

Technology, Media & Telecommunications

## Measures to Enhance Online Safety – Singapore Introduces New Legislation

### Introduction

Singapore has been making concerted efforts towards enhancing the safety of digital spaces for Singapore users, particularly for children. This is in recognition of the inherent risks posed by harmful online content, and the amplification of such risks through the proliferation of social media services.

The Ministry of Communications and Information ("**MCI**") had, earlier in 2022, given an indication of what changes and enhancements may be expected in the digital regulatory and compliance framework, including the introduction of codes of practice for online platforms to protect Singaporeans against harmful online content. The proposed measures have been steadily advancing along the course of implementation, and are now being further developed, with new legislation being introduced in Parliament, and responses to public feedback on the proposed measures.

From 13 July 2022 to 10 August 2022, MCI conducted a Public Consultation on Proposed Measures to Enhance Online Safety for Users in Singapore ("**Public Consultation**"). For more information, please see our earlier Legal Update on this topic [here](#). On 29 September 2022, MCI released a summary of its responses to the feedback received from the Public Consultation, giving further indication of the direction that the proposed measures may take.

On 3 October 2022, the Online Safety (Miscellaneous Amendments) Bill ("**Bill**") was introduced in Parliament. If passed, the Bill will empower the Infocomm Media Development Authority ("**IMDA**") to better regulate online communication services accessible by Singapore end-users and give effect to the proposed measures, including the authority to issue directions to block egregious content and to issue online Codes of Practice.

This Update highlights the key provisions in the Bill and provides a summary of the feedback to the Public Consultation.

### Online Safety (Miscellaneous Amendments) Bill

The Bill had its First Reading in Parliament on 3 October 2022 and is set for its Second Reading at the first available sitting in November 2022. The Bill seeks to provide a safe online environment for Singapore end-users, and to place adequate priority on the protection of children from exposure to harmful content.

# Client Update: Singapore

## 2022 OCTOBER

### Technology, Media & Telecommunications

The main proposed amendment in the Bill is the introduction of a new Part 10A in the Broadcasting Act 1994. Part 10A aims to give effect to the proposed measures for enhancing online safety by:

- (a) Allowing IMDA to issue blocking directions to online communication services to deal with "egregious content"; and
- (b) Empowering IMDA to issue online Codes of Practice for providers of regulated online communication service.

An online communication service includes such service provided from outside Singapore, as well as such service provided in or from Singapore. The list of online communication services is presently limited to social media services under the proposed new Fourth Schedule of the Broadcasting Act. However, the Minister may, by order in the Gazette, revoke, replace or add to the Fourth Schedule.

#### Blocking Directions

IMDA may issue the following directions under the proposed Part 10A:

- (a) **Section 45H direction** – IMDA may issue a section 45H direction to the provider of an online communication service to:
  - Disable access to egregious content on its service by Singapore end-users; or
  - Stop delivery or communication of content to the account(s) (such as a social media account, group or channel) of all Singapore end-users (or a sub-group) so as to stop or reduce the communication, provision or access by Singapore end-users of the egregious content on the online communication service.

This is provided that IMDA is satisfied that egregious content is being provided on the online communication service with a Singapore end-user link, and that Singapore end-users of the service can access the egregious content. It also does not apply to communication between two or more end-users that is of a private or domestic nature.

- (b) **Section 45I blocking direction** – IMDA may issue a section 45I blocking direction to an internet access service provider to stop access by Singapore end-users to the online communication service.

This would occur when an online communication service provider fails to comply with a section 45H direction, and the internet access service provider has control over access by Singapore end-users of the online communication service to content provided on that online communication service.

The Bill provides further guidance on what may constitute egregious content, including content advocating suicide or self-harm, physical or sexual violence and terrorism, content depicting child sexual

## Technology, Media & Telecommunications

exploitation, content posing a public health risk in Singapore, and content likely to cause racial and religious disharmony in Singapore.

Every provider of an online communication service or an internet access service who receives a section 45H direction or a section 45I blocking direction respectively has a duty to take all reasonably practicable steps to comply with the direction.

