**LIDC Congress in Vienna, 8 – 12 October 2025**

**Question B: What responsibility or obligations should online platforms have when it comes to eliminating infringements by their users, especially in the areas of IP and unfair competition?**

**Background and Context:**

The starting point for this topic remains the long-standing liability privilege of intermediaries (‘safe harbour’): online platforms that provide pure intermediary services may remain exempt from liability for illegal third-party content and have no general obligation to monitor the content posted by their users.[[1]](#footnote-1) However, in the last years, it has become increasingly complex to state that intermediaries refrain from ‘pure intermediation’. More and more, platforms inﬂuence on user experiences via a mix of, mainly automatic, content harvesting and organisation mechanisms.

Despite these developments, the safe harbour principle has not (yet?) been completely abolished but has become accompanied by some additional obligations instead, such as in the Digital Services Act (DSA) of the European Union (EU); here, hosting providers are now required to have a mechanism in place allowing third parties to report suspected illegal content and to react immediately on such requests. In addition, trusted ﬂaggers, as entities designated by national digital coordinators, are new players in this “notice and action” procedure, in which the operator of an online platform must immediately block offers if it becomes aware of a clear violation under the applicable law. Notices they submit are supposed to be prioritised as they are expected to be more accurate than average user reports.

Another innovation (in the EU) is the “Good Samaritan” rule in this area, which ensures that online intermediaries do not lose their liability privilege just because they voluntarily review user content. This clause is intended to give providers legal certainty when they check uploaded content to detect infringements proactively.

Interesting developments have also emerged in non-EU jurisdictions. For example, in Brazil, the Civil Framework for the Internet, a federal law enacted in 2014, is currently challenged at the Supreme Federal Court. Central to the issue are legal provisions requiring a court order before illegal content on online platforms can be removed, potentially altering the dynamics of the notice-and-takedown process.

Although these current developments represent a new basis for familiar principles, the signiﬁcance of their speciﬁc details for the protection of intellectual property and unfair competition can be important. Moreover, the practical importance of special entities as experts at detecting certain types of illegal content and notifying online platforms will become apparent with the ﬁrst experiences with it.

Regardless of jurisdiction, there must be a balance between the aim to tackle illegal content online and fundamental rights such as freedom of expression or the right to a fair trial.

The subject of the responsibility of platform intermediaries and their role in preventing unfair competition was already addressed at a LIDC Congress in Oxford in September 2011. 14 years later, at the LIDC Congress in Vienna in October 2025, a comprehensive reassessment, re-discussion and re-evaluation of the historical development with regard to unfair competition and intellectual property is to take place, in which the following questions are to be answered by the national rapporteurs and their reports are ultimately to be incorporated into the international report, which will allow a comprehensive discussion of recent developments regarding platform responsibility.

National groups are therefore invited to provide an account of the emerging trends and cases before courts in their respective jurisdictions from a legal and practical perspective in the online sector.

**Questions**

This questionnaire aims to learn about the legal situation within the respective jurisdiction. Thus, the questions provided below shall be used as a guideline to allow for a comparison of online platforms’ liabilities and responsibilities in cases of possible infringements by their users in the respective national jurisdictions. We, therefore, appreciate answers guided by the questions raised but understand if an alteration of the scope according to the norms and practice of the respective jurisdiction is needed.

**Historical perspective**

1. Please provide us with a brief summary of substantive (legal) developments regarding the liability and responsibility of platforms in the respective jurisdiction (bearing in mind the scope of intellectual property and unfair competition) considering:
	1. the deﬁnition of platforms[[2]](#footnote-2) or similar;
	2. international legal provisions;
	3. national legal provisions;
	4. cases;
	5. activities of platforms;
	6. others (e.g. NGOs, stakeholders).

