

Bird & Bird ATMD

Legal Update



New Measures to Tackle Online Harassment and Online Falsehoods

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Over the past few years, instances of certain new social trends, such as the sharing of people's personal information online with the intention to harass them and the circulation of online falsehoods created by malicious actors, have emerged and are gradually increasing. Such activities have led to serious consequences and the Singapore Government has proposed amendments to the existing Protection from Harassment Act and the enactment of a new Protection from Online Falsehoods and Manipulation Act to tackle these problems.

Protection from Harassment (Amendment) Bill

The existing Protection from Harassment Act (the “**POHA**”), enacted in 2014, provides a range of criminal and civil remedies against harassment, and civil remedies for false statements of facts. It aims to give effective redress to victims of harassment. The Ministry of Law states that since the POHA came into force on 15 November 2014, there have been more than 1,700 prosecutions and over 3,000 Magistrate's Complaints filed¹.

The Protection from Harassment (Amendment) Bill (the “**POHA Bill**”) introduces amendments which seek to enhance the protection of victims of harassment and falsehoods, and to make it faster and easier for victims to obtain remedies under the POHA. It was tabled for First Reading in Parliament on 1 April 2019. Below are some of the key amendments made to the POHA as set out by the POHA Bill.

Key Amendments

1. Enhanced protection for victims of online harassment and online falsehoods

A. Doxxing

The POHA Bill introduces the new offence of doxxing. Generally, doxxing involves the publication of someone's personal information such as their name, NRIC number, photos, contact numbers or employment details online with the intention to cause harassment or to provoke fear or violence. This often arises in the context of online vigilantism. Such actions can be considered a form of deliberate harassment. However, there is a gap in the existing laws in which the current POHA only prohibits persons from using threatening, abusive or insulting words, behavior or communication to (i) intentionally cause another person harassment, alarm or distress under Section 3 and (ii) intentionally causing another person to believe that unlawful violence will be used against him under Section 5.

The POHA Bill fills such a gap by amending the existing Section 3 of the POHA, making it an offence for an individual or an entity, with the

¹ <https://www.mlaw.gov.sg/content/minlaw/en/news/press-releases/Enhancements-to-the-Protection-from-Harassment-Act-POHA.html>

intention to cause harassment, alarm or distress to another person (the “victim” in this paragraph), to publish any identity information of the victim or a related person of the victim, thereby causing any person harassment, alarm or distress.²

New illustrations given by the POHA Bill provide guidelines as to situations where the offence of doxxing under the new Section 3 is committed. The posting of a video of a reckless driver on the road on an online forum with the intention to warn people to drive defensively will not be considered an act of doxxing while it will be considered doxxing to publish a social media post with abusive and insulting remarks on a person’s alleged sexual promiscuity which includes the person’s photos and contact details to facilitate identification or contacting of the person by others.³

The POHA Bill further amends the existing Section 5 of the POHA, making it an offence for an individual or an entity to publish identity information of another person or any other person (the “victim” in this paragraph) with the intent, or knowing or having reasonable cause to believe that it is likely (i) to cause the victim to believe that unlawful violence will be used against the victim or any other person or (ii) to facilitate the use of unlawful violence against the victim or any other person.⁴

Illustrations given by the POHA Bill are indicative of the range of situations where a person may be convicted of an offence of doxxing under the new Section 5. An individual who posts threatening and abusive remarks against another on a publicly accessible website, who subsequently posts the other person’s identity information and a call to use violence against him shall be guilty of doxxing.⁵

Further, an individual who simply posts identity information of another person A, without using any abusive words, may be guilty of doxxing if the individual’s post is in reply to an earlier post from a third party threatening violence against person A and calling for others to “hunt him down”.⁶

It is noted that the illustrations provided by the POHA Bill are relatively clear cut instances where elements of doxxing can be established. They serve as guidelines or examples. Whether such an offence is made out will depend on the context within which the identity information is published.

Difficulties may arise when an individual merely posts identity information of a person together with an angry comment without making a call for violence against the person. Such an individual may argue that the disclosure of the identity information was only meant to shame and not to facilitate the use of violence, with no real intent to harass or promote violence against the person. However, other individuals who have seen the post may interpret it differently and take action. It will then be up to the prosecution to establish that it is clear from the circumstances that the publisher knew or ought to know that his acts would have resulted in harassment or facilitate the use of violence.⁷ Ultimately, it will be up to the courts to interpret and construe the law and decide each case based on its own facts.

