

EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

'22 MAY 31 P7:05

REC'D

AS
A

SENATE

COMMITTEE REPORT NO. 648

Submitted by the Committee on Constitutional Amendments and Revision of Codes on
MAY 31 2022.

Re: P.S. Res. No. 953

Recommending the adoption of the recommendations and their immediate implementation.

Sponsor: Senator Francis N. Pangilinan

MR. PRESIDENT:

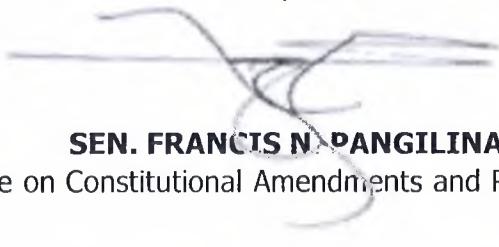
The Committee on Constitutional Amendments and Revision of Codes, to which was referred **P. S. Res. No. 953**, introduced by Senators Francis N. Pangilinan and Franklin M. Drilon, entitled:

"RESOLUTION DIRECTING THE SENATE COMMITTEE ON CONSTITUTIONAL AMENDMENTS AND REVISION OF CODES TO CONDUCT A REVIEW, IN AID OF LEGISLATION, OF THE COUNTRY'S EXISTING CRIMINAL LAWS TO CONSIDER THE RISE OF SOCIAL MEDIA PLATFORMS AND THE RAPID ADVANCEMENT OF TECHNOLOGY"

has considered the same and has the honor to submit its report on its review back to the Senate, recommending the adoption of the recommendations as contained in this Report and their immediate implementation.

Respectfully submitted:

Chairperson:



SEN. FRANCIS N. PANGILINAN

Committee on Constitutional Amendments and Revision of Codes

Vice Chairperson:



SEN. PANFILO M. LACSON

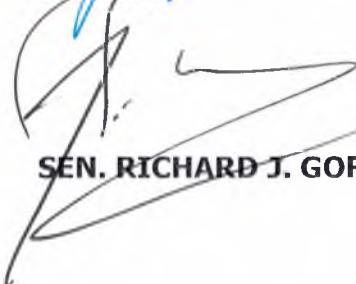
Members:

SEN. SONNY ANGARA



SEN. EMMANUEL "MANNY" D. PACQUIAO

SEN. GRACE POE



SEN. RICHARD J. GORDON

SEN. FRANCIS "TOL" N. TOLENTINO

SEN. CHRISTOPHER BONG GO

SEN. CYNTHIA A. VILLAR



SEN. MARIA LOURDES NANCY S. BINAY

Risa Hontiveros - Garapet
SEN. RISA HONTIVEROS

Ex Officio Members:

SEN. RALPH G. RECTO

President Pro-Tempore

SEN. JUAN MIGUEL F. ZUBIRI
Majority Leader

J. Zubiri
SEN. FRANKLIN M. DRILON
Minority Leader

HON. VICENTE C. SOTTO III
Senate President

Members:

SEN. SONNY ANGARA



SEN. EMMANUEL "MANNY" D. PACQUIAO

SEN. GRACE POE

SEN. RICHARD J. GORDON

SEN. FRANCIS "TOL" N. TOLENTINO

SEN. CHRISTOPHER BONG GO

SEN. CYNTHIA A. VILLAR

SEN. MARIA LOURDES NANCY S. BINAY

Risa Hontiveros - Sarapeel
SEN. RISA HONTIVEROS

Ex Officio Members:


SEN. RALPH G. RECTO
President Pro-Tempore

Juan Miguel F. Zubiri
SEN. JUAN MIGUEL F. ZUBIRI
Majority Leader

Franklin M. Drilon
SEN. FRANKLIN M. DRILON
Minority Leader

HON. VICENTE C. SOTTO III
Senate President

I. OVERVIEW

1. The Committee on Constitutional Amendments and Revision of Codes conducted a total of four (4) hearings, which were presided by Committee Chairperson Senator Francis N. Pangilinan. The primary resolution on the agenda was **Proposed Senate Resolution No. 953** entitled "RESOLUTION DIRECTING THE SENATE COMMITTEE ON CONSTITUTIONAL AMENDMENTS AND REVISION OF CODES TO CONDUCT A REVIEW, IN AID OF LEGISLATION, OF THE COUNTRY'S EXISTING CRIMINAL LAWS TO CONSIDER THE RISE OF SOCIAL MEDIA PLATFORMS AND THE RAPID ADVANCEMENT OF TECHNOLOGY" (the "**Proposed Resolution**") filed by Chairperson Pangilinan and Senator Drilon on November 24, 2021.

II. DISCUSSION

2. During his opening statement in the December 9, 2021 hearing, Chairperson Pangilinan discussed the following:

a. Chairperson Pangilinan cited the annual report of firms We are Social and Hootsuite (the "**We are Social Report**") which found that Filipinos topped the global rankings in average time spent on the internet (ten (10) hours and fifty-six (56) minutes) and social media (four (4) hours and fifteen (15) minutes).¹

b. The authors, Chairperson Pangilinan and Senator Drilon, filed the Proposed Resolution to determine whether the country's existing laws are sufficient to address the crimes due to the rapid advancement of technology and the rise of social media platforms. Chairperson Pangilinan believes that the purpose of the hearings is to "address the critical gaps in the law since digital or network

¹ See December 9, 2021, Hearing, Transcript of Stenographic Notes ("TSN"), p. 5.

disinformation is a worldwide concern that requires governmental, as well as stakeholder, corporate, civil society organization interventions.”² He stressed that Philippine laws should always protect everyone, especially the vulnerable, from those who abuse the openness of the internet and social media platforms by spreading disinformation, propagating hate speech, and undertaking criminal activities.³

c. During his preparation for the hearings, Chairperson Pangilinan said that he studied the academic paper “Architects of Networked Disinformation” written by Dr. Jonathan Corpus Ong and Dr. Jason Cabañes. Chairperson Pangilinan stated the findings in the paper for the record⁴:

- i. The use of fake accounts and paid influencers on Facebook and Twitter for political operations is widespread.
- ii. Politicians often employ campaign strategists from local “boutique advertising” and public relations (“PR”) agencies as chief architects of networked disinformation campaigns.
- iii. Ad agency strategists and PR strategists heavily rely on the promotional labor of digital influencers who have around 50,000 to two million followers, and community-level fake account operators who manually operate fake profiles to infiltrate community groups and news pages and very, minimally, on automated bots.

² December 9, 2021, Hearing, TSN, p. 6.

³ See December 9, 2021, Hearing, TSN, p. 5.

⁴ See December 9, 2021, Hearing, TSN, pp. 8 to 9.

iv. Disinformation workers are financially, politically, socially, and psychologically driven in different ways, e.g., financial motivations, political motivations.

v. Operating fake accounts for politicians involved always on flexible and self-exploitative arrangements as other online freelance work. However, it is accomplished by the stressful emotional labor of justifying this work, both to others and to themselves.

vi. Network disinformation campaigns operate with two opposing dynamics in play, controlled interactivity, using of a common script cascaded, and two, volatile virality. The success of these campaigns depends on the creativity of the disinformation worker who taps into populace anger and resentment that may lead to misogyny, anti-intellectualism, and other forms of offensive speech.

vii. Everyone in the disinformation hierarchy seems to be engaged in various degrees of trolling.

d. Chairperson Pangilinan said that there is a "shared responsibility to set up sufficient safeguards and policies to curb online hate speech, disinformation, and address online criminal activity squarely."⁵

e. Chairperson Pangilinan presented several videos and screenshots showing the ads of prominent businesses, such as Asia Brewery, Rockwell Land, Shopee, Universal Robina, that play before, during, or after YouTube videos containing hate speech and disinformation.⁶ He noted that ads of well-respected and wholesome corporations are played or shown alongside videos whose titles

⁵ December 9, 2021, Hearing, TSN, p. 9.

