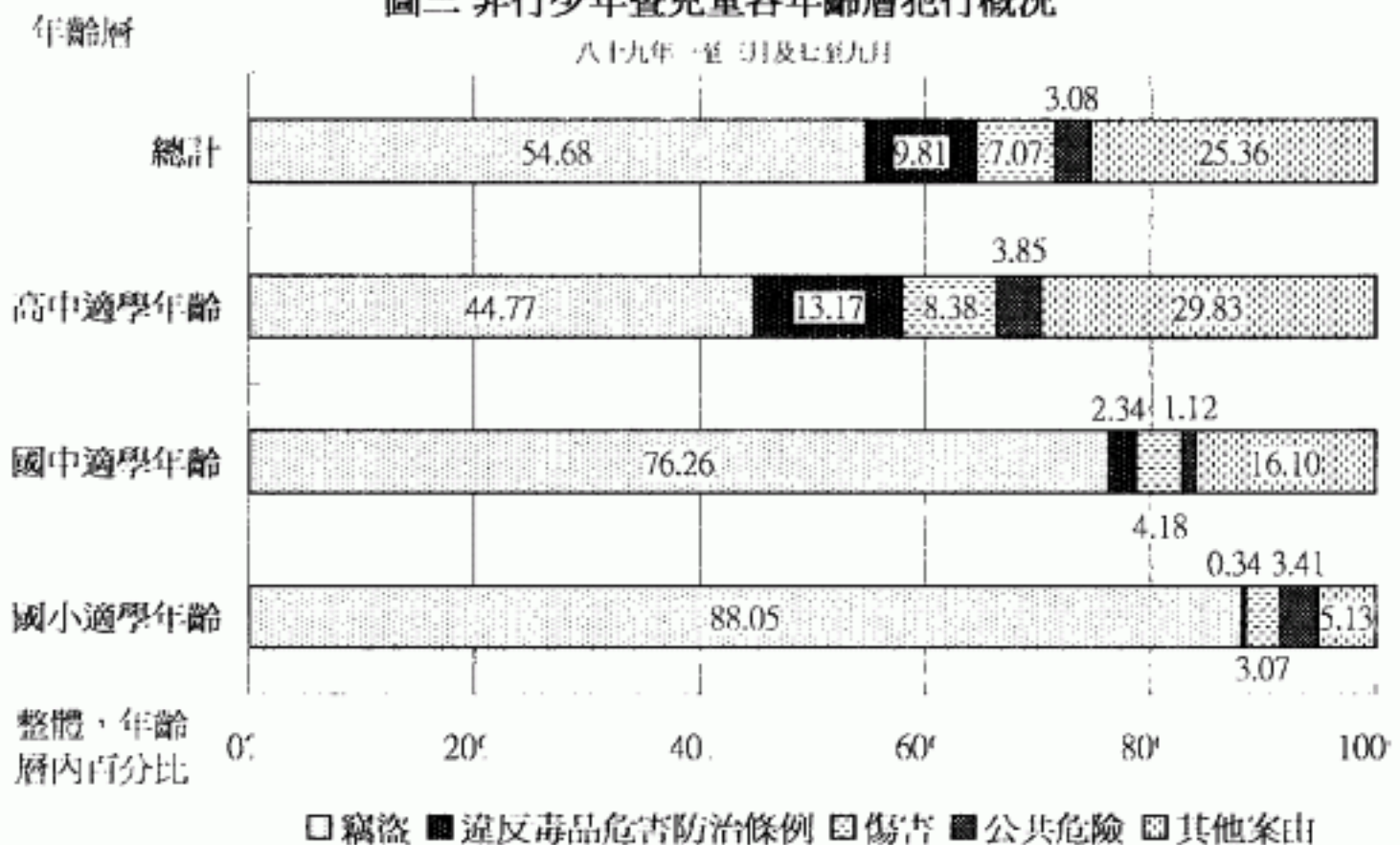
一、少年暨兒童非行事件調查係針對非行少年及兒童於案件繫屬法院後，接受少年調查官審前調查期間或經法官裁定交付觀察勒戒期間由少年觀護所協助辦理之調查，分八十九年一至三月及七至九月兩季實施，總計回收登錄資料 10,933 筆。以年齡層分析，將十二歲未滿視為「國小適學年齡」，十二歲以上十五歲未滿視為「國中適學年齡」，十五歲以上十八歲未滿視為「高中適學年齡」。