In situations where personal information is published to cause harassment, alarm or distress, perpetrators could face a fine of up to S\$5,000 or a jail term of up to 6 months, or both.⁸ Where the information is published to cause fear of violence or facilitate violence, or where the perpetrator has reasonable cause to believe that would be so, perpetrators could face a fine of up to S\$5,000 or a jail term of up to 12 months, or both.⁹

² Clause 4(a) of the Protection from Harassment (Amendment) Bill

³ Clause 5(g) of the Protection from Harassment (Amendment) Bill

⁴ Clause 6(d) of the Protection from Harassment (Amendment) Bill

⁵ Clause 6(j) of the Protection from Harassment (Amendment) Bill

⁶ Clause 6(j) of the Protection from Harassment (Amendment) Bill

⁷ <https://www.singaporelawwatch.sg/Headlines/the-debate-over-doxxing>

⁸ Section 3(2) of the Protection from Harassment Act

⁹ Section 5(2) of the Protection from Harassment Act

B. Improved Protection Order and Expedited Protection Order Regime

(i) Protection Order

A court may, if it is just and equitable in the circumstances to do so, make a protection order (the “**Protection Order**”) against any individual or entity (the “respondent” under this part B) alleged to have committed an offence under Section 3 or Section 5 of the POHA if it is satisfied on the balance of probabilities that the respondent has indeed committed such an offence in respect of the victim, and the respondent is likely to continue committing the offence or to commit another such offence in respect of the victim.¹⁰ The POHA Bill facilitates the application of Protection Orders by stipulating that the court is deemed to be satisfied that the respondent has committed the offence if the respondent has been convicted and the court is satisfied on the balance of probabilities that the respondent has voluntarily caused hurt to the victim.¹¹

Pursuant to the POHA Bill, if the offence involves an offending communication, the Protection Order may require the respondent to stop publishing the offending communication or to not publish any communication that is substantially similar to the offending communication before a specified time.¹² The court may also order any third party, whom the court is satisfied on the balance of probabilities is likely to publish or continue to publish an offending communication or any communication that is substantially similar to the offending communication, to stop publishing or to not publish such communication.¹³ Further, the court is allowed to order an internet intermediary to disable access by end-users of the service in Singapore to an offending communication or an identical copy of the offending communication.¹⁴

¹⁰ Section 12(2) of the Protection from Harassment Act

¹¹ Clause 16(1)(a) of the Protection from Harassment (Amendment) Bill

¹² Clause 16(1)(a) of the Protection from Harassment (Amendment) Bill

¹³ Clause 16(1)(a) of the Protection from Harassment (Amendment) Bill

¹⁴ Clause 16(2)(c) of the Protection from Harassment (Amendment) Bill

(ii) Expedited Protection Order

A court may, if it is just and equitable in the circumstances to do so, make an expedited protection order (the “**Expedited Protection Order**”) against a respondent if the court is satisfied that there is prima facie evidence that (i) the respondent has committed an offence under Section 3 or Section 5 of the POHA, (ii) such an offence is likely to continue, or the respondent is likely to commit such an offence in respect of the victim imminently, and (iii) the offence, if continued or committed, is likely to have a substantial adverse effect on the victim or the victim’s day-to-day activities.¹⁵ Similar to its approach for the Protection Order, the POHA Bill likewise facilitates the application of an Expedited Protection Order by stipulating that the court is deemed to be satisfied that there is prima facie evidence that the respondent has committed an offence in respect of a victim if the respondent is convicted of such an offence and the court is satisfied that there is prima facie evidence that the respondent has voluntarily caused hurt to the victim.¹⁶

In addition, the POHA Bill allows a court to make an Expedited Protection Order against a third party to stop publishing or not to publish offending communications¹⁷ and against an internet intermediary to disable access by end-users of the service in Singapore to an offending communication¹⁸. Further, an Expedited Protection Order will remain in effect until the Protective Order hearing is concluded.¹⁹

Both the Protection Order and the Expedited Protection Order are extended to protect persons related to the victims under the POHA Bill, since such persons are also at risk of harassment or violence.²⁰ The POHA Bill strengthens the remedies available when a Protection Order or an Expedited Protection Order is breached, to deter

