



APrIGF Macao 2015 Workshop Summary Report

Date: 3 July 2015

Time: 2pm

Workshop Title: The Manila Principles on Intermediary Liability

Reported by & Contact Email: Jeremy Malcolm <jmalcolm@eff.org>

Gender Balance (approx. number of female vs. male participants): 75%/25%

Moderators: Jeremy Malcolm

Panelists: Jeremy Malcolm, Ksenia Duxfield-Karyakina, Jennifer Zhang, Hong Xue

A brief summary of presentations (If any)

Jeremy Malcolm introduced the Manila Principles on Intermediary Liability, a set of best practice guidelines that civil society had developed with their demands to governments and intermediaries about intermediary liability laws, policies and practices that uphold freedom of expression and innovation online. Ksenia Duxfield-Karyakina from Google's Hong Kong office spoke about the role of intermediary liability protection for digital economy and APAC startup ecosystem. We also heard from Jennifer Zhang from the Hong Kong Transparency Report about how local intermediaries are supporting freedom of expression, including their Who's On Your Side report. Finally Prof Hong Xue from Beijing Normal University spoke about the applicability of the Manila Principles in the context of the Chinese Copyright Law and E-Commerce Law.

A substantive summary and the key issues that were raised:

There was discussion of the application of the Manila Principles within the region. In Hong Kong, platforms like HK Golden had come under pressure to censor speech, and projects like the Hong Kong Transparency Report have helped to document any such speech restrictions that intermediaries either commit or facilitate. The economic benefits of intermediary liability protection were raised a factor behind the relative success of American Internet companies, and a challenge for competing Asian platforms. In Korea, there was discussion of particularly harsh rules that can see intermediaries penalised for content that they have not even seen, requiring them in practice to engage in pre-emptive monitoring and censorship.

Conclusion & Further Comments:

In question time there was some discussion of the need for a timely response to legitimate takedown requests in order to address grievances of individuals who may have been defamed or harrassed online, without necessarily requiring them to engage in expensive legal proceedings. It was explained that in most cases, this content would



also be against the intermediary's terms of service, allowing a takedown request to be processed informally, provided that norms of due process and transparency are followed. However it was acknowledged that the Manila Principles may not be effective against “rogue” intermediaries who may not have terms of service and will ignore such requests.