**Answer:** In the past, internet service providers enjoyed freedom to broadcast information or operate as mediums for users to publish information. They had no responsibilities for such content posted by individuals. The common law and statutory laws even provided protection to these intermediaries, with the common law defence of innocent dissemination or the Electronic Transactions Act 2010 (“**ETA**”) exempting network service providers from civil and criminal liability (section 26 ETA). However, in the past 5 years, this trend has shifted towards imposing regulations and powers to the court over internet intermediaries. This trend can be seen with the enactment of the Protection from Online Falsehoods and Manipulation Act 2019 (“**POFMA**”), the amendment of the Protection from Harassment Act 2014 (“**POHA**”), and the changes to the Broadcasting Act 1994 (“**BA**”). Finally, the Online Criminal Harms Act 2023 (“**OCHA**”) was commenced in June 2024.

Specifically, the definition of “internet intermediary service” can be found standardised across various Singaporean legislation such as the POFMA and the POHA.

In the POFMA, during the second reading of the Protection from Online Falsehoods and Manipulation Bill on 7 May 2019, Senior Minister of State for Law (Mr Edwin Tong Chun Fai) said that internet intermediary services had profoundly changed the way the public consumed information. The act was enacted as a toolkit to minimise falsehoods for these platforms, not individual publishers. Prior to the enaction of this act, a Select Committee on Deliberate Online Falsehoods was set up to, *inter alia*, determine the best approach to manage online falsehoods. It was concluded that existing laws in Singapore were inadequate and new laws were necessary.

In both POHA and POFMA, an “internet intermediary service” is defined as:

1. a service that allows end‑users to access materials originating from third parties, using the internet;
2. a service of transmitting materials to end‑users on or through the internet; or
3. a service of displaying, to an end-user who uses the service to make an online search, an index of search results, each of which links that end‑user to content hosted or stored at a location which is separate from the location of the index of search results,

but excludes any act done for the purpose of or that is incidental to the provision of —

1. a service of giving the public access to the internet; or
2. a computing resource service.

Alternatively, the term “online communication service” is defined in section 2A of the BA as an electronic service that is, or a part of an electronic service having the characteristics of a social media service or app distribution service. Furthermore, an electronic service means a service —

1. that —
2. enables end-users to access or communicate content on the Internet using that service, including a point-to-multipoint service; or
3. delivers content on the Internet to persons having equipment appropriate for receiving that content, where the delivery of the service is by a service described in sub-paragraph (i);
4. that is a service —
5. between a point in Singapore and one or more other points in Singapore; or
6. between a point and one or more other points, where the firstmentioned point is outside Singapore and at least one of the other points is inside Singapore; and
7. that is not an excluded electronic service.

At present, only social media services and app distribution services have been specified to be within the scope of the BA, excluding communications which are public or domestic in nature (Fourth Schedule BA).

Finally, section 2 OCHA defines “internet access service” as a telecommunication service between a point in Singapore and another point in Singapore or between 2 points, one of which is in Singapore, that enables access to online activity by means of the internet, but excludes any telecommunication service excluded by regulations.

However, the focus of the POHA and POFMA is on individuals or entities using these platforms to harass others or spread false information. While no specific reference is made to restrict infringements of competition or intellectual property, it might be possible for these infringements to incur such civil actions or orders.

1. **POHA**

The main offences / tortious acts needed to apply the POHA have little to no relevancy to competition or intellectual property. These include (section 3 and 4) harassment, alarm, or distress; (section 5) fear, provocation of violence; or (section 7) unlawful stalking. Therefore, even though the court has the power to order internet intermediaries to disable access by end-users of the service in Singapore (i.e., in section 12), such a power will not be used in the context of competition or intellectual property.

However, under Part 3 Division 2 of the POHA, the court can make various orders related to false statements against internet intermediary services. If it is just and equitable to do so, the court could order an internet intermediary to (section 15C) disable access by end-users of the internet intermediary service in Singapore within a specified time; (section 15D) publish a targeted correction notice (i.e., a statement correcting the false statement of fact) by means of the internet intermediary service or any other means to all end-users in Singapore that accessed the false statements; or (section 15E) publish a general correction notice (i.e., a statement correcting the false statement of fact) by means of the internet intermediary service or any other means to all end-users in Singapore that use this internet intermediary service.