¹⁵ Section 13(1) of the Protection from Harassment Act

¹⁶ Clause 17(1)(c) of the Protection from Harassment (Amendment) Bill

¹⁷ Clause 17(1)(c) of the Protection from Harassment (Amendment) Bill

¹⁸ Clause 17(2)(a) of the Protection from Harassment (Amendment) Bill

¹⁹ Clause 17(2)(c) of the Protection from Harassment (Amendment) Bill

²⁰ Clause 16(2) of the Protection from Harassment (Amendment) Bill

against such breach. The amendments under the POHA Bill provide that a police officer may arrest without warrant any person reasonably suspected of having breached a Protection Order or an Expedited Protection Order.²¹ Currently, a breach of a Protection Order or an Expedited Protection Order is punishable with a fine not exceeding \$5,000 or imprisonment for a term not exceeding 6 months, or both.²² The amendments will increase the penalty of a subsequent breach to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 12 months, or both.²³

C. Expansion of the Scope of Orders

The POHA Bill further expands the scope of orders which can be made by the courts to better protect victims of falsehoods against the individual or entity (as the case may be) alleged to have spread such falsehoods (the “respondent” under this part C).

The courts will be empowered to make the following orders:

a The new Section 15A allows a court, on application by the subject of an alleged false statement of fact (the “relevant statement”), to make a stop publication order against the respondent if the court is satisfied on a balance of probabilities that the respondent has published the relevant statement and the relevant statement is indeed a false statement of fact, and it is just and equitable in the circumstances to do so. A stop publication order may require the respondent to stop publishing the relevant statement or any substantially similar statement, by a specified time.²⁴ The court may make an interim stop publication order under the new Section 16A against a respondent, in relation to whom a stop publication order is pending, if the court is satisfied that there is prima facie evidence that the respondent has published the relevant statement and the relevant statement is false, and it is just and equitable in the circumstances

to make a stop publication order on an expedited basis.²⁵

b The new Section 15B allows a court, on application by the subject of a relevant statement, to make a correction order against the respondent if the same requirements as set out in relation to the new Section 15A in the previous paragraph are met. A correct order may require the respondent to publish in Singapore a correction notice within a specified time, to any specified person in a specified form and manner. The correction notice must contain all or any of the following statements: (i) a statement that the court has determined that the relevant statement is false, or that such material as may be specified contains a false statement of fact, and (ii) a statement correcting the relevant statement, or a reference to a specified location where such a statement may be found.²⁶ A court may also make an interim notification order under the new Section 16B against a respondent, in relation to whom a correction order is pending, if the same requirements as set out in relation to the new Section 16A in the previous paragraph are met.²⁷

c The new Section 15C allows a court to make a disabling order against an internet intermediary, on the application of the subject of a relevant statement, if the court is satisfied on the balance of probabilities that any material consisting of or containing the relevant statement has been or is being published by means of an internet intermediary service provided by the internet intermediary and the relevant statement is a false statement of fact, if it is just and equitable in the circumstances to do so.²⁸ Under the new Section 16AA, an interim disabling order can be made by the court against an internet intermediary, in relation to whom a disabling order is pending, if the court is satisfied that there is prima facie evidence that any material consisting of or containing the relevant statement has been or is being published by means of an internet intermediary service

²¹ Clause 22 of the Protection from Harassment (Amendment) Bill

²² Section 10(1) of the Protection from Harassment Act

²³ Clause 9(b) of the Protection from Harassment (Amendment) Bill

²⁴ Clause 20(1) of the Protection from Harassment (Amendment) Bill

²⁵ Clause 20(1) of the Protection from Harassment (Amendment) Bill

²⁶ Clause 20(1) of the Protection from Harassment (Amendment) Bill

²⁷ Clause 20(1) of the Protection from Harassment (Amendment) Bill

²⁸ Clause 20(3) of the Protection from Harassment (Amendment) Bill

provided by the internet intermediary, the relevant statement is a false statement of fact and publication of the specified material has caused or is likely to cause the subject harm, and it is just and equitable in the circumstances to make a disabling order on an expedited basis.²⁹