- (a) Section 45E: Failure to satisfy this duty with regard to a section 45H direction may result in a fine not exceeding S\$1 million and, in the case of a continuing offence, a further fine not exceeding S\$100,000 for every day or part of a day during which the offence continues after conviction.
- (b) Section 45F: Failure to satisfy this duty with regard to a section 45I blocking direction may result in a fine not exceeding S\$20,000 for each day or part of a day the person does not comply with the direction, subject to a total cap of S\$500,000.

It does not matter whether the online communication service is provided from outside Singapore or provided in or from Singapore.

The Bill provides a defence for the breach of the above duty, in which the person charged must prove that:

- (a) It was not reasonably practicable to do more than what was in fact done to satisfy the relevant duty; and
- (b) There was no better practicable means than was in fact used to satisfy the relevant duty.

A section 45H direction or a section 45I blocking direction is appealable to the Minister.

### Codes of Practice

IMDA may designate an online communication service with a Singapore end-user link as a regulated online communication service after considering the range of all online communication services provided to Singapore end-users, and the extent and nature of their effect on the people of Singapore and her different communities.

The new section 45L of the proposed Part 10A empowers IMDA to issue online Codes of Practice applicable to providers of any regulated online communication service or specified types of such providers. However, an online Code of Practice can only be issued, amended or revoked after certain consultation processes are followed.

## Technology, Media & Telecommunications

A Code of Practice may provide for the following:

- (a) **Measures to minimise risk** – Requirements to establish and apply appropriate systems or processes so as to provide the service in a way that: (i) prevents users (particularly children) from accessing content that presents a material risk of significant harm to them; and (ii) mitigates and manages the risks of danger to users (particularly children) from content on its service;
- (b) **Guidance on risk** – Practical guidance in respect of what content presents a material risk of significant harm;
- (c) **Procedure for compliance** – The procedures to be followed to satisfy the duty to comply with the online Code of Practice applicable to that provider, which may include: (i) audit to ascertain compliance; (ii) reporting to IMDA information about the measures taken; and (iii) conducting risk assessments on the systemic risks of their services and taking reasonable and effective measures aimed at mitigating those risks.
- (d) **Collaboration with research** – Requirements for collaboration or cooperation by the provider with any conduct of research into its regulated online communication service by a suitable expert.

The Bill imposes a duty on every regulated online communication service provider to take all reasonably practicable steps to comply with the applicable online Code of Practice in the provision of the regulated online communication service. A defaulting provider may face the following regulatory action from IMDA under the proposed section 45N:

- (a) An order to pay a financial penalty that IMDA thinks fit, but not exceeding S\$1 million; or
- (b) Directions to take any steps that may be necessary to remedy the failure. If a defaulting provider fails to comply with the remedial directions, the defaulting provider may be liable to a fine not exceeding S\$1 million and, in the case of a continuing offence, to a further fine not exceeding S\$100,000 for every day or part of a day during which the offence continues after conviction.

Similar to the provisions on blocking directions, it is a defence for the defaulting provider to prove that:

- (a) It was not reasonably practicable to do more than what was in fact done to satisfy the relevant duty; and
- (b) There was no better practicable means than was in fact used to satisfy the relevant duty.

Amendments will be made to the Electronic Transactions Act 2010 to expressly clarify that the safe harbour provisions under the Electronic Transactions Act for network service providers does not apply in relation to any liability under sections 45E, 45F or 45N of the amended Broadcasting Act.

Technology, Media & Telecommunications

## Response to Public Consultation

From 13 July 2022 to 10 August 2022, MCI conducted the Public Consultation, which set out the proposed measures to address harmful online content on social media services:

- (a) **Code of Practice for Online Safety**, which sets out the required measures and safeguards against harmful content to be implemented by designated social media services; and
- (b) **Content Code for Social Media Services**, which empowers IMDA to direct social media services to disable access to harmful content.

On 29 September 2022, MCI issued a summary of the key feedback received, and MCI's response to the feedback. MCI indicated that overall, respondents were supportive of the proposed measures. Some of the key feedback and responses are highlighted below.