Therefore, if any contraventions of the Competition Act in Singapore entail the use of false statements of fact being posted on an internet intermediary service, recourse to the POHA would be available to private individuals or entities.

1. **POFMA**

Unlike the POHA, it is the Minister or government which has powers to make a (section 21) Targeted Correction Direction; (section 22) Disabling Direction; (section 23) General Correction Direction; and (section 28) Access Blocking Order (which may apply upon failure of an internet intermediary to comply with the directions given, the subject material is being communicated in Singapore on an online location, and the Minister is satisfied that one or more end-users in Singapore have used or are using the services of an internet access service provider to access that online location) to stop any material that contains or consists of false statements of fact from being communicated in Singapore. In this regard, such internet intermediaries have to comply with the order or risk being guilty of an offence under section 27. Therefore, where any contraventions of the Competition Act involve the communication of false information, recourse to the POFMA will likewise be similarly available.

1. **BA**

The main content that is covered by the BA is egregious conduct. This includes content that advocates for, inter alia, violence or cruelty, sexual violence, obstructing public health measures, or terrorism. However, most of the offences pertain to the individual user who uploads or publishes said content, rather than targeting the online communication service / internet access service. That being said, the Infocomm Media Development Authority (“**IMDA**”) has designated six social media services as regulated online communication services: Facebook, HardwareZone, Instagram, TikTok, X and Youtube (section 45K of the BA). Every provider of a regulated online communication service has the duty to take all reasonably practicable steps to comply with the Code of Practice for Online Safety (Social Media Services) issued by the IMDA (section 45M of the BA). The Code of Practice for Online Safety (Social Media Services) aims to curb the spread of harmful and inappropriate content on these services, and includes obligations to establish rules, employ content moderation, and provide users with safety tools. Nonetheless, it is unlikely that contraventions of the competition act or infringements of intellectual property will entail the use of the BA.

1. **OCHA**

The main content captured by the OCHA are scams and online fraud offences, but the scope of the law captures offences under the Penal Code and many other statutory laws. Under section 6, a designated officer can give one or more directions in respect of online activity if they reasonably suspect that a specified offence is committed or that the online activity is in furtherance of the offence, or suspects that any online activity is preparatory to the commission of a scam or malicious cyber activity offences. These directions can be given to any individual or entity and can include a (1) stop communication direction made to a person who has control of the relevant material or the proprietor of the relevant location; (2) disabling direction made to the provider of an online service, excluding an internet access service or app distribution service; (3) access blocking direction made to the provider of an internet access service; (4) account restriction direction made to the provider of an online service, excluding an internet access service or app distribution service; and (5) app removal direction to the provider of an app distribution service.

The OCHA does not mention the Competition Act 2004, the Copyright Act 2021, the Trademarks Act 1998, or the Patents Act 1994. It therefore is unlikely to apply to infringements of competition or intellectual property rights.

Apart from statute, from the perspective of Competition law, the Competition and Consumer Commission of Singapore (“**CCCS**”) conducted a market study on e-commerce platforms and published its findings in a Market Study Report on 10 September 2020. The study did not focus on the responsibility or liability of such platforms for user-generated content, but instead focused on unfair competition practices by the e-commerce platforms which had the following core characteristics: (a) the business operates at least one multi-sided platform, (b) the platform facilitates e-commerce as its primary activity, and (c) the platform business operates in more than one market segment in Singapore, offering distinct products and/or services. This might shed light on a potential definition of internet intermediary services in the context of unfair competition in Singapore.