- d The new section 15D allows a court to make a targeted correction order against an internet intermediary, on the application of the subject of relevant statement, if the same requirements as set out in relation to the new Section 15C in the previous paragraph are met.³⁰ Under the new Section 16BA, the court is allowed to make a targeted interim notification order against an internet intermediary, on the application of the subject of an alleged false statement of fact, if the same requirements as set out in relation to the new Section 16AA in the previous paragraph are met.³¹
- e The new Section 15E allows a court to make a general correction order against prescribed persons to publish a general correction notice. The court may make the order if the court is satisfied on the balance of probabilities that the relevant statement is false and that its publication has caused or is likely to cause serious harm to the reputation of the subject, and if it is just and equitable in the circumstances to do so.³²

D. Clarification for Private Entities

The amendments set out by the POHA Bill clarify that both individuals and entities may be prosecuted for offences under the POHA. In addition, the amendments also clarify that private entities may obtain remedies under the POHA where they are victims of falsehoods. The Ministry of Law says that in an infinite online landscape, entities are just as vulnerable as individuals where falsehoods are concerned. A corporate entity's reputation can be ruined in days if falsehoods about

the entity are allowed to go unchecked. The POHA Bill aims to provide recourse to such entities.³³

E. Enhanced Penalties for Offences against Vulnerable Persons and Intimate Persons

The POHA Bill proposes amendments to enhance the existing penalties for offences against vulnerable persons and victims in an intimate partner relationship. Such persons are more vulnerable and require more protection. The POHA Bill doubles the penalties for offences against vulnerable persons and intimate partners. For example, a perpetrator of an offence under Section 3 shall face a fine of up to S\$10,000 and/or imprisonment of up to 12 months, double that of the current penalties of maximum S\$5,000 and/or imprisonment of up to 6 months.³⁴

2. Establishment of the Protection from Harassment Courts

The POHA Bill will establish a new Protection from Harassment Court (the “**PHC**”). The PHC will be a specialised Court with oversight over all criminal and civil matters under the POHA, providing effective relief for victims of online harassment and online falsehoods.

The PHC will adopt simplified and streamlined procedures with expedited timelines, allowing victims to obtain relief such as Protection Orders and Expedited Protection Orders within a shorter timeframe.

Such simplified procedures will allow claims, Protection Orders and Expedited Protection Orders to be filed using a straightforward claim form, instead of requiring an Originating Summons as is the case currently. In addition, the PHC will not be bound by the rules of evidence in the conduct of civil proceedings.³⁵

The PHC will aim to hear applications for Expedited Protection Orders within 48 to 72 hours of the application. Where there is a risk of violence or actual violence, the PHC will aim to hear the

²⁹ Clause 20(5) of the Protection from Harassment (Amendment) Bill

³⁰ Clause 20(3) of the Protection from Harassment (Amendment) Bill

³¹ Clause 20(6) of the Protection from Harassment (Amendment) Bill

³² Clause 20(3) of the Protection from Harassment (Amendment) Bill

³³ <https://www.mlaw.gov.sg/content/minlaw/en/news/press-releases/Enhancements-to-the-Protection-from-Harassment-Act-POHA.html>

³⁴ Clause 11 of the Protection from Harassment (Amendment) Bill

³⁵ Clause 24(h) of the Protection from Harassment (Amendment) Bill

application within 24 hours. The PHC will also work towards disposing the Protection Order application within 4 weeks of filing the application.³⁶

Singapore Law Minister Mr K Shanmugam said that such an approach is to make the process simple so that people will not need a lawyer. "Of course people can employ lawyers, but we want to try and make the process such that even if you didn't have that lawyer, you can go in and post in a form and it sets out your position," he explained.³⁷

Protection from Online Falsehoods and Manipulation Bill

Online falsehoods can divide society, spread hate, and weaken democratic institutions. With the pervasiveness of digital technology, the dangers of falsehoods have become more serious and greater in scale.³⁸ A Select Committee on Deliberate Online Falsehoods was set up and it has recommended a multi-pronged response to tackle the problem of deliberate online falsehoods.³⁹ One of measures is the enactment of the Protection from Online Falsehoods and Manipulation Act (the "POFMA"), proposed through the Protection from Online Falsehoods and Manipulation Bill (the "POFMA Bill") which was read for the first time on 1 April 2019.