⁶ See December 9, 2021 Hearing, TSN, p. 7.

promote hate speech and disinformation.⁷ He then posed a question to the private businesses: “[d]o these wholesome and well-respected brands want to be associated with hate speech?”⁸

3. Chairperson Pangilinan also stated for the record that the total digital ad spend in the Philippines in 2020 was about US\$ 558 million or about Php27 billion per the We Are Social Report. He expressed his concern that a portion of such amount is intentionally or unintentionally enabling disinformation through social media platforms.⁹

4. Senate Minority Leader Franklin M. Drilon (“**Senator Drilon**”), during his statement during the December 9, 2021 hearing, said that defamation through social media is brought about by two issues: (a) peddlers of disinformation are encouraged by the support given by the advertising income that they have on their social media accounts; and (b) anonymity in social media facilitate the abuses.¹⁰

5. The committee invited resource speakers from the academe, creative and media agencies, social media platforms, business groups and private businesses, fact-checking entities, and legal and media luminaries to discuss how the disinformation industry works, what are the actions being taken, and ideas on how legislation can address and curb the rise of disinformation and hate speech in the Philippine digital landscape, among others.

⁷ Id.

⁸ December 9, 2021 Hearing, TSN, p. 7.

⁹ See December 15, 2021 Hearing, TSN, p. 29.

¹⁰ See December 9, 2021 Hearing, TSN, p. 10.

A. ACADEME

Dr. Jason Vincent Cabañes

6. Dr. Jason Vincent Cabañes ("Dr. Cabañes"), professor of Communication at De La Salle University and co-author of a research paper entitled "Architects of Networked Disinformation", gave the following insights as regards disinformation:

- a. First.¹¹ Campaign finance regulations should bring in transparency and accountability. People hiring digital campaigners should be compelled to disclose what campaigns they have commissioned, how much, and who are the people involved.
- b. Second.¹² Digital work is one of the Philippines' sunshine industries. We should provide more support/social safety nets to the Philippines' digital workers, e.g., digital freelancers, so that they are not tempted to go into the digital underground.
- c. Third.¹³ According to Dr. Cabañes, influencing online is a "digital Wild Wild West." In this connection, self-regulation and ethical conduct among digital influencers should be strengthened.
- d. Fourth.¹⁴ Platforms should create country-level policies that require cross-sectoral collaboration or consultation.

¹¹ See December 9, 2021 Hearing, TSN, p. 24.

¹² See December 9, 2021 Hearing, TSN, p. 25.

¹³ Id.

¹⁴ See December 9, 2021 Hearing, TSN, pp. 25 to 26.

7. Dr. Cabañes explained that a lot of campaigns we see online look like misinformation – just ordinary people who do not really know that they are sharing false information.¹⁵ These are coordinated and deliberate attempts to spread disinformation.¹⁶

8. According to Dr. Cabañes, Facebook has a “high threshold for coordinated and eccentric behavior.”¹⁷ Digital disinformation producers skirt mechanisms to detect coordinated and eccentric behavior because they know how to make their campaigns look like it is not coordinated.¹⁸ They spread it across many different disinformation producers and sometimes these people do not even know that they are working together on the same campaign.¹⁹ And so they are doing it their own ways but are actually part of a broader campaign that they are not actually very conscious about or maybe they have an idea but they don’t know who their working with.²⁰

9. Digital media campaigns have transcended the old definition of a campaign.²¹ Dr. Cabañes mentioned that campaigns now take on very different formats, such as influencers posting or hashtags that are made to trend.²² He believes that legislation needs to be broad enough to capture these techniques that the disinformation producers use to elude accountability.²³

Dr. Jonathan Corpus Ong

10. Dr. Jonathan Corpus Ong (“**Dr. Ong**”) is an associate professor from the University of Massachusetts Amherst and Harvard University. He is a co-author of the paper of a research paper entitled “Architects of Networked Disinformation” which shows

¹⁵ See December 9, 2021 Hearing, TSN, p. 94.

¹⁶ Id.

¹⁷ December 9, 2021 Hearing, TSN, p. 94.

¹⁸ Id.

¹⁹ December 9, 2021 Hearing, TSN, pp. 94 to 95.

²⁰ December 9, 2021 Hearing, TSN, p. 95.

²¹ December 9, 2021 Hearing, TSN, p. 95.

²² Id.

²³ Id.

"how the political trolling industry has actually flourished and expanded and diversified."²⁴ Dr. Ong and Dr. Cabañes discovered how "people at the top have been playing cat and mouse games with fact-checkers, with reporters, and with platforms themselves."²⁵ Their study also revealed the existence of trolling within the creative industries.²⁶

11. Dr. Ong explained the need for better monitoring of ads.²⁷ But he also said that it is difficult to monitor targeted advertising on social media platforms because of micro-targeting.²⁸ The ads that one person sees is different from the ads that another person sees. Dr. Ong said that social media platforms should be more transparent to determine what is fair and how are messages being micro-targeted.²⁹

12. More than public officials and public figures, Dr. Ong asserted that the vulnerable communities, such as LGBTQ people and activists, are the greatest victims of hate speech and disinformation.³⁰

13. Fake names work both ways. Dr. Ong said that movements, such as the Me-Too Movement and Black Lives Matter, are mobilized by a lot of whistleblowers who hide behind pseudonyms online.³¹ These movements created a lot of progressive good for society.³² It is less about legislation but more about the infrastructure that would help researchers: (a) work with journalists and activists to monitor misinformation and engage platforms; and (b) engage advertising professionals who may be complicit to the problem.³³

²⁴ February 2, 2022 Hearing, TSN, p. 60.

²⁵ Id.

²⁶ See February 2, 2022 Hearing, TSN, p. 62.

²⁷ See December 15, 2021 Hearing, TSN, p. 31.

²⁸ Id.

²⁹ Id.

³⁰ See December 15, 2021 Hearing, TSN, pp. 31 to 32.

³¹ See December 15, 2021 Hearing, TSN, p. 33.

³² Id.

³³ Id.

14. Dr. Ong recommended using a “whole of society approach” in which platforms should be working with legislators, academics, journalists, and civil society to monitor how the disinformation industry flourishes and diversifies rather than focusing on trolls.³⁴ Dr. Ong cautioned against criminal and top-down legislation “which could actually create a lot of downstream harms when it comes to free speech and silencing dissent especially from the political opposition” like in Singapore and Malaysia.³⁵ He advocated a more bottom-up approach and solution that will require a lot of monitoring, civil society support and support for independent audits.³⁶

15. Dr. Ong shared that he worked with sociologist Nicole Curato of Internews to map out the disinformation environment for 2022.³⁷ They are seeing more civil society involvement and participation in terms of fact-checking and media literacy campaigns.³⁸ However, he noted the limited involvement of the advertising and public relations sector.³⁹ Dr. Ong also mentioned that LENTE⁴⁰, the fair elections group, has been trying to develop a code of ethics along with advertising and PR professionals but the same was met with a lot of resistance from them.⁴¹

Prof. Yvonne Chua

16. Prof. Yvonne Chua is an associate professor from the University of the Philippines Department of Journalism. Prof. Chua informed the Committee of Tsek.ph – a collaborative fact-checking group initiated in 2019, which brought together UP, La Salle, Ateneo and eleven (11) media partners to fact check the 2019 elections. Below are some of the findings⁴²:

³⁴ See February 2, 2022 Hearing, TSN, p. 60.

³⁵ Id.

³⁶ See February 2, 2022 Hearing, TSN, pp. 60 to 61.

³⁷ See February 2, 2022 Hearing, TSN, p. 61.

³⁸ Id.

³⁹ Id.

⁴⁰ Legal Network for Truthful Elections (LENTE)

⁴¹ Id.

⁴² See February 2, 2022 Hearing, TSN, pp. 11 to 14.

a. Facebook was the main platform or main spreader of misinformation done through visuals.

b. Main sources of disinformation or misinformation were largely from netizens or user-generated content.

c. Otso Diretso, the senatorial lineup of the opposition forces, particularly Mar Roxas and Bam Aquino, were most targeted by misinformation or disinformation in the 2019 elections. Prof. Chua also mentioned the Makabayan bloc as one of the most victimized as well.

d. Misinformation or disinformation consisted of both positive messaging (falsehoods of misleading claims to promote the administration slate) or negative messaging (attacks or demonizing of the political opposition).