**Legal Basis for Liability and Responsibility**

1. Describe the legal basis for the liability and the responsibility of platforms in the respective jurisdiction. Please structure the answer according to the following points, bearing in mind the focus on intellectual property and unfair competition:
	1. types of platforms;

**Answer**: Within the definition of “internet intermediary service” in the POHA and POFMA lists five examples: (a) social networking services; (b) search engine services; (c) content aggregation services; (d) internet-based messaging services; and (e) video-sharing services. However, the same liabilities and responsibilities fall on users of these platforms. There is no distinction to be made between types of platforms. The same applies in relation to the BA which applies to social media services and app distribution services, and the OCHA which applies to app distribution services, online service providers, and internet access service providers.

* 1. civil and criminal law;

**Answer**: The legal basis for both civil and criminal law related to these platforms are the statutory laws themselves. Every statute grants the court jurisdiction to oversee the proceedings and give orders for compliance, or the relevant ministerial body the power to give such orders. From a policy perspective, these laws were introduced / amended given the proliferation of technology, the ease of disseminating information instantaneously, and the high volume of user-generated content. Furthermore, the veil of the internet provides anonymity to users, making it difficult to hold them accountable for their acts. In balancing the freedoms conferred by the Constitution, it might be easier to shift liability to internet intermediaries as a means of controlling the flow of harmful content.

Examples of such orders include:

1. **Section 16D POHA** – disobedience or breach of an order, if intentional, is a contempt of court.
2. **Section 27 POFMA** – failure to comply with an order without reasonable excuse will result in the internet intermediary being guilty of an offence and liable on conviction to a fine not exceeding $1 million.
3. **Section 28 POFMA** – failure to comply with an access blocking order will result in the internet intermediary being guilty of an offence and liable on conviction not exceeding $20,000 for each day during any part of which that order is not fully complied with, up to a total of $500,000.
4. **Section 45F BA** – a person commits an offence if … the person provides an internet access service … and fails in his duty to comply with a blocking direction given under section 45I. They are liable to a fine not exceeding $20,000 for each day or part of a day the person does not comply with a section 45I blocking direction given to the person but not exceeding a total fine of $500,000.
5. **Section 45N BA** – upon failure of a provider of a regulated online communication service to comply with the Code of Practice, the IMDA may order a financial penalty of any amount that IMDA thinks fit, but not exceed $1 million, or direct the provider to take steps that may be necessary to remedy the failure.
6. **Section 50 OCHA** – a person commits an offence if they are given a direction and without reasonable excuse, fails to comply with any requirement of the direction. They are liable to a fine not exceeding $1 million.

Notably, under POFMA, no civil or criminal liability will be incurred by an internet access service provider or an officer, employee or agent of such provider, for anything done or omitted to be done with reasonable care and in good faith complying with any directions given.

Presently, the shifting of trends towards protection against online harms does not seem to consider competition between businesses or the protection of intellectual property. The primary focus of improving civil actions or enforcing criminal laws is mainly directed at online harms or fraud to individuals.

* 1. direct and accessorial liability.

**Answer**: As seen from the POHA, the POFMA, the BA, and the OCHA, the internet intermediary would only be perceived as liable for the civil wrongs / crimes committed by the individual users if they fail to comply with the directions given by the relevant authorities. However, their liability is with respect to their failure to comply with directions, rather than the egregious content itself. These measures operate as a means to restrict the flow of illegal or harmful content when the original publisher cannot be found, or when the information has become too widespread to specifically target any one individual user.

1. Are platforms required to monitor content generated by their users for possible infringements on intellectual property rights in the respective jurisdiction? If so:

**Answer**: No. So far, internet intermediaries do not have any active obligations to monitor content generated by their users. Internet intermediaries only face liability when the relevant authority gives a direction and the internet intermediary fails to comply with it. Furthermore, there are no criminal offences on internet intermediaries for infringing intellectual property rights or infringing competition law.

* 1. Are there liability privileges available to platforms for intellectual property infringements by their users?

**Answer**: NA.

* 1. Describe whether platforms are allowed and/or encouraged to proactively monitor and/or remove user content possibly infringing intellectual property rights without losing their liability privileges (e.g. Good Samaritan rule under the DSA).