The POFMA Bill is intended to protect society from the damage caused by deliberate online falsehoods and fake accounts used to spread such falsehoods. It also intends to protect against malicious actors who knowingly spread harmful falsehoods, or offer disinformation tools and services, by using criminal sanctions.

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<https://www.mlaw.gov.sg/content/dam/minlaw/corp/News/Press%20Release/POHA/C%20Court%20Processes%20%20Timeline.pdf/subassets/page1.pdf>

³⁷ <https://www.channelnewsasia.com/news/singapore/fake-news-falsehoods-appeals-fast-simple-inexpensive-shanmugam-11426792>

³⁸ <https://www.mlaw.gov.sg/content/minlaw/en/news/press-releases/New-Bill-to-Protect-society-from-Online-Falsehoods-and-Malicious-Actors.html>

³⁹

<https://www.mlaw.gov.sg/content/dam/minlaw/corp/News/Press%20Release/POFMB/Annex%20%20-%20Govt%20Implementation%20of%20SC%20recommendations.pdf>

Purpose of the POFMA Bill

Pursuant to the POFMA Bill, the purpose of the POFMA is as follows:

- a to prevent the communication of false statements of fact in Singapore and to enable measures to be taken to counteract the effects of such communication;
- b to suppress the financing, promotion and other support of online locations that repeatedly communicate false statements of fact in Singapore;
- c to enable measures to be taken to detect, control and safeguard against coordinated inauthentic behaviour and other misuses of online accounts and bots; and
- d to enable measures to be taken to enhance disclosure of information concerning paid content directed towards a political end.⁴⁰

Key Features of the POFMA Bill

A. Offences and Punishments

The POFMA criminalises the communication of false statements of fact in Singapore in certain circumstances, and various acts which enable or facilitate such communication.

(i) Communication of false facts in Singapore

Clause 7(1) of the POFMA Bill provides that a person commits an offence if the person communicates in Singapore a statement knowing or having reason to believe that it is a false statement of fact, and that such communication is likely to:

- a be prejudicial to the security of Singapore or any part of Singapore;
- b be prejudicial to public health, public safety, public tranquillity or public finances;
- c be prejudicial to the friendly relations of Singapore with other countries;
- d influence the outcome of an election to the office of President, a general election of

⁴⁰ Clause 5 of the Protection from Online Falsehoods and Manipulation Bill

Members of Parliament, a by-election of a Member of Parliament, or a referendum;

- e incite feelings of enmity, hatred or ill-will between different groups of persons; or
- f diminish public confidence in the performance of any duty or function of, or in the exercise of any power by, the Government, an Organ of State, a statutory board, or a part of the Government, an Organ of State or a statutory board. (collectively, the “**Prohibited Communications**”)

A person guilty of this offence shall be liable, in the case of an individual, to a fine not exceeding S\$50,000 or to imprisonment for a term not exceeding 5 years, or to both, or in any other case, to a fine not exceeding \$500,000.⁴¹ The punishment is enhanced if an inauthentic online account or a bot is used in the communication, to amplify the false statement of fact.⁴²

(ii) Making or altering bots for communication of false statements of fact in Singapore

Clause 8(1) of the POFMA Bill provides that a person commits an offence if the person makes or alters a bot with the intention of using it to communicate in Singapore a false statement of fact or enabling another person to do so.

A person guilty of this offence shall be liable, in the case of an individual, to a fine not exceeding S\$30,000 or to imprisonment for a term not exceeding 3 years, or to both, or in any other case, to a fine not exceeding \$500,000.⁴³ The punishment is enhanced if the communication in Singapore of the statement is likely to be any one of the Prohibited Communications.⁴⁴

(iii) Providing services for communication of false statements of fact in Singapore

Clause 9(1) of the POFMA Bill provides that a person commits an offence if the person solicits, receives or agrees to receive a benefit for providing a service which the person knows is or will be used to communicate a false statement of fact in Singapore, if the service is in fact used in such communication.

A person guilty of this offence shall be liable, in the case of an individual, to a fine not exceeding S\$30,000 or to imprisonment for a term not exceeding 3 years, or to both, or in any other case, to a fine not exceeding \$500,000.⁴⁵ The punishment is enhanced if the communication in Singapore of the statement is likely to be any one of the Prohibited Communications.⁴⁶ A court which convicts a person of such offence may (in addition to the prescribed punishment) order the person to pay a sum equal to the amount or value of the financial or other material benefit received.⁴⁷

B. Falsehoods vs Opinions

The POFMA Bill defines a false statement of fact as one that is false or misleading whether wholly or in part and whether on its own or in the context in which it appears.⁴⁸ Opinions, criticisms, satire or parody are not covered under the POFMA Bill.