17. Prof. Chua mentioned that Tsek.ph was also revived for the 2022 elections with more than thirty (30) partners.⁴³ According to Prof. Chua, it was evident that disinformation continued despite their efforts to stem the same, and that Vice President Leni Robredo was the biggest victim of disinformation or negative messaging.⁴⁴ In addition, there was also a significant volume of false or misleading claims to promote Presidential candidate Ferdinand Marcos, Jr., in the form of spurious endorsements from various sectors, celebrities, heads of state (New Zealand prime minister) and the revival or resurfacing of historical inaccuracies regarding the late Ferdinand Marcos, Sr.⁴⁵

18. Prof. Chua also confirmed a "highly-politicized" (i.e., politicians and political figures are dragged into the issue) disinformation and misinformation related to COVID-

⁴³ See February 2, 2022 Hearing, TSN, p. 15.

⁴⁴ See February 2, 2022 Hearing, TSN, p. 16.

⁴⁵ See February 2, 2022 Hearing, TSN, p. 17.

19 response which used “homegrown” or “foreign” sources for false or misleading statistics to boost government’s COVID-19 response and vaccination.⁴⁶

19. Prof. Chua mentioned that Facebook emerged as the leading platform used in the disinformation followed by YouTube.⁴⁷ The disinformation cascaded within the platform’s communities, overseas workers, religious groups, villages, barangays, fan groups, etc., which were also connected to messaging apps like Viber.⁴⁸ “Crossing or straddling” of disinformation occurred in multiple platforms like YouTube and TikTok with mega influencers and even nano or micro-influencers playing major roles.⁴⁹

20. Prof. Chua said that disinformation is a web consisting of creators, content producers, content distributors, and content redistributors.⁵⁰ The mastermind of misinformation who is the content creator or the content producer are not visible, hard to identify, and difficult to hold accountable.⁵¹ Only the trolls who allow themselves to be used for money are visible.⁵²

B. CREATIVE AND MEDIA ADVERTISING AGENCIES

Association of Accredited Advertising Agencies Philippines (4As)

21. The Association of Accredited Advertising Agencies Philippines⁵³ (“**4As**”) is a “non-profit organization of various advertising agencies in the country that started in 1977 [and] has as its common purpose the championing of creative excellence in the

⁴⁶ See February 2, 2022 Hearing, TSN, p. 19.

⁴⁷ See February 2, 2022 Hearing, TSN, pp. 20 to 21.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ See February 2, 2022 Hearing, TSN, p. 24.

⁵¹ Id.

⁵² Id.

⁵³ Represented by (a) Anna Norbert, Board Secretary; (b) Alexander Syfu, Board of Trustees; and (c) Atty. Augusto Bundang, Legal Advisor.

creation of advertising and marketing communications, while governed by the guiding principles of self-regulation, truthful, honest, and uplifting advertising, social responsibility, and love of country.”⁵⁴

22. The 4As considers “self-regulation that is transparent and arrived at in consultation with all the industry stakeholders and the empowerment and education of the users of social media platforms as vital in effectively addressing the concerns presently raised by [the] honorable committee.”⁵⁵ The Ad Standards Council is the relevant self-regulatory board for agencies.⁵⁶ 4As representative, Mr. Alexander Syfu, said that they may have to reconvene the ASC and remind everyone and reinforce the policies in force.⁵⁷

23. The 4As mentioned that their Code of Ethics exists and is regularly reviewed.⁵⁸ However, it asserted that such Code only governs the content of the ad materials.⁵⁹

24. Many ex-advertising agency executives are doing political advertising work as their sideline.⁶⁰ The 4As, however, does not cover them as individuals.⁶¹ 4As only covers those political ads coming out of advertising agencies that are members of 4As.⁶² There is no self-regulatory body covering political advertising.⁶³

25. In relation to brand safety, advertising agencies align its messaging with its clients who are the advertisers.⁶⁴ Each of the advertisers have their own code of ethics

⁵⁴December 15, 2021 Hearing, TSN, p. 27.

⁵⁵ December 15, 2021 Hearing, TSN, p. 28.

⁵⁶ See December 15, 2021 Hearing, TSN, pp. 65 to 66.

⁵⁷ Id.

⁵⁸ See December 15, 2021 Hearing, TSN, p. 65.

⁵⁹ Id.

⁶⁰ See December 15, 2021 Hearing, TSN, pp. 67 to 68.

⁶¹ Id.

⁶² Id.

⁶³ Id.

⁶⁴ See December 15, 2021 Hearing, TSN, p. 71.

and corporate policies.⁶⁵ In this connection, agencies, and their clients "are always aligned in terms of brand equity, safety, or whatever they'd like to keep as part of their brand equity."⁶⁶

26. The 4As representative, Mr. Syfu, asserted that media agencies – not creative agencies – handle media placements.⁶⁷ The organization that handles all media agencies in the Philippines is the Media Specialists Association of the Philippines or MSAP.⁶⁸

Media Specialists Association of the Philippines

27. The Media Specialists Association of the Philippines⁶⁹ ("MSAP") is the industry association of advertising media agencies.⁷⁰ It represents agencies that makes media placements (i.e., books airtime or spaces) in all types of media (digital or traditional).⁷¹

28. MSAP members adhere to fair and responsible distribution of advertising information to the public.⁷² MSAP commits to support the objectives of the Committee by providing any assistance and information that may contribute to a better understanding of the media landscape and the advertising media business to review legislation considering the current prevalence of digital technology.⁷³

29. MSAP confirmed that it adheres to a Code of Ethics, which is aligned with the Ad Standards Council.⁷⁴ MSAP said that it ensures that its clients' advertisements are

⁶⁵ See December 15, 2021 Hearing, TSN, pp. 71 to 72.

⁶⁶ See December 15, 2021 Hearing, TSN, p. 72.

⁶⁷ See December 15, 2021 Hearing, TSN, p. 75.

⁶⁸ Id.

⁶⁹ Represented by Jamie De Guzman, President.

⁷⁰ See January 12, 2022 Hearing, TSN, p. 65.

⁷¹ See February 2, 2022 Hearing, TSN, p. 29.

⁷² See January 12, 2022 Hearing, TSN, pp. 66 to 67.

⁷³ Id.

⁷⁴ See February 2, 2022 Hearing, TSN, p. 30.

placed in safe platforms in accordance with their respective whitelist (sound and credible platforms) and negative list.⁷⁵ However, due to the proliferation of new sites and platforms, monitoring their ads is “practically impossible” leading to their inadvertent placement in platforms with “not so favorable content.”⁷⁶

30. To improve brand safety in advertising, MSAP suggested self-regulation by their members, constant dialogue with major digital platforms to ensure clean and credible content, and improvement of algorithms for the proper placement of ads.⁷⁷

31. MSAP assured the Committee that it does not condone the “orchestrated, organized disinformation and misinformation to promote personalities and/or positions, as well as to attack personalities and/or positions.”⁷⁸ MSAP will avoid and not support creators, contents, platforms that propagate misinformation or disinformation.⁷⁹ MSAP agreed with Chairperson Pangilinan that making such ad placements on these sites may unwittingly, inadvertently, or indirectly enabling disinformation and must have to be constantly re-evaluated.⁸⁰

Ad Standards Council

32. The Ad Standards Council⁸¹ (“ASC”) asserted that it deals with content and has no control over ad placement.⁸² The ASC said it just screens the materials based on content and whether they conform to law and the ASC code of ethics.⁸³

⁷⁵ See February 2, 2022 Hearing, TSN, pp. 31 to 32.

⁷⁶ Id.

⁷⁷ See February 2, 2022 Hearing, TSN, pp. 36 to 37, 42.

⁷⁸ See February 2, 2022 Hearing, TSN, pp. 42 to 44.

⁷⁹ Id.

⁸⁰ Id.

⁸¹ Represented by Atty. Rudolp Steve Jularbal, Legal Counsel.

⁸² See January 12, 2022 Hearing, TSN, p. 69.

⁸³ Id.