**Answer**: NA.

1. Are there rules in your jurisdiction clarifying in how far and how platforms need to refrain from algorithmic content monitoring or other measures inﬂuencing user experience?

**Answer**: Pursuant to section 48 of the POFMA, the POFMA Office in the IMDA (“**POFMA Office**”) is a Competent Authority pursuant to section 6(1) POFMA to issue codes of practice which are applicable to prescribed internet intermediaries or types of internet intermediaries. These internet intermediaries must comply with the code of practice. There are no other rules pertaining to algorithmic content monitoring or those inﬂuencing user experience. Platforms are otherwise primarily regulated through the issuance of orders by the Relevant authority. The POFMA Office has published three code of practices:

1. **Code of Practice for Giving Prominence to Credible Online Sources of Information**

Prescribed internet intermediaries have to give prominence to credible online sources of information and not give prominence to a declared online location that contains a false statement of fact. They must put in place reasonable due diligence measures to achieve the above purposes. This includes: (a) prioritising relevant and authoritative information and improving visibility where appropriate; (b) providing contextual information to sources of relevant and authoritative information; (c) ensuring that declared online locations do not appear in sections meant to promote viewership; and (d) having governmental reporting channels to report on declared online locations. They shall also provide an annual report on their implementation of these measures.

Prescribed intermediaries include: (a) Google LLC, in respect of Google Search and YouTube; (b) Meta Platforms, Inc., in respect of Facebook and Instagram; (c) X Corp., in respect of X; (d) WeChat International Pte Ltd., in respect of WeChat; (e) Baidu, Inc., in respect of Baidu; (f) TikTok Pte. Ltd.; and (g) LinkedIn Corporation.

1. **Code of Practice for Transparency of Online Political Advertisements**

Prescribed internet intermediaries have to put in place reasonable due diligence measures to enhance disclosure of information concerning any online political advertisement that is communicated in Singapore.

Prescribed intermediaries include: a) Google, in respect of Google Ads; (b) Google LLC, in respect of Google Search and YouTube; (c) Meta Platforms, Inc., in respect of Audience Network, Facebook and Instagram; (d) X Corp., in respect of X; (e) SPH Media Limited, in respect of HardwareZone.com; (f) WeChat International Pte Ltd., in respect of WeChat; (g) Baidu, Inc., in respect of Baidu; (h) TikTok Pte. Ltd.; and (i) LinkedIn Corporation.

1. **Code of Practice for Preventing and Countering Abuse of Online Accounts**

Prescribed internet intermediaries have to minimise the likelihood of inauthentic online accounts being used to engage in malicious activities. They must put in place reasonable due diligence measures to safeguard against misrepresentations as to the identity of end-users, reduce confusion between bot activity and human activity, and limit abuse of their platforms through the use of inauthentic online accounts. This includes: (a) having a published policy against misrepresentation, bots, artificial boosting of a piece of content; (b) having reasonable verification measures in place to prevent the creation and usage of inauthentic accounts; (c) conducting additional verification if suspicious conduct or activity is associated with an account; (d) informing the holders of online accounts to have strong login verification requirements; (e) providing selected holders of online accounts, the option of a ‘verified’ account(s); (f) informing other end-users that the ‘verified’ accounts and/or pages are authentic; (g) ensure the disclosure of bots if they are used; and (h) having in place reporting mechanisms for end-users to report compromised end-user accounts or accounts impersonating verified accounts. They shall also provide an annual report on their implementation of these measures.

Prescribed intermediaries include: a) Google LLC, in respect of YouTube; (b) Meta Platforms, Inc., in respect of Facebook and Instagram; (c) X Corp., in respect of X; (d) SPH Media Limited, in respect of HardwareZone.com; (e) WeChat International Pte Ltd., in respect of WeChat; (f) TikTok Pte. Ltd.; and (g) LinkedIn Corporation.