### 1. Systems and processes for designated social media services

**Feedback:** Respondents generally agreed with the proposal for designated social media services to have appropriate systems and processes to reduce exposure to harmful online content. Some respondents highlighted other areas of concern, such as harmful advertisements, online gaming, scams, misinformation and online impersonation. Some respondents suggested that penalties be imposed for non-compliance, while others sought assurance that the proposed measures would not affect user privacy or freedom of expression.

Industry groups suggested an outcome-based approach in regulating social media services, which takes into account for example, their business models and size in implementing the proposed requirements. They also sought clarity on how designated services would be identified and defined.

**Response:** MCI indicated that its priority is to address harmful online content on designated social media services for this round of measures, but that they will continue to study the other areas of concern raised. MCI acknowledged that it would need to find the right balance between prioritising user safety and managing privacy and freedom of expression.

MCI agreed on the need to adopt an outcome-based approach and indicated that designated social media services will be given some flexibility to develop and implement the most appropriate solutions to tackle harmful online content on their services, taking into account their unique operating models.

Technology, Media & Telecommunications

**2. Safety features and tools to manage exposure**

**Feedback:** Respondents generally agreed with the importance of having safety features and tools on social media services to allow users to manage their exposure to harmful online content. Many respondents were not aware of existing safety features and felt that more could be done by social media services to raise user awareness and usage.

**Response:** MCI indicated that it encourages social media services to step up their efforts to raise users' awareness of the safety features available on their services, and to convey information on self-help resources to users. MCI also stated that it will continue to work with other Government agencies and community partners to enhance public education efforts on online safety.

**3. Additional safeguards to protect young users**

**Feedback:** Respondents were supportive of the proposal for designated social media services to have additional safeguards for young users. Industry groups suggested adopting an outcome-based approach when implementing safeguards for young users.

**Response:** MCI acknowledged that social media services differ in terms of their user profiles and the type of content published on their services. MCI indicated that it would continue to work with the industry to study the feasibility of the suggestions to apply an outcome-based approach to improving the safety of young users on these services.

**4. User reporting mechanism on social media services**

**Feedback:** Most respondents supported the proposal for social media services to have an effective user reporting and resolution process, and to release annual reports on the effectiveness of their content moderation policies and practices to combat harmful content.

**Response:** MCI agreed that designated social media services should have an accessible, effective, and easy-to-use user reporting mechanism. Designated social media services should also submit annual accountability reports on the effectiveness of their measures to combat harmful content, which are to be made public.

**5. Blocking directions to social media services to disable access to egregious content**

**Feedback:** For the proposal that IMDA be empowered to issue directions to social media services to block egregious content, respondents and industry groups suggested that explanations should be provided on why the specific content was deemed harmful. Industry groups also suggested that social media services be given some flexibility on the timelines for such content to be removed, taking into account the severity of the harmful content and the resources of the service.

# Client Update: Singapore

## 2022 OCTOBER

### Technology, Media & Telecommunications

**Response:** MCI clarified that, when issuing blocking directions to social media services, the egregious content of concern would be made clear to the services. MCI also provided that the timeline requirements for social media services to comply with the directions would take into account the need to mitigate users' exposure to the spread of egregious content circulating on the services.

#### 6. Collaboration between community, private sector and Government

**Feedback:** Most respondents recognised the importance of public education to guide users in dealing with harmful online content and engaging with other users online in a safe and respectful manner. Many respondents suggested that the Government could tap on school and parent/peer networks for public education and outreach to parents and young users, and that the community could partner the Government and industry to raise awareness of existing resources.

**Response:** MCI agreed that online safety regulations need to be complemented by effective public and user education. MCI highlighted that the Government has launched public education programmes to impart digital media and information literacy and cybersecurity skills. MCI also welcomed the participation of the community and industry in making online spaces safer.