Philippine Association of National Advertisers

33. The Philippine Association of National Advertisers⁸⁴ ("PANA") affirmed its support for the review of the laws, particularly on disinformation, abuse, misuse and unlawful practice of social media platforms and tools for as long as it is aligned with national cultural values.⁸⁵

34. PANA said that it advocates for truthful, fair, and responsible advertising, and brand-building among member companies, inclusive of multinationals and small medium enterprises.⁸⁶ PANA also confirmed that it is a self-regulated industry, and that the content of advertisements and marketing communications of its members are reviewed and screened by the ASC prior to release to all media platforms.⁸⁷

35. While it is trying its best to regulate content, PANA mentioned that "where [such content] gets tagged to is a bit out of [PANA's] control."⁸⁸ PANA believes that the regulation is "really on more to see how to work on the platforms."⁸⁹

Internet and Mobile Marketing Association of the Philippines

36. Internet and Mobile Marketing Association of the Philippines⁹⁰ ("IMMAP") is an association with more than 250 members, including brands, agencies, tech companies, media, and startups.⁹¹ It is primarily focused on education upskilling and events that promote learning about digital marketing.⁹²

⁸⁴ Represented by Maye Yao Co-Say, President.

⁸⁵ See February 2, 2022 Hearing, TSN, p. 65.

⁸⁶ Id.

⁸⁷ Id.

⁸⁸ February 2, 2022 Hearing, TSN, p. 65.

⁸⁹ Id.

⁹⁰ Represented by Leigh Reyes, President.

⁹¹ See December 9, 2021 Hearing, TSN, p. 40.

⁹² Id.

37. IMMAP supports a trustworthy environment where consumers, brands, marketers, and agencies can enjoy, engage, and engage "in a way that is comfortable for everyone in the ecosystem."⁹³

C. SOCIAL MEDIA PLATFORMS

Meta

38. Meta⁹⁴ presented its efforts to combat hate speech and disinformation:

a. Meta said it recently released its Human Rights Impact Assessment Report in the Philippines. According to Meta, the report is its "due diligence in line with [its] commitment to incorporate human rights policy."⁹⁵ The report made several findings/recommendations, including the following⁹⁶:

i. Since 2017, Meta has a security team which consists of 40,000 people who work on the safety and security of its platform. The team has identified and removed over 150 covered influence operations including several in the Philippines. Actions taken against violators of Meta's policy against coordinated and offensive behavior are disclosed in its monthly report.

ii. Meta said that it wants to strengthen its toolkit against harmful types of networks.

⁹³ December 9, 2021 Hearing, TSN, p. 40.

⁹⁴ Represented by Roy Tan, Head of Politics and Government Outreach, Meta APAC and Rob Abrams, Manager of Law Enforcement Outreach, Meta APAC.

⁹⁵ December 9, 2021 Hearing, TSN, p. 29.

⁹⁶ See December 9, 2021 Hearing, TSN, pp. 29 to 30.

iii. Meta reported that it has updated its bullying and harassment policies, which includes politicians, to help protect people against certain bickering and mass harassment. This means that Meta had additional tools to take down content to fight influence operations which may also make use of authentic profiles on its platforms.

b. Meta also detailed its coordination efforts with Philippine law enforcement agencies, such as the Philippine National Police ("PNP"), the National Bureau of Investigation, and the National Security Agency, among others. Meta said that it had procedures in place for law enforcement to "lawfully and appropriately get information to save children, to prevent hate speech, to prevent terror attacks."⁹⁷

i. Meta developed a direct reporting system where the PNP Anti-Cybercrime Group are given a special email address through which they can directly report content for takedown.⁹⁸ Meta treats these requests with priority because the source is a trusted government agency.⁹⁹

ii. As regards criminal investigations, Meta has a data disclosure program where law enforcement agencies are entitled to basic subscriber information, including IP information.¹⁰⁰ The challenge, according to Meta, is that under Philippine law, the police need a search warrant to get information such as IP addresses, session IDs, and other information about the users.¹⁰¹

⁹⁷ December 9, 2021 Hearing, TSN, p. 32.

⁹⁸ See December 9, 2021 Hearing, TSN, pp. 51 to 52.

⁹⁹ Id.

¹⁰⁰ See December 9, 2021 Hearing, TSN, p. 52.

¹⁰¹ Id.

iii. Meta narrated how complaints are processed. Meta receives complaints from its law enforcement portal usually from the Office of the Cybercrime, Department of Justice.¹⁰² Law enforcement can then preserve data in an automated and easy fashion without legal processes.¹⁰³ Once the Department of Justice secures the cyber warrant, Meta discloses the data.¹⁰⁴

c. Meta has authenticity policies which block and remove accounts which are used to persistently abuse its community standards.¹⁰⁵ Meta's community standards cover areas such as hate speech, and bullying, harassment.¹⁰⁶ It has taken down "a lot of accounts in the Philippines and content in the Philippines for things like inciting violence, inciting hate against different figures."¹⁰⁷ Violators of its policies face restricted monetization and may be barred from having ads placed on their content.¹⁰⁸

d. Meta also allows the public to report fake accounts.¹⁰⁹ Meta then either: (i) takes down the account; or (ii) freezes the account and requires the user to confirm their identity before they can continue using the account.¹¹⁰

e. Meta explained that they have mechanisms in place to promote transparency in advertising, specifically its Ad Library tool. Before political or electoral ads can be placed, Meta requires the person to submit his/her ID.¹¹¹ Meta also requires a disclaimer that states who is paying for the ad, the information and

¹⁰² See January 12, 2022 Hearing, TSN, p. 86.

¹⁰³ Id.

¹⁰⁴ Id.

¹⁰⁵ See December 9, 2021 Hearing, TSN, p. 50.

¹⁰⁶ Id.

¹⁰⁷ December 9, 2021 Hearing, TSN, p. 50.

¹⁰⁸ See January 12, 2022 Hearing, TSN, p. 60.

¹⁰⁹ See December 9, 2021 Hearing, TSN, p. 51.

¹¹⁰ Id.

¹¹¹ See December 9, 2021 Hearing, TSN, p. 52.

contact details of the advertiser.¹¹² Such information about political ads are accessible through facebook.com/ads/library.¹¹³ Meta also enumerated the mechanisms that users can use for brand safety control in ad placements, namely: (i) topic exclusions; (ii) blacklists; (iii) publisher allow list; and (iv) content allow list.¹¹⁴

f. Meta said it has a reporting form for those who want to report defamation.¹¹⁵ Meta mentions that it "may reject [requests for user information] or [Meta] may require data information."¹¹⁶ However, Senator Drilon said that the power to enforce accountability should be lodged in the legal system and not in private hands because, currently, remedies cannot be availed because the accounts are anonymous.¹¹⁷ Senator Drilon asked Meta if it would oppose a law which would impose a process which would define the process of your being required to reveal the author of defamatory language.¹¹⁸ Meta said that it could not commit and would have to check with their legal team.

39. Meta is against requiring identification to use its platform.¹¹⁹ Such requirement "goes against [its] philosophy of providing voice to all people who use [its] services."¹²⁰ Meta, however, asserted that using fake accounts are against its community standards and will be "actioned".¹²¹ Meta's artificial intelligence have detected hundreds of thousands of fake accounts that do not make it into its platform.¹²²

¹¹² Id.

¹¹³ Id.

¹¹⁴ See January 12, 2022 Hearing, TSN, pp. 58 to 61.

¹¹⁵ See December 9, 2021 Hearing, TSN, p. 62.

¹¹⁶ December 9, 2021 Hearing, TSN, p. 63.

¹¹⁷ See December 9, 2021 Hearing, TSN, p. 62.

¹¹⁸ See December 9, 2021 Hearing, TSN, p. 64.

¹¹⁹ See December 15, 2021 Hearing, TSN, p. 23.

¹²⁰ December 15, 2021 Hearing, TSN, p. 23.

¹²¹ See December 15, 2021 Hearing, TSN, p. 24.

¹²² Id.