Alternatively, Singapore has placed emphasis on equipping Singaporeans with the skills to critically evaluate information and protect themselves against misinformation. One example is the National Library Board’s S.U.R.E (Source, Understand, Research, and Evaluate) programme. IMDA has also developed resources for Singaporeans to watch out for misinformation or scams. The government has also invested in the Centre for Advanced Technologies in Online Safety (“**CATOS**”), which brings together industry experts, governmental officers, academics, and experts to develop a safer digital eco-system for Singaporeans and commercial users.

Additionally, under the BA, the Code of Practice for Online Safety issued by the IMDA for regulated online communication services requires providers to minimise users’ exposure to harmful content via reasonable and proportionate measures. This includes content moderation measures that are to be put in place and effected by the providers through the use of technologies and processes. For instance, these technologies and processes must proactively detect and swiftly remove child sexual exploitation and abuse material and terrorism content as technically feasible. To that end, the providers of such regulated online communication services must submit to IMDA annual online safety reports on the measures put in place to combat harmful and inappropriate content, for publishing on IMDA’s website.

1. Are liability privileges different in cases of IP infringements and/or unfair competition cases on the one hand and other possible infringements on the other hand?

**Answer**: To the extent that internet platforms currently do not face any form of liability with respect to IP infringement or unfair competition cases, there is no explicit distinction made between different forms of infringements prompting liability over an internet platform.

**Mechanisms in cases of infringement**

1. Are platforms required to provide mechanisms to report content that may be violating intellectual property rights in the respective jurisdiction? If yes, are there any requirements for such processes or mechanisms regarding the following points:

**Answer**: Platforms are not required to report content that may be violating intellectual property rights in Singapore. The only active obligations on platforms can be found in the codes of practice issued by the POFMA Office.

* 1. detection of possible IP infringements;

**Answer**: NA.

* 1. further processing procedure;

**Answer**: NA.

* 1. timeframe;

**Answer**: NA.

* 1. consequences in case of failure to adhere to aforementioned requirements.

**Answer**: NA.

1. Are there remedies, compensations or other legal requirements that can be directed against platforms in the case of infringement of intellectual property rights or unfair competition? If yes, please describe them and in what circumstances.

**Answer**: Aside from compliance with the directions of the relevant authorities raised above, there are no remedies or compensation specifically relating to the infringement of IP rights or unfair competition. In fact, amongst the four statutory laws involving internet platforms, only the POHA (at section 11) provides a mechanism for victims to bring civil proceedings in court against the individual or entity. Furthermore, internet platforms which are forced to obey a direction might sometimes be able to claim against the original publisher for damages to carry out its directions (i.e., Section 25 POFMA).

1. Is the use of so-called ‘trusted ﬂaggers’[[3]](#footnote-3) (or equivalents) established in the respective jurisdiction to identify and/or report possible infringements of intellectual property rights? If yes:

**Answer**: There are no “trusted flaggers” legislation in Singapore currently. At best, prescribed internet intermediaries are tasked with self-regulation to ensure compliance with the various codes of practice. Nonetheless, the existing landscape of rules and regulations pertain to misinformation and not the infringement of IP rights.

* 1. What criteria are applied?

**Answer**: NA.

* 1. How are these entities identiﬁed, nominated, and/or appointed?

**Answer**: NA.

* 1. If a possible infringement is reported by such an entity, are platforms to deviate from procedures regarding possible user reported by non-trusted ﬂaggers (e.g. prioritised treatment of notices by trusted ﬂaggers under the DSA)?

**Answer**: NA.

1. Are there any requirements to be met in the respective jurisdiction before the removal of content that could possibly infringe on intellectual property rights (e.g. court orders)? If yes, does this affect the efficiency of “notice and action” procedures?