### Concluding Words

The proposed measures to enhance online safety are progressing steadily towards implementation, with public feedback having been considered and legislation being introduced. It is expected that the Government will continue to push forward with these measures to achieve effective implementation. The IMDA website (available [here](#)) states that it expects to bring the proposed Codes of Practice into force in the second half of 2023.

It should be noted that the proposed Codes of Practice and the blocking directions that IMDA may be empowered to issue will impose a wide scope of obligations on the part of social media services and related service providers such as internet access service providers. The introduction of the corresponding penalties, such as fines and imprisonment, indicate that the breach of these obligations will have potentially serious implications on the relevant service providers.

Importantly, the proposed changes would apply to all online communication services that can be accessed by Singapore end-users, and would extend to services provided from outside Singapore.

Organisations in the industry should thus familiarise themselves with the proposed framework for online safety and ensure that they comply with the relevant obligations by implementing the necessary measures and safeguards.

The full Summary of Responses to Public Consultation on Enhancing Online Safety for Users in Singapore is available [here](#).

Technology, Media & Telecommunications

For further queries, please feel free to contact our team below.

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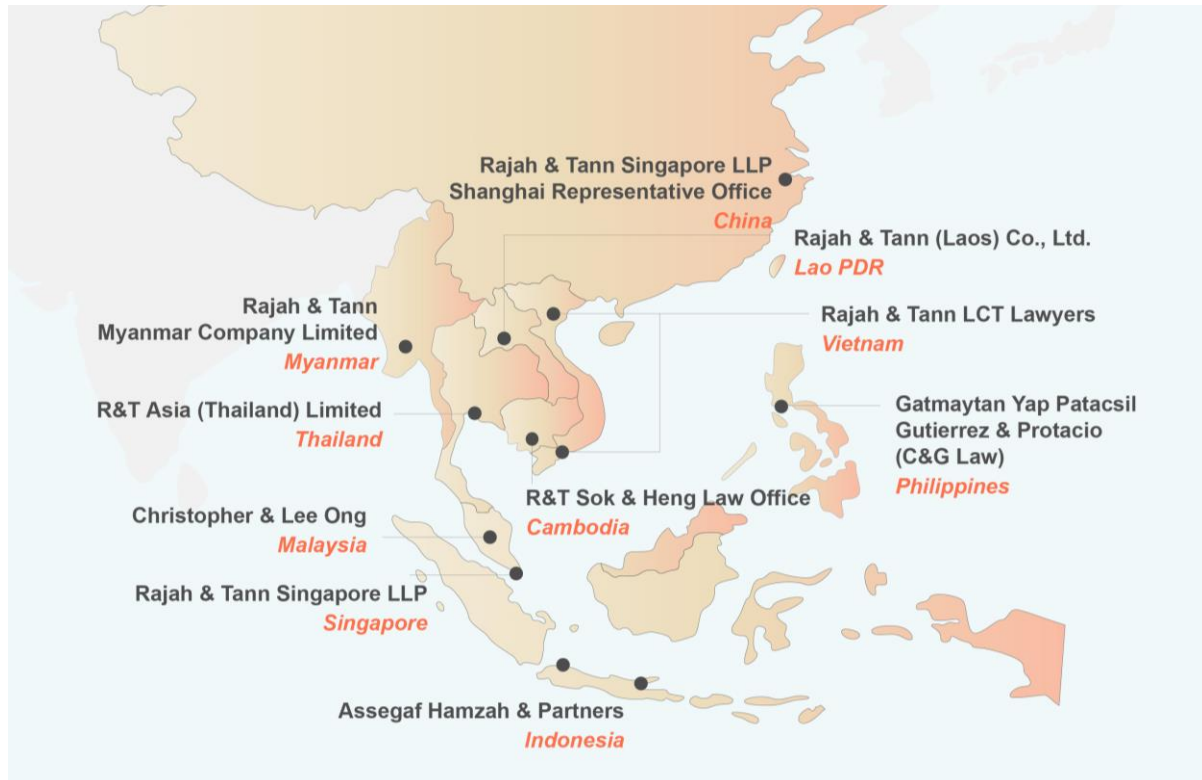
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