圖二 非行少年暨兒童年齡分佈情形
八十九年一至三月及七至九月



1. 試綜合分析圖二與圖三所顯示之意義。(10分)
2. 試分析表九所顯示之意義，並對此提出可能之因應方案。(20分)

圖三 非行少年暨兒童各年齡層犯行概況
八十九年一至三月及七至九月



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表九 非行少年暨兒童犯行主要原因

八十九年一至三月及七至九月

單位：%

排名一	排名二	排名三	排名四	排名五	排名六						
總計	100.00										
其他因素	35.77	家庭因素	23.12	社會因素	22.83	心理因素	14.88	生理因素	2.31	學校因素	1.08
好奇心驅使	15.17	管教不當	11.31	交友不慎	21.17	意志薄弱	10.52	性衝動	1.17	學校適應不良	0.59
缺乏法律常識	9.36	破碎家庭	8.06	社會環境不良	1.05	個性頑劣	2.71	精力過剩	0.77	失學	0.33
懶惰遊蕩	3.95	家庭關係不和諧	1.86	失業	0.18	智能障礙	0.44	殘障	0.13	學校處理不當	0.11
過失	1.99	經濟困難	0.63	受不良書刊或傳播影響	0.17	精神病症	0.18	畸形	0.03	學校其他	0.05
愛慕虛榮	1.91	犯罪家庭	0.50	參加不良幫派	0.13	心理其他	1.03	遺傳疾病或痼疾	0.03		
外力壓迫	0.95	親子關係不正常	0.47	社會其他	0.13			生理其他	0.19		
其他	2.43	子女眾多	0.06								
		家庭其他	0.23								

(資料來源：司法院，少年暨兒童非行事件調查摘要分析，90年7月，

http://www.judicial.gov.tw/hq/juds/2_youngth.doc)

二、Spam law allows bounty hunts

By Tim Lemke

THE WASHINGTON TIMES

Published December 22, 2003

< www.washingtontimes.com >

Deep within the text of the antispam bill signed by President Bush last week is a clause that could allow ordinary citizens to cash in on the prosecution of those who send mass amounts of fraudulent e-mail advertisements.

The Can-Spam Act, which goes into effect Jan. 1, empowers the Federal Trade Commission to create a bounty system allowing anyone to receive 20 percent of any money collected from spammers they help catch.

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Some antispam advocates said the system would create an army of people searching for spammers, thus easing the burden on the FTC and law enforcement agencies. But to others, it is a useless effort that could lead to chaos and vigilantism.

Unsolicited commercial e-mail, or spam, makes up nearly 60 percent of all e-mail sent worldwide, and costs businesses more than \$10 billion annually, technology analysts say. Much of the spam is fraudulent or misleading, and routed in a way that makes the sender difficult to identify. The Can-Spam Act bans the most fraudulent forms of spam and illegalizes commercial e-mail to anyone who has asked not to receive it.

Violators of the Can-Spam Act may be fined a maximum of \$6 million and receive up to five years in prison.

The bounty system is the brainchild of Lawrence Lessig, a law professor and founder of the Stanford Center for Internet and Society. Earlier this year, he said he would resign his job if a national law featuring a bounty system did not "substantially reduce the level of spam."

Rep. Zoe Lofgren, California Democrat, and Sen. Jon Corzine, New Jersey Democrat, worked to insert the bounty provision into the Can-Spam Act.

The law says the FTC has nine months to issue a report to Congress proposing a reward system. The FTC will have full authority to determine how the system will work and what information e-mail users will need to provide in order to collect reward money.

"We're going to do an objective study and look at all the angles in depth," said FTC staff attorney Brian Huseman.

The FTC also will consider requiring marketers to label their advertisements with an "ADV" or other abbreviation in the subject line. Mr. Lessig has said that requirement would make the bounty system more workable, but critics say it would place a heavy burden on honest marketers. The FTC is required to create a label system within 18 months, or report to Congress any concerns that lead it to recommend against the system.