**Answer**: There are no requirements to be met before the removal of infringing content aside from the need to comply with the order in a timely manner. Arguably, there is no distinction between a “requirement to be met” and the “notice and action” procedure given that (based on the circumstances) the relevant authorities can either give the direction or give the internet intermediary notice of their non-compliance. Either way, non-compliance with the notice or direction in a timely manner without reasonable excuse may lead to a finding of an offence.

1. Are there measures in place to appeal content removal decisions based on infringement on intellectual property rights in the respective jurisdiction?

**Answer**: There are measures to appeal content removal decisions, but these are not specific to intellectual property rights. Internet intermediaries are permitted to appeal against a decision of the court or the governmental authority in the following cases:

1. **Section 16C POHA** – appeal to the courts permitted.
2. **Section 17 and 19 POFMA** – an application can be made to the Minister who may then vary or cancel the direction. An appeal to the courts is only permitted if the Minister refuses the application. Note that the effect of the Direction must still be complied with. It is not put on hold.
3. **Section 45 and 59 BA** – an appeal to the Minister is permitted, of which his decision is final.
4. **Section 16 – 18 and 35 – 37 OCHA** – an application can be made to the designated officer to reconsider the direction. If this fails, an appeal to the Reviewing Tribunal is permitted. The effect of the Direction must still be complied with. It is not put on hold.
5. **Section 25 – 27 OCHA** – an appeal to the Minister is permitted, of which his decision is final. An independent Appeals Advisory Committee may be appointed by the Minister to assist. The Minister may consult this Committee but is not bound by the consultation.
6. **Fundamental Rights**
7. In the respective jurisdiction, is there a safeguard in place to balance the enforcement of intellectual property rights and fundamental rights? If yes, describe the procedure(s) applicable.

**Answer**: In Singapore, there is no explicit safeguard in place to balance the enforcement of intellectual property rights and fundamental rights. There are possible plans to cap costs, cap recoverable damages, enact early active case management, and cap the length of the trial to make proceedings more accessible. Furthermore, in Singapore’s attempt to become a choice venue for IP Dispute Resolution, the Intellectual Property Office of Singapore (“IPOS”) has developed a full suite of IP dispute resolution mechanisms including: (a) Litigation at the Singapore International Commercial Court (“SICC”); (b) Arbitration at the Singapore International Arbitration Centre (“SIAC”); and (c) Mediation at the Singapore International Mediation Centre (“SIMC”). Overall, there are no explicit characteristics that involve a need to balance the fundamental rights of individuals in Singapore with the existing intellectual property protections. Most of the rules of civil procedure which apply to general civil litigation similarly apply to IP litigation.

1. In the past and within the respective jurisdiction, have there been cases of challenging the enforcement of intellectual property rights related to
	1. freedom of expression;

**Answer**: Article 14(1)(a) of the Singapore Constitution gives every citizen the right to freedom of speech and expression. While not in the context of intellectual property rights, the Singapore Court of Appeal upheld the constitutionality of the POFMA in *The Online Citizen Pte Ltd v Attorney-General and another appeal and other matters* [2021] 2 SLR 1358. Furthermore, the Singapore Government has given verbal assurances that POFMA does not cover opinions, criticisms, satire or parody, and hence does not curtail the freedom of speech and expression so long as there is no misrepresentation of facts.

* 1. right to a fair trial;

**Answer**: NA.

* 1. freedom of art;

**Answer**: NA.

* 1. others?

**Answer**: In *Tan Gek Neo Jessie v Minister for Finance and another* [1991] 1 SLR(R) 1 (HC) (“***Tan Gek Neo Jessie***”), the applicant registered a business under the name: “JC Penney Collections”. 3 years later, she received a letter from the Registrar to change her name as it was the same as the name of JC Penney Company Inc in USA. Eventually, the Registrar directed her to change her name. She applied to appeal the decision, but this was dismissed by the Minister. Given that the Minister did not give any reasons for her dismissal, the Registrar’s reasons were adopted. The court found that both the Registrar and Minister did not take salient (mandatory) considerations into account when making the decision. Therefore, the court allowed the appeal on grounds that the Minister had considered irrelevant considerations (i.e., a sub-issue of illegality) and allowed the claimant to appeal the case and retain her name.