40. On the issue of algorithms, Meta said that these algorithms are not inherently evil.¹²³ These are algorithms that help small businesses survive the pandemic. These are also the same algorithms that remove terror-related content in the Philippines and keep our children safe. Meta agrees, however, that algorithms should continue to be improved.¹²⁴

Google

41. Google¹²⁵ was created in 1998 to "organize the world's information and make it universally accessible and useful."¹²⁶ It asserts that "threats, like misinformation run completely against the whole way that Google thinks and has been created."¹²⁷

42. Google shared its responsibility framework and its ongoing efforts to tackle disinformation and misinformation. It also emphasized the need to have a multi-stakeholder collaborative approach to disinformation and misinformation.¹²⁸

a. Google amplifies authoritative and reliable sources of information. It uses algorithms to surface the most high-quality information and content when searches are made.¹²⁹ Google also rewards reliable and quality creators when they do publish quality content with various monetization options.¹³⁰

b. Google removes or blocks content that violates laws or that violates its usage policies and community guidelines.¹³¹

¹²³ See January 12, 2022 Hearing, TSN, p. 57.

¹²⁴ Id.

¹²⁵ Represented by Jean-Jaques Sahel, Head of Information and Content Policy and Yves Gonzales, Government Affairs.

¹²⁶ December 15, 2021 Hearing, TSN, p. 35.

¹²⁷ Id.

¹²⁸ See December 15, 2021 Hearing, TSN, pp. 36 to 37.

¹²⁹ See December 15, 2021 Hearing, TSN, p. 36.

¹³⁰ Id.

¹³¹ Id.

i. Bad content may be identified through: (a) feedback and notices from users; or (b) the authorities.¹³² Google also uses machine learning artificial intelligence to help them analyze material at a huge scale.¹³³ It employs trained reviewers that determine what action to take based on their policies and based on law.¹³⁴

ii. Google's policies are not static and evolve with time.¹³⁵ In 2020, Google added or updated more than forty (40) policies aimed at advertisers and publishers to make sure ad space is increasingly healthy and clean.¹³⁶ Policies are employed globally. Google mentioned that they are transparent in their application of their policies.¹³⁷ Transparency reports are available at transparency.google.com

iii. In 2020, Google removed 1.3 billion publisher pages and stopped ads from being served on over 150,000 publisher sites.¹³⁸

c. Google reduces the spread of content that could be potentially harmful to its users and to society. It has a dedicated team (threat analysis group) that tracks over 270 attacker groups from more than fifty (50) countries every day.¹³⁹

d. Google mentioned that they recently implemented information panels (e.g., COVID-19, Martial Law in the Philippines) that point to authoritative reputable sources, such as Encyclopedia Britannica or Wikipedia.¹⁴⁰ Aside from the

¹³² See December 15, 2021 Hearing, TSN, pp. 37 to 38.

¹³³ Id.

¹³⁴ Id.

¹³⁵ See December 15, 2021 Hearing, TSN, pp. 38 to 39.

¹³⁶ Id.

¹³⁷ Id.

¹³⁸ See January 12, 2022 Hearing, TSN, p. 62.

¹³⁹ See December 15, 2021 Hearing, TSN, pp. 39 to 40.

¹⁴⁰ See December 15, 2021 Hearing, TSN, p. 41.

information panels, Google partnered with several organizations to expand its users' media and digital literacy.¹⁴¹

43. Google launched a program called #FactsFirstPH which aims to protect the integrity of the May 9, 2022 elections and to enable the public to make an informed vote.¹⁴² It is a coalition of 100 organizations from across journalism, academia, civil society, and legal community supported by nonprofit groups like Rappler and the Google news initiatives.¹⁴³ It includes grassroots programs and practical collaboration to root out the bad actors and help people on the ground and enjoy a safe online environment and a safe election in May.¹⁴⁴

44. In relation to monetization, Google explained that it is their general policy to cut off monetization to those that propagate disinformation, piracy, etc.¹⁴⁵ Google also bans advertisers identified to have been complicit in said schemes.¹⁴⁶ It stressed the importance of close collaboration with various actors in the online platform like researchers and journalists so they can agree on policy commitments, identify new trends and new threats, quickly take down bad content, and cut-off money routes.¹⁴⁷

45. Google confirmed that YouTube currently has 45 million Filipino viewers aged 18 years old and above.¹⁴⁸

46. Google mentioned that Google Philippines Incorporated is merely a "marketing and support entity" in the Philippines.¹⁴⁹ In this connection, "[t]he product

¹⁴¹ See December 15, 2021 Hearing, TSN, p. 42.

¹⁴² See February 2, 2022 Hearing, TSN, pp. 74 to 75.

¹⁴³ Id.

¹⁴⁴ Id.

¹⁴⁵ See February 2, 2022 Hearing, TSN, p. 73.

¹⁴⁶ Id.

¹⁴⁷ See February 2, 2022 Hearing, TSN, p. 74.

¹⁴⁸ See December 15, 2021 Hearing, TSN, p. 61.

¹⁴⁹ See February 2, 2022 Hearing, TSN, p. 77.

itself, the advertising is not based in the Philippines.”¹⁵⁰ Thus, the advertising revenue earned by Google is taxed elsewhere and not in the Philippines.¹⁵¹

D. BUSINESS GROUPS AND PRIVATE BUSINESSES

Makati Business Club

47. The Makati Business Club¹⁵² (“MBC”) confirmed that on December 9, 2021, MBC and seventeen (17) other business groups released a statement entitled “Statement Against Disinformation and Hate Speech in Social Media and Other Platforms” expressing their concern on how social media, media, and other platforms were abused to spread disinformation and hate speech resulting in erroneous beliefs, confusion, and division.¹⁵³ These abuses, consisting of lies, personal attacks, trolling, misogyny, red-tagging, spike during election season and MBC fears that the damage to the society will be long-lasting.¹⁵⁴ They also recognized that the business sector plays a significant role in the proliferation of disinformation through advertising spending.¹⁵⁵ They called out businesses “to evaluate the platforms that they are advertising, including social media, messaging apps, broadcasting, and in print, in terms of whether and how much disinformation and hate speech these platforms allow.”¹⁵⁶

Management Association of the Philippines

48. The Management Association of the Philippines¹⁵⁷ (“MAP”) urged the Senate to strengthen three laws, namely: (a) Republic Act No. 10175 or the Cybercrime Prevention Act of 2012; (b) Republic Act No. 8484 or the Access Devices Regulation Act

¹⁵⁰ February 2, 2022 Hearing, TSN, p. 77.

¹⁵¹ See February 2, 2022 Hearing, TSN, p. 77.

¹⁵² Represented by Coco Alcuaz, Executive Director.

¹⁵³ See December 9, 2021 Hearing, TSN, p. 15.

¹⁵⁴ See December 9, 2021 Hearing, TSN, p. 16.

¹⁵⁵ See December 9, 2021 Hearing, TSN, p. 16.

¹⁵⁶ December 9, 2021 Hearing, TSN, p. 17.

¹⁵⁷ Represented by Ruy Moreno, Chairperson of the Ease of Doing Business.

of 1998; and (c) Republic Act No. 9194 or the Anti-Money Laundering Act of 2001. The MAP asserted that a review is necessary "in view of the rapid development of technology where IT equipment and software programs is considered obsolete after only two to three years."¹⁵⁸ Here are the recommendations suggested by MAP: (a) identify a lead agency to enforce the relevant cybercrime laws, i.e., the National Bureau of Investigation and strengthen it; and (b) pass a bill requiring the registration of all SIM cards.¹⁵⁹

49. MAP is alarmed that the advertisers appear to have less control over where their ads are placed.¹⁶⁰ The client (advertiser) has the responsibility to question where its ads were placed.¹⁶¹

Asia Brewery

50. Asia Brewery¹⁶² is "completely impartial and will never tolerate the commission of any crime, or that we would be associated with the commission of any crime, and, in this case, it would be cyber libel."¹⁶³

51. According to Asia Brewery, it works closely with its media agencies in order to ensure that its ads will not appear in any ad or any content on its social media platforms that may be construed as malicious in nature.¹⁶⁴ It specifically identifies areas that should be filtered out – where their ads will not be places.¹⁶⁵ This includes content that may result to violence, those which are sexual in nature, those that contain profanity, and those that contain harmful language.¹⁶⁶

¹⁵⁸ December 9, 2021 Hearing, TSN, p. 20.