Some antispam advocates said allowing individuals to sue spammers would be more effective.

"[A bounty] would not, in any way, provide the kinds of deterrents a private right of action would provide," said David Kramer, a lawyer with the Palo Alto, Calif., firm of Wilson Sonsini, Goodrich and Rosati.

Mr. Rosati has been involved in crafting antispam legislation at the state level.

Some antispam advocates said a bounty system is intriguing but that spam is so unpopular that an incentive is not needed.

For years, spam "blocklists," such as Spews.org and Spamhaus, which research and post information about suspected spammers, have helped identify some of the most egregious senders of junk e-mail.

Most are operated by volunteers, with donated computer equipment and bandwidth.

Some spam analysts cautioned that monetary rewards could lead to a lot of false leads, because few individuals have the expertise or technology needed to find the identities and locations of spammers.

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"There's obviously a lot of people who are rabidly antispam," said Andrew Lochart, director of product marketing for Postini, a company that offers services to protect companies against spam.

"Certainly there have been situations where there's a case of shoot first, ask later."

1. 請在三十個中文字內(不含標點), 定義 "spam"。(15%)
2. Please argue for or against Professor Lessig's idea-- the "bounty provision" in the Can-Spam Act. (40%)

三、THE MISUNDERSTANDINGS ABOUT THE WTO: WRECKS JOBS?

The WTO does NOT destroy jobs or widen the gap between rich and poor

The accusation is inaccurate and simplistic. Trade can be a powerful force for creating jobs and reducing poverty. Often it does just that. Sometimes adjustments are necessary to deal with job losses, and here the picture is complicated. In any case, the alternative of protectionism is not the solution. Take a closer look at the details.

The relationship between trade and employment is complex. So is the relationship between trade and equality.

Freer-flowing and more stable trade boosts economic growth. It has the potential to create jobs, it can help to reduce poverty, and frequently it does both.

The biggest beneficiary is the country that lowers its own trade barriers. The countries exporting to it also gain, but not as much. In many cases, workers in export sectors enjoy higher pay and greater job security.

However, producers and their workers who were previously protected clearly face new competition when trade barriers are lowered. Some survive by becoming more competitive. Others don't. Some adapt quickly (for example by finding new employment), others take longer.

In particular, some countries are better at making the adjustments than others. This is partly because they have more effective adjustment policies. Those without effective policies are missing an opportunity because the boost that trade gives to the economy creates the resources that help adjustments to be made more easily.

The WTO tackles these problems in a number of ways. In the WTO, liberalization is gradual, allowing countries time to make the necessary adjustments. Provisions in the agreements also allow countries to take contingency actions against imports that are particularly damaging, but under strict disciplines.

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At the same time, liberalization under the WTO is the result of negotiations. When countries feel the necessary adjustments cannot be made, they can and do resist demands to open the relevant sections of their markets.

There are also many other factors outside the WTO's responsibility that are behind recent changes in wage levels.

Why for example is there a widening gap in developed countries between the pay of skilled and unskilled workers? According to the OECD, imports from low-wage countries account for only 10-20% of wage changes in developed countries. Much of the rest is attributable to "skill-based technological change". In other words, developed economies are naturally adopting more technologies that require labour with higher levels of skill.

The alternative to trade ... protection -- is expensive because it raises costs and encourages inefficiency. According to another OECD calculation, imposing a 30% duty on imports from developing countries would actually reduce US unskilled wages by 1% and skilled wages by 5%. Part of the damage that can be caused by protectionism is lower wages in the protectionist country.

At the same time, the focus on goods imports distorts the picture. In developed countries, 70% of economic activity is in services, where the effect of foreign competition on jobs is different -- if a foreign telecommunications company sets up business in a country it may employ local people, for example.

Finally, while about 1.15 billion people are still in poverty, research, such as by the World Bank, has shown that trade liberalization since World War II has contributed to lifting billions of people out of poverty. The research has also shown that it is untrue to say that liberalization has increased inequality.

前段論述試圖為 WTO 辯解，但論理方面似欠嚴謹。請附理由指出其中（對你而言）最具說服力之論點，以及最不具說服力的論點。(15%)