These salient factors include: (a) the trade marks were at all material times not used in Singapore by the American company or any of its associated or related companies in respect of their goods; (b) the registration of those trade marks had expired in 1983 and did not appear to have been renewed; (c) it was not disputed that the applicant did not at any time use “JC Penney” or “Penneys” as a trade mark for any of the goods traded or sold by her. To direct the applicant to change her business name on the basis that it so nearly resembled the name of the proprietor of the trade marks in effect gave to the proprietor more than what the laws on infringement of trade marks and passing off would provide.

* 1. What was the outcome of these cases?

**Answer**: In *Tan Gek Neo Jessie*, the enforcement of intellectual property rights triumphed over the breach to natural justice – illegality of relevant authorities. This indicates that intellectual property rights are balanced with respect to the power of governmental authorities. The power of the government is not completely unfettered.

1. **Reﬂection**
2. Please state your assessment regarding the current responsibilities and/or obligations of online platforms in your jurisdiction, considering the questions raised above.

**Answer**: The responsibilities of online platforms are incrementally expanding in Singapore. As more Singaporeans rely on technology and the online sphere, there will be a greater demand for specific legislation governing the operations of online platforms encroaching in other fields of law such as intellectual property or competition law). Currently, unfair competition is regulated by the CCCS, which has wide powers to direct any infringing business to comply with their instructions. Likewise, Singapore has a robust intellectual property regime domestically and internationally. The existing safeguards are sufficient to encompass any orders pertaining to online platforms, suggesting a low demand for IP / competition specific legislation regarding online platforms. Finally, given the lack of case law or public discourse regarding the specific relationship between online platforms and unfair competition / intellectual property rights, it suggests a low likelihood of any significant developments in this aspect. For now, Singapore’s efforts in regulating online platforms have been focused on protecting the public from misinformation or fraudulent schemes of nefarious individuals. Arguably, when Singapore eventually expands this approach to infringements of intellectual property rights and unfair competition, Singapore would be capable of transposing its tried-and-tested legislation into this sphere easily.

1. In the foreseeable future, are there developments with regard to legislation, case law, or policy initiatives to be expected? Provide us with your view and suggestions to enhance the legal landscape.

**Answer**: There are likely to be developments with regard to legislation or policy initiatives, even though it might take more than a few years. The most recent addition – the OCHA – has only recently commenced as latest as 24 June 2024. However, while there will be developments, these developments may not necessarily pertain to unfair competition or intellectual property rights as these seem to be low on the government’s priority.

1. To what extent might the increasing use of automated content ﬁltering systems risk the capture of content that is lawful according to fair dealing (criticism / review / quotation) and the exception for parody, pastiche, and caricature? Are there developments in legislation, case law or policy initiatives in your jurisdiction that (attempt to) deal with this?

**Answer**: As elaborated under Question 4, the Code of Practice for Online Safety issued by the IMDA for regulated online communication services under the BA requires providers to minimise users’ exposure to harmful content through the use of technologies and processes that can proactively detect and swiftly remove child sexual exploitation and abuse material and terrorism content as technically feasible. There is no recourse available should such technologies capture lawful content.

There are currently no developments in legislation, case law, or policy initiatives in Singapore which (attempt to) deal with the issue of automated content filtering systems capturing lawful content or exempted content.

1. The LIDC has addressed this issue, albeit from a different perspective, in the reports for Question B from 2011. [↑](#footnote-ref-1)
2. e.g. Art 3 (i) DSA [↑](#footnote-ref-2)
3. Under the DSA, trusted ﬂaggers have been introduced as special entities specialised in detecting and reporting illegal online content on platforms. Notices submitted by these entities are to be prioritised by the online platforms. For more information, see Art 22 DSA. [↑](#footnote-ref-3)