¹⁵⁹ See December 9, 2021 Hearing, TSN, pp. 20 to 22.

¹⁶⁰ See December 15, 2021 Hearing, TSN, p. 76.

¹⁶¹ See December 15, 2021 Hearing, TSN, p. 77.

¹⁶² Represented by Atty. Federico Sandoval, Head of Legal Affairs.

¹⁶³ December 15, 2021 Hearing, TSN, p. 46.

¹⁶⁴ See December 15, 2021 Hearing, TSN, p. 46.

¹⁶⁵ Id.

¹⁶⁶ Id.

52. Asia Brewery committed to work closely with its media agencies to "fine-tune the way that sensitive content can be filtered."¹⁶⁷

Universal Robina Corporation

53. Universal Robina Corporation¹⁶⁸ said that it will be working with its ad agencies to make sure that its ads comply with Universal Robina Corporation's community standards.¹⁶⁹

Lazada

54. Lazada's¹⁷⁰ brand safety guidelines include exclusions of potentially libelous content and fake news.¹⁷¹ Should its ads be included in content which are not aligned with its brand safety guidelines, Lazada asks that their ads be removed immediately.¹⁷²

55. Lazada committed to continue to work with their partner media agencies and digital platform partners in helping ensure that their ads do not appear in libelous content and fake news.¹⁷³

56. Lazada mentioned that they have the option to choose opt out or exclusions in relation to its ad placements.¹⁷⁴ They can "opt out on certain placements whether it's by a pop-up exclusions or content exclusions or even block lists or negative lists where we do not want our ads to appear."¹⁷⁵ However, Lazada relies "heavily on digital platforms like Meta and Google and their algorithms to ensure that those brand safety exclusions

¹⁶⁷ December 15, 2021 Hearing, TSN, p. 46.

¹⁶⁸ Represented by John David L. Lu, Manager of Group Customer Development, E-Commerce and Atty. Elvin L. Cruz, Corporate Legal.

¹⁶⁹ See December 15, 2021 Hearing, TSN, p. 49.

¹⁷⁰ Represented by Neil Trinidad, Chief Marketing Officer.

¹⁷¹ See January 12, 2022 Hearing, TSN, p. 30.

¹⁷² *Id.*

¹⁷³ See January 12, 2022 Hearing, TSN, pp. 30 to 31.

¹⁷⁴ See January 12, 2022 Hearing, TSN, p. 50.

¹⁷⁵ January 12, 2022 Hearing, TSN, p. 50.

are implemented."¹⁷⁶ In other words, Lazada does not have "any further control after [Lazada] ha[s] already selected [its] opt out or our exclusions and that's why [Lazada] relies on [its] partners to continue their efforts on screening malicious content and fake news."¹⁷⁷

Shopee

57. Shopee¹⁷⁸ "does not condone misinformation, disinformation, hate speech, and vast deception using digital platforms," as reflected in its policies.¹⁷⁹

58. Shopee's policy is to "opt-out of groups of sensitive content, including those that contain hurtful language, or words that could be considered biased, demeaning, or hate speech against certain groups."¹⁸⁰ Shopee said that such content are not aligned with its brand and values.

59. Shopee said that it is exploring whether its advertising partners offer any additional controls regarding this concern.¹⁸¹

Rockwell Land

60. Rockwell Land¹⁸², along with its agency, Ogilvy¹⁸³, appeared in the January 12, 2022 hearing.

¹⁷⁶ January 12, 2022 Hearing, TSN, p. 51.

¹⁷⁷ Id.

¹⁷⁸ Represented by Atty. Jem Hans-Segovia, Public Affairs.

¹⁷⁹ January 12, 2022 Hearing, TSN, p. 45.

¹⁸⁰ Id.

¹⁸¹ Id.

¹⁸² Represented by Atty. Ma. Fe Carolyn Pinoy, General Counsel.

¹⁸³ Represented by Adeline Sta. Ana, Account Officer.

61. Rockwell Land values integrity and fairness, and it does not knowingly consent or condone vicious materials.¹⁸⁴ Its policy is to take down these kinds of materials.¹⁸⁵

62. Ogilvy does not purposefully target and place ads on channels that have malicious content, or even content that is not aligned with Rockwell or Ogilvy's values.¹⁸⁶ Ogilvy acts swiftly in removing their ads if and when they have monitored our ads appearing in those types of content.¹⁸⁷ However, Ogilvy mentioned that they cannot do a detailed audit on where their ads appear.¹⁸⁸

63. While it targets individuals based on behavior, Ogilvy does not have any visibility on what specific videos or channels they view.¹⁸⁹

E. FACT-CHECKING ENTITIES / MEDIA AND PUBLIC RELATIONS PRACTITIONERS

VERA Files

64. VERA Files¹⁹⁰ is a non-stock, non-profit organization formed in 2008 for the purpose of promoting excellent journalism.¹⁹¹ Recently, it has engaged in fact-checking or the act of determining whether statements in a non-fictional manner are true or not.¹⁹²

65. Traditional media organization, e.g., print and broadcast, verify their facts first before publishing.¹⁹³ The rise of digital media and social media platforms, where

¹⁸⁴ See January 12, 2022 Hearing, TSN, p. 46.

¹⁸⁵ Id.

¹⁸⁶ See January 12, 2022 Hearing, TSN, p. 48.

¹⁸⁷ Id.

¹⁸⁸ Id.

¹⁸⁹ See January 12, 2022 Hearing, TSN, p. 54.

¹⁹⁰ Represented by Ellen Tordesillas, President.

¹⁹¹ See December 9, 2021 Hearing, TSN, p. 37.

¹⁹² Id.

¹⁹³ Id.

anybody can be a reporter and publisher and can post what he or she wants to post without going through the usual verification process employed in traditional media has led to the alarming phenomenon of mis- and disinformation.¹⁹⁴

66. According to VERA Files President, Ms. Ellen Tordesillas, researchers of the Massachusetts Institute of Technology found that false information in Twitter spreads six (6) times faster than the truth.¹⁹⁵ This may be because of information bias. Ms. Tordesillas mentioned: "naniniwala tayo kaagad kapag ang isang impormasyon ay gusto natin, naaayon sa ating paniniwala."¹⁹⁶ She said that information that appears to be interesting or exciting would likely not be verified for the truth.¹⁹⁷

67. Based on its fact-checking efforts, VERA Files noted that most online disinformation are from government officials.¹⁹⁸ In this connection, VERA Files said that the role of government officials in disinformation efforts should be identified.¹⁹⁹

68. VERA Files said that there should be a "balance between protecting the public from the excesses of social media and making sure that our basic freedoms of speech, of expression, or of the press are not undermined."²⁰⁰ The cure should not be worse than the disease.²⁰¹

Kapisanan ng mga Brodkaster ng Pilipinas

69. The Kapisanan ng mga Brodkaster ng Pilipinas ("KBP") is inclined to support making social media platforms accountable, just like traditional media.²⁰²

¹⁹⁴ Id.

¹⁹⁵ See December 9, 2021 Hearing, TSN, p. 38.

¹⁹⁶ Id.

¹⁹⁷ Id.

¹⁹⁸ See December 9, 2021 Hearing, TSN, p. 39.

¹⁹⁹ Id.

²⁰⁰ Id.

²⁰¹ Id.

²⁰² In behalf of KBP: Atty. Rudolph Steve Jularbal.