C. Proposed Measures

Besides criminal sanctions applicable on malicious actors as set out above in part A, the POFMA Bill further provides for different measures to be taken against the communication of false statements of fact in Singapore. A Government minister (the “**Minister**”) may appoint a statutory board, or the holder of any office in the service of Government or a statutory board as a competent authority (the “**Competent Authority**”) to give effect to the

⁴¹ Clause 7(2) of the Protection from Online Falsehoods and Manipulation Bill

⁴² Clause 7(3) of the Protection from Online Falsehoods and Manipulation Bill

⁴³ Clause 8(2) of the Protection from Online Falsehoods and Manipulation Bill

⁴⁴ Clause 8(3) of the Protection from Online Falsehoods and Manipulation Bill

⁴⁵ Clause 9(2) of the Protection from Online Falsehoods and Manipulation Bill

⁴⁶ Clause 9(3) of the Protection from Online Falsehoods and Manipulation Bill

⁴⁷ Clause 9(5) of the Protection from Online Falsehoods and Manipulation Bill

⁴⁸ Clause 2(2) of the Protection from Online Falsehoods and Manipulation Bill

instructions of the Minister as prescribed by the POFMA.⁴⁹

(i) **Directions dealing with communications in Singapore of false statements of fact**

Under Part 3 of the POFMA Bill, a Correction Direction or a Stop Communication (defined below) (collectively, “**Part 3 Directions**”) may be issued to deal with communications in Singapore of false statements of fact. Any Minister may direct the Competent Authority to issue a Part 3 Direction if a false statement of fact has been or is being communicated in Singapore, and the Minister is of the opinion that it is in the public interest to issue the Part 3 Direction.

The POFMA Bill gives a non-exhaustive definition of the expression “in the public interest”, stating that it is in the public interest to do anything if the doing of that thing is necessary or expedient:

- a in the interest of the security of Singapore or any part of Singapore;
- b to protect public health or public finances, or to secure public safety or public tranquillity;
- c in the interest of friendly relations of Singapore with other countries;
- d to prevent any influence of the outcome of an election to the office of President, a general election of Members of Parliament, a by-election of a Member of Parliament, or a referendum;
- e to prevent incitement of feelings of enmity, hatred or ill-will between different groups of persons; or
- f to prevent a diminution of public confidence in the performance of any duty or function of, or in the exercise of any power by, the Government, an Organ of State, a statutory board, or a part of the Government, an Organ of State or a statutory board.

⁴⁹ Clause 6 of the Protection from Online Falsehoods and Manipulation Bill

A Part 3 Direction can be issued to a person whether the person is in or outside Singapore⁵⁰, and remains in effect until the date it expires, is set aside by the courts or cancelled by the Minister.⁵¹

a **Correction Direction**

A Correction Direction is a direction to the communicator of the false statement to communicate in Singapore a correction notice, in the specified form and manner, to a specified person or description of persons (if any), and by the specified time, consisting of one or both of the following: (a) a notice that the statement communicated is false or (b) a specified statement of fact or a specified location where such statement may be found, or both (the “**Correction Notice**”). A Correction Direction may require the communicator to place the Correction Notice in the specified proximity to every copy of the false statement of fact, or a substantially similar statement, communicated in Singapore by the person, and to publish the Correction Notice in a Singapore newspaper or other publication.⁵²

b **Stop Communication Direction**

A Stop Communication Direction is a direction to the communicator of the false statement to stop communicating it in Singapore. The communicator may also be required to stop communicating a substantially similar statement in Singapore. A Stop Communication Direction may, in addition, require the communicator to put up a Correction Notice.⁵³

The Minister may direct the Info-communications Media Development Authority (the “**IMDA**”) to order an internet access service provider to take steps to disable access by end-users in Singapore to an online location (the “**Access Blocking Order**”) if a Part 3 Direction is not complied with, and the false statement continues to be communicated on an online location and the Minister is satisfied that one or more end-users had used the services of the

