

Deacons Client Alert

Hong Kong Data Privacy Series

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Practical tips for handling cessation notices and take-down requests regarding doxxing-related content

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As mentioned in our [earlier article](#), under amendments to the Personal Data (Privacy) Ordinance (PDPO) which came into effect on 8 October 2021, the Privacy Commissioner for Personal Data (PCPD) is empowered to carry out criminal investigations, institute prosecutions and issue cessation notices in relation to doxxing. In addition to cessation notices, the Hong Kong police have been issuing take-down requests to online platforms based on court orders granted in 2019 and 2020, to restrain doxxing.

The High Court also issued an injunction in 2019 restraining persons from wilfully disseminating, circulating, publishing or re-publishing on any internet-based platform or medium, any material or information for the purpose of promoting, encouraging or inciting the use or threat of violence, intended or likely to cause bodily injury to any person, or damage to any property, within Hong Kong. The order also restrains persons from wilfully assisting, inciting or abetting others to commit any of the aforesaid acts.

Serious consequences

Under the PDPO, the PCPD is empowered to serve cessation notices on not only Hong Kong individuals and operators, but also overseas operators, who have been receiving take-down requests from the Hong Kong police. Non-compliance with a *cessation notice* is a criminal offence and can result in serious consequences:

- on first conviction, a fine up to HK\$50,000 and imprisonment for maximum of 2 years; and in the case of a continuing offence, a further fine of HK\$1,000 for every day the offence continues; and
- on each subsequent conviction, a fine up to HK\$100,00 and imprisonment for maximum of 3 years; and in the case of a continuing offence, a further fine of HK\$2,000 for every day the offence continues.

Operators who fail to comply with *take-down requests* from the police based on the court injunctions may be liable for contempt of court.

What to do when you receive a cessation notice or take-down request

- **Check the deadline for complying with the request from the authorities and the action required.** From our experience, operators may only have 7 days to comply with a cessation notice, or as little as 24 hours to comply with a take-down request from the police. The required cessation action should be stated in the notice/request and may include removing the content or restricting access.
- **Examine carefully the content which is the subject of the cessation notice or take-down request and review the grounds for removal to see if the complaint is valid.** If you conclude that the notice or request is validly issued, you should immediately comply. If you believe that a cessation notice is not validly issued, you may consider filing an appeal with the Administrative Appeals Board within 14 days from the service of the cessation notice on you. However, you must *still comply with the cessation notice* as far as possible even if you decide to file an appeal, as the law specifically provides that an appeal does not affect the operation of the cessation notice. In relation to a disputed take-down request, you can try responding directly to the police to explain why you have not complied with the request. In some cases, you may not be able to comply as you may not be able to identify the content, or may have no control over the platform.

- **Consider setting down an internal guidelines for handling such requests.** Given the potentially tight deadline to comply with a cessation notice or take-down request, and for filing any appeal with the Administrative Review Board, it is advisable to have in place internal guidelines to set out clearly a streamlined decision-making and assessment process to ensure that such matters are handled in a timely manner. This is especially important for those who frequently receive cessation notices and/or take-down requests.

We regularly advise clients on issues regarding compliance with cessation notices and take down requests. Please contact us if you require assistance with assessing the validity of a cessation notice or take-down request, formulating a response to the PCPD or police, or filing a notice of appeal.

Want to know more?

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