70. The KBP said that it is now reviewing their code to include the streaming on social media and podcast of their anchors.²⁰³

John Nery

71. John Nery, a journalist, recommended a whole-of-society approach, including the government, to minimize the harm caused or enabled by social media platforms.²⁰⁴ He also proposed the reduction of criminal liability, including decriminalizing libel,²⁰⁵ to allow the political and moral space to launch other more responsive forms of intervention.²⁰⁶ Instead, Mr. Nery is in favor of increasing civil and administrative liability, civic engagement, and social responsibility.²⁰⁷

72. According to Mr. Nery, the principal harm enabled or caused by social media platforms is democratic erosion through disinformation that distorts, denies, and finally dissolves both the reality of our common experience and our common standards of thought and reason.²⁰⁸

73. Mr. Nery cautioned against focusing so much on anonymity in studying the problem of disinformation since disinformation is being shared even by those who are not anonymous.²⁰⁹ He suggested to consider both the content and the conduct of the different messengers, media, modes, etc. that circulate the disinformation.²¹⁰

74. Mr. Nery pushed for the review of existing laws, regulations, customs, in the light of the rise of social media and the advance of information and communication technology. He proposed legislative measures that (a) impose administrative sanctions

²⁰³ Id.

²⁰⁴ See February 2, 2022 Hearing, TSN, pp. 45 to 46.

²⁰⁵ See February 2, 2022 Hearing, TSN, p. 51.

²⁰⁶ Id.

²⁰⁷ Id.

²⁰⁸ See February 2, 2022 Hearing, TSN, p. 46.

²⁰⁹ See February 2, 2022 Hearing, TSN, p. 83.

²¹⁰ Id.

against government officials or employees who use government resources to wage disinformation campaigns against the public it is supposed to serve²¹¹; (b) strengthen the capacity of the educational bureaucracy to produce high-quality textbooks²¹²; (c) a memory law patterned after that of Germany, that penalizes the denial of agreed-upon historical truths, subject to the right to freedom of expression and with assurance of independent judicial intervention²¹³; (d) strengthen the capacity of the government's own massive media and information infrastructure to report the news independent of government influence²¹⁴; (e) hold social media platforms accountable and treat them as information utilities²¹⁵; (f) strengthen the capacity of the public to become critical and discriminating users of content by reviewing and improving the Department of Education's current Media and Information Literacy or MIL program for high school students.²¹⁶

Nic Gabunada

75. Nic Gabunada, a public relations practitioner, acknowledged the difficulty in pursuing legal action for crimes committed in social media (e.g., harassment, malicious communications, stalking, threatening, violence) due to the anonymity of the "culprits" and the absence of liability of platform owners for content carried in their platforms.²¹⁷ He also noted that creators of questionable content are "allowed to house and monetize their content in these platforms."²¹⁸

76. Mr. Gabunada suggested the following interventions:

²¹¹ See February 2, 2022 Hearing, TSN, p. 49.

²¹² See February 2, 2022 Hearing, TSN, p. 50.

²¹³ See February 2, 2022 Hearing, TSN, p. 50.

²¹⁴ Id.

²¹⁵ Id.

²¹⁶ Id.

²¹⁷ See February 2, 2022 Hearing, TSN, pp. 52 to 53.

²¹⁸ February 2, 2022 Hearing, TSN, p. 53.

- a. Social media platforms should require users to show identification cards when opening social media accounts.²¹⁹ Further, all SIM cards should be registered since an individual cellphone number is one of the requirements for creating a social media account.²²⁰
- b. Internet Service Providers ("ISPs") and platform providers should be held accountable for the content they carry and distribute in their platforms or websites.²²¹
- c. Social media platforms should also be made responsible for its algorithms, which, in some instances, create a cycle of feeding harmful, inflammatory, or untrue content to users.²²² They should further be compelled to release details of their algorithms and core functions to trusted independent researchers to determine if such algorithms artificially amplify false and manipulative information on a wide scale.²²³
- d. Laws should be strengthened to allow our courts to force platform providers and ISPs to hand over the identities of users to aid defamation cases, among others.²²⁴
- e. Creators of harmful content should not be allowed to monetize their content.²²⁵ In this connection, there should be an independent non-government body that will review content shown online and that will identify channels which are purveyors of harmful content.²²⁶

²¹⁹ See February 2, 2022 Hearing, TSN, p. 53.

²²⁰ See February 2, 2022 Hearing, TSN, pp. 53 to 54.

²²¹ See February 2, 2022 Hearing, TSN, p. 54.

²²² See February 2, 2022 Hearing, TSN, p. 55.

²²³ Id.

²²⁴ Id.

²²⁵ See February 2, 2022 Hearing, TSN, pp. 55 to 56.

²²⁶ Id.

f. Influencers or social media personalities with large followings should disclose to their followers whether they received material or monetary considerations with advertisers, politicians, and personalities and vice versa.²²⁷

F. LEGAL AND MEDIA LUMINARIES

Justice Carpio

77. Retired Supreme Court Senior Associate Justice Antonio T. Carpio ("Justice Carpio") recognized that online platforms have allowed fake or fictitious persons to post libelous comments and disinformation on their respective platforms to "generate interest and traffic to their platforms" and asserted that online platforms in the Philippines may indeed be sued as publishers for the libelous comments of their users.²²⁸ He believes that "[t]he use of fake or fictitious names encourage the spread of disinformation in social media."²²⁹ However, Justice Carpio noted that public officials or public figures libeled online do not usually file libel cases because they have to overcome the presumption of good faith.²³⁰ The burden of proving malice in libel cases lies with the libeled public officials or public figures.²³¹

78. Justice Carpio proposed to amend the law "so that malice is presumed on the part of the publisher if the libelous comment is made by a fake or fictitious person."²³² The law should treat the use of fake or fictitious names in online platforms to libel a person as "per se proof of malice, and this should be written in the law."²³³ Justice Carpio,

²²⁷ See February 2, 2022 Hearing, TSN, p. 56.

²²⁸ See December 15, 2021 Hearing, TSN, p. 16.

²²⁹ December 15, 2021 Hearing, TSN, p. 17.

²³⁰ See December 15, 2021 Hearing, TSN, p. 16.

²³¹ *Id.*

²³² December 15, 2021 Hearing, TSN, p. 17.

²³³ *Id.*

however, clarified that libel must be decriminalized – victims should instead be awarded with damages.²³⁴

79. On the issue of anonymity of users, Justice Carpio said that online platforms, such as Facebook, should require persons who wish to open an account to disclose his/her real name²³⁵ and country of origin²³⁶. He said that platforms should refuse access if the user refuses to reveal his/her real name.²³⁷ If the platform allows persons to hide behind fake names, the platform should be liable for any libelous comment “because [it] has allowed it.”²³⁸ Justice Carpio said that there is a similar law in Germany.²³⁹

Maria Ressa

80. Maria Ressa is a journalist, author, co-founder and Chief Executive Officer of Rappler, and the first Filipino recipient of the Nobel Peace Prize.

81. According to Maria Ressa, the worst-case scenario result of disinformation is to “bring down a functioning democracy much older than we are with much stronger institutions and bring violence to its center.”²⁴⁰ She gave the January 6, 2021, Capitol Riot incident as an example to show that disinformation is “directly connected to elections, which is directly connected to national security.”²⁴¹ Maria explained how these conspiracy theories are mainstreamed²⁴²:

a. Academic groups identified Russia Today as the group that started the conspiracy theory of election fraud as early as August 2019. Maria Ressa

²³⁴ See December 15, 2021 Hearing, TSN, p. 18.

²³⁵ See December 15, 2021 Hearing, TSN, p. 20.

²³⁶ See December 15, 2021 Hearing, TSN, pp. 22 to 23.

²³⁷ See December 15, 2021 Hearing, TSN, p. 20.

²³⁸ December 15, 2021 Hearing, TSN, p. 21.

²³⁹ See December 15, 2021 Hearing, TSN, p. 21.

²⁴⁰ January 12, 2022 Hearing, TSN, p. 16.

²⁴¹ January 12, 2022 Hearing, TSN, p. 17.

²⁴² See January 12, 2022 Hearing, TSN, pp. 17 to 18.

alleges that the Presidential Communications Operations Office partnered with Russia Today to supposedly train journalists.

b. A year later, in August 2020, Steve Bannon on YouTube takes the narrative and spreads it.

c. Tucker Carlson of Fox then picks it up and brings it to mainstream media.

d. In October 2020, super spreaders, such as QAnon then propagates the message further.

e. Lastly, the President calls the people out and violence ensues on January 6, 2021.