⁵⁰ Clause 13(1) of the Protection from Online Falsehoods and Manipulation Bill

⁵¹ Clause 13(5) of the Protection from Online Falsehoods and Manipulation Bill

⁵² Clause 11 of the Protection from Online Falsehoods and Manipulation Bill

⁵³ Clause 12 of the Protection from Online Falsehoods and Manipulation Bill

internet access service provider to access that online location.⁵⁴

(ii) Directions to Internet Intermediaries and Providers of Mass Media Services

Under Part 4 of the POFMA Bill, Targeted Correction Directions, Disabling Directions and General Correction Directions (defined below) (collectively, “**Part 4 Directions**”) may be given against internet intermediaries and providers of mass media services in relation to any material containing or consisting of a false statement of fact that has been or is being communicated in Singapore. Similar to Part 3 of the POFMA Bill, any Minister may direct the Competent Authority to issue a Part 4 Direction if a false statement of fact has been or is being communicated in Singapore, and the Minister is of the opinion that it is in the public interest to issue the Part 4 Direction.⁵⁵ A Part 4 Direction may also be issued to a person whether or not the person is in Singapore⁵⁶, and remains in effect until it expires, or it is set aside by the courts or cancelled by the Minister.⁵⁷

a Targeted Correction Direction

A Target Correction Direction is a direction to the internet intermediary whose service is used in communicating in Singapore the subject material, to communicate to end-users in Singapore who access the subject material a Correction Notice.⁵⁸

b Disabling Direction

A Disabling Direction is a direction to the internet intermediary that provided the internet intermediary service by which the communication of the material was carried out, to disable access by end-users in Singapore to the subject material provided on or through the service by a specified time.⁵⁹

⁵⁴ Clause 16 of the Protection from Online Falsehoods and Manipulation Bill

⁵⁵ Clause 20 of the Protection from Online Falsehoods and Manipulation Bill

⁵⁶ Clause 25(1) of the Protection from Online Falsehoods and Manipulation Bill

⁵⁷ Clause 25(4) of the Protection from Online Falsehoods and Manipulation Bill

⁵⁸ Clause 21 of the Protection from Online Falsehoods and Manipulation Bill

⁵⁹ Clause 22 of the Protection from Online Falsehoods and Manipulation Bill

c General Correction Direction

A General Correction Direction is a direction to prescribed internet intermediaries, providers of mass media services and other prescribed persons, to communicate in Singapore, publish, broadcast, transmit by a telecommunications service, or give to specified persons, a Correction Notice.⁶⁰

Additionally, the Minister may direct the IMDA to make an Access Blocking Order against an internet access service provider if a Part 4 Direction is not complied with, and the false statement continues to be communicated on an online location and the Minister is satisfied that one or more end-users had used the services of the internet access service provider to access that online location.⁶¹

(iii) Declaration of an Online Location

Part 5 of the POFAM Bill provides for the declaration (the “**Declaration**”) of an online location used to communicate in Singapore and the effects of such Declaration. The Minister may declare an online location as a declared online location if the following conditions are satisfied: (a) 3 or more different statements each of which is the subject of an active Part 3 Direction or Part 4 Direction, have been or are being communicated in Singapore on the online location, and (b) at least 3 of those statements were first communicated in Singapore on the online location within 6 months before the date of the Declaration.⁶²

A Declaration may require the owner or operator of the online location to communicate to any end-user in Singapore who accesses the online location, a notice that the online location is the subject of a Declaration.⁶³ Failure to comply with the requirements of the Declaration is an offence.⁶⁴ The Minister may suspend, vary or cancel a Declaration, either on the Minister’s own initiative or on

⁶⁰ Clause 23 of the Protection from Online Falsehoods and Manipulation Bill

⁶¹ Clause 28 of the Protection from Online Falsehoods and Manipulation Bill

⁶² Clause 32(1) of the Protection from Online Falsehoods and Manipulation Bill

⁶³ Clause 32(3)(f) of the Protection from Online Falsehoods and Manipulation Bill

⁶⁴ Clause 32(6) of the Protection from Online Falsehoods and Manipulation Bill

application by the owner or operator of the declared online location or a person with editorial control of the online location.⁶⁵