82. Maria Ressa said that disinformation is a "scorched-earth policy". She said that "[w]hen you throw a match in a very flammable environment, it becomes impossible to control."²⁴³

83. Maria Ressa also shared the data on the attacks against her based on a study by UNESCO and the International Center for Journalists.²⁴⁴

a. Women are attacked at least ten (10) times more than men – gender disinformation. Seventy-three percent (73%) of women journalists experienced online abuse. Twenty-five percent (25%) threats of physical violence. Twenty percent (20%) are translated into real world violence.

b. Sixty percent (60%) of online violence against Maria Ressa was aimed at tearing down her credibility. Forty percent (40%) are personal attacks.

²⁴³ January 12, 2022 Hearing, TSN, p. 18.

²⁴⁴ See January 12, 2022 Hearing, TSN, pp. 19 to 20.

c. Attacks happen after Maria Ressa does an investigation or exposes wrongdoing/corruption.

84. Algorithms contributed to the growth of disinformation. In 2016, we were all in the middle. But with the “friends-of-friends” algorithm, pro-Duterte moved further right and anti-Duterte moved further left.²⁴⁵ Maria Ressa also explained the concept of “surveillance capitalism” or when the system gathers the user’s data and then targets his/her with advertising or propaganda.²⁴⁶

85. On the issue of regulation, Maria Ressa explained that the issue on the spread of disinformation is not a freedom of speech issue but a freedom of distribution/amplification issue.²⁴⁷

a. Maria Ressa said: “[I]t’s not about the content, it’s about the operating system run by algorithms of amplification.”²⁴⁸

b. She further stated: “[T]he quick solution would be to actually hold the platforms accountable for what they spread, what they allow to spread. And when you do that, I bet you that you would automatically see a shrinking of information operations.”²⁴⁹ Unlike in the United States where online platforms are protected by Section 230 of the Communications Decency Act, social media platforms in the Philippines may indeed be held accountable.

86. On the issue of anonymity, Maria Ressa said that the platforms know what we don’t see (e.g., the device, other identifying marks).²⁵⁰

²⁴⁵ See January 12, 2022 Hearing, TSN, p. 22.

²⁴⁶ See January 12, 2022 Hearing, TSN, p. 23.

²⁴⁷ See January 12, 2022 Hearing, TSN, p. 35.

²⁴⁸ January 12, 2022 Hearing, TSN, p. 35.

²⁴⁹ January 12, 2022 Hearing, TSN, p. 39.

²⁵⁰ See January 12, 2022 Hearing, TSN, p. 40.

87. Maria also disclosed information from the Frances Haugen – the Facebook whistleblower.²⁵¹ Eighty-seven percent (87%) of Facebook's global budget for time spent on classifying disinformation and misinformation goes to the US, which comprises just 10% of its daily users.²⁵² Put it in another way, Facebook spends 13% of its time classifying disinformation on the rest of the world which comprises 90% of its users, excluding the US. Language is one barrier. Detection is harder when a non-English language is used.

G. GOVERNMENT AGENCIES

Department of Justice

88. In relation to online platforms being liable for libelous content, the Department of Justice²⁵³ ("DOJ") is of the position that "the ones who are liable, made liable for those content or for those comments are the authors only."²⁵⁴

89. The DOJ also mentioned that Section 6 of the Cybercrime Law is inclusive enough to cover cybercrimes done through social media platforms.²⁵⁵

90. DOJ recommended to focus on strengthening enforcement actions and compelling compliance of internet service providers with their obligations under the law.²⁵⁶

²⁵¹ See January 12, 2022 Hearing, TSN, pp. 78 to 79.

²⁵² Id.

²⁵³ Represented by Atty. Antoni Pauline Pascual, State Counsel, Office of Cybercrime.

²⁵⁴ See January 12, 2022 Hearing, TSN, p. 75.

²⁵⁵ See January 12, 2022 Hearing, TSN, pp. 75 to 76.

²⁵⁶ See January 12, 2022 Hearing, TSN, p. 76.

91. DOJ confirmed that Facebook and Google accede to DOJ's requests to preserve data, but a warrant is needed to disclose information.²⁵⁷

92. DOJ has no data re: cases relating to crimes done through social media being filed.²⁵⁸ However, it has data from reports of its prosecution offices. Data is limited to the number of cases filed and for what offense. It does not indicate whether such crimes are done through social media.

93. If crimes are done using fake accounts, the DOJ refers the case to the NBI or PNP Anti-cybercrime Group for further investigation and ascertainment of identity.²⁵⁹

Presidential Communications Operations Office

94. The Presidential Communications Operations Office²⁶⁰ ("PCOO") reported that it has various social media accounts for its various programs.²⁶¹ The PCOO said that there are around twenty people handling its social media accounts.²⁶²

95. The PCOO confirmed that it does not have a policy for its employees as regards "sideline" work while handling PCOO's social media accounts.²⁶³ It only has a social media policy which sets the parameters for setting up social media pages of the PCOO as well as the responsibilities of its employees and officials.²⁶⁴

96. The PCOO denied Maria Ressa's allegation that the PCOO trained with Russia Today.²⁶⁵

²⁵⁷ See January 12, 2022 Hearing, TSN, p. 77.

²⁵⁸ See January 12, 2022 Hearing, TSN, p. 84.

²⁵⁹ See January 12, 2022 Hearing, TSN, pp. 85 to 86.

²⁶⁰ Represented by Hon. Kristian Ablan, Undersecretary.

²⁶¹ See January 12, 2022 Hearing, TSN, p. 91.

²⁶² *Id.*

²⁶³ See January 12, 2022 Hearing, TSN, p. 92.

²⁶⁴ *Id.*

²⁶⁵ See January 12, 2022 Hearing, TSN, pp. 92 to 93.

Bureau of Internal Revenue

97. In response to Google's pronouncement as providing merely marketing and support services, the Bureau of Internal Revenue²⁶⁶ ("BIR") said that any income related to such services or marketing shall be subject to income tax and value-added tax.²⁶⁷

98. BIR said that it has issued letters of authority against social media influencers.²⁶⁸ However, it cannot divulge information since they are still pending.

National Tax Research Center

99. The National Tax Research Center²⁶⁹ ("NTRC") said that existing tax laws are broad enough to cover all types of transactions and not just offline transactions.

100. NTRC confirmed that ad placements in social media platforms are taxable.²⁷⁰ It also confirmed that the BIR issued a revenue memorandum circular covering social media influencer because they are also liable for income tax and business taxes.²⁷¹ The NTRC also confirmed that there is a BIR issuance covering advertising entities and online advertisers as to withholding taxes and the issuance of official receipts.²⁷²

III. RECOMMENDATIONS

101. **Refile the SIM card registration bill.** Persons spreading hate speech and disinformation hide behind fake accounts and fake names. The SIM card registration

²⁶⁶ Represented by Atty. Mary Gretchen Mondragon, Action Lawyer, Law and Legislative Division and Atty. Ron Mikhail Uy, Attorney, Law and Legislative Division.

²⁶⁷ See February 2, 2022 Hearing, TSN, p. 78.

²⁶⁸ See February 2, 2022 Hearing, TSN, p. 82.

²⁶⁹ Represented by Atty. Khersien Bautista, Legal Group.

²⁷⁰ See February 2, 2022 Hearing, TSN, p. 90.

²⁷¹ Id.

²⁷² See February 2, 2022 Hearing, TSN, pp. 90 to 91.

bill may help in determining the identities of these disinformation and hate speech peddlers. Penalties should be imposed on telcos that violate the said law.

102. File a bill that will compel social media platforms to require users to prove their identities before they can proceed with the social media platforms' service. Peddlers of disinformation and hate speech usually hide behind fake names and fake accounts. In order to prevent anonymity from being used as a shield against accountability, social media platforms should require its users to prove their identities by presenting valid identification cards and providing required information before being able to use such platform's services. Note, however, that there should be a "balance between protecting the public from the excesses of social media and making sure that our basic freedoms of speech, of expression, and of the press are not undermined."²⁷³ The cure should not be