The Minister may direct the IMDA to make an Access Blocking Order against an internet access service provider⁶⁶ or direct the Competent Authority to order an internet intermediary which controls access by end-users in any place to a declared online location to disable local access to that location⁶⁷ if (a) paid content is communicated in Singapore on the online location after a prescribed period starting on the date the Declaration comes into effect, and the Minister is satisfied that after that effective date, end-users have used the service of the internet access service provider / internet intermediary (as the case may be) to access that location; or (b) the owner or operator of the online location failed to comply with a requirement to communicate to end-users in Singapore a notice of declaration, and the Minister is satisfied that after that effective date, end-users have used the service of the internet access service provider / internet intermediary (as the case may be) to access that location.

The POFMA also provides that it is an offence for a person to solicit, receive or agree to receive any material benefit as an inducement or reward for operating a declared online location. A person convicted of such an offence must (in addition to the prescribed punishment) pay an amount equal to the amount or value of the financial or other material benefit received.⁶⁸

Further, a service provider or digital advertising intermediary must take reasonable steps to ensure that, after a prescribed period starting on the date the Declaration comes into effect, any paid content that it includes or causes to be included on a declared online location is not communicated in Singapore on that online location.⁶⁹

⁶⁵ Clause 32(9) of the Protection from Online Falsehoods and Manipulation Bill

⁶⁶ Clause 33 of the Protection from Online Falsehoods and Manipulation Bill

⁶⁷ Clause 34 of the Protection from Online Falsehoods and Manipulation Bill

⁶⁸ Clause 36 of the Protection from Online Falsehoods and Manipulation Bill

⁶⁹ Clauses 37(1) and 37(2) of the Protection from Online Falsehoods and Manipulation Bill

(iv) Directions to Counteract Inauthentic Online Accounts and Coordinated Inauthentic Behaviour

Under Part 6 of the POFAM Bill, Account Restriction Directions may be made to restrict the use of online accounts that are inauthentic online accounts or controlled by bots, and are either used to communicate in Singapore false statements of fact or for coordinated inauthentic behaviour.

Any Minister may direct the Competent Authority to issue an Account Restriction Direction to a prescribed internet intermediary to disallow its services from being used to communicate statements in Singapore through a specified online account, or to disallow any person from using a specified online account to interact with an end-user of its service in Singapore, if:

- a the online account is created with the internet intermediary;
- b it is either used to communicate in Singapore a false statement of fact or to carry out coordinated inauthentic behaviour;
- c the Minister has reason to believe the account is an inauthentic online account or is controlled by a bot; and
- d the Minister is of the opinion that it is in the public interest to issue the Account Restriction Direction.⁷⁰

An Account Restriction Direction may specify that it has effect indefinitely or for a specified period not exceeding 3 months.⁷¹

Like the directions that may be given under Part 3 and Part 4 of the POFMA Bill, the Minister may direct the IMDA to make an Access Blocking Order against an internet access service provider if (i) an Account Restriction Direction is not complied with, (ii) the false statement of fact concerned was or is being communicated in Singapore on the online location, or the coordinated inauthentic behaviour concerned took place or is taking place on the online location, (iii) the internet intermediary has control over access by end-users in any place to that online location, and (iv) the Minister is satisfied

⁷⁰ Clauses 40(1) and 40(2) of the Protection from Online Falsehoods and Manipulation Bill

⁷¹ Clause 40(3) of the Protection from Online Falsehoods and Manipulation Bill

that one or more end-users have used or are using the services of the internet access service provider to access that online location.⁷²

Conclusion

By making amendments to the existing POHA and enacting the POFMA, the Government is taking a step in the right direction to cope with the rising numbers of online harassment and online falsehood cases that are threatening the safety and security of individuals and the society. The amended POHA will enable victims of online harassment to obtain fast, holistic and effective relief while the POFMA will help to ensure online falsehoods do not drown out authentic speech and ideas, and undermine democratic processes and society. France and Germany have already enacted similar legislation⁷³ and it is beneficial to our society to follow in their footsteps.

⁷² Clause 43 of the Protection from Online Falsehoods and Manipulation Bill

⁷³ https://www.channelnewsasia.com/news/singapore/singapore-proposes-multi-pronged-law-to-combat-online-falsehoods-11400614?cid=h3_referral_inarticlelinks_24082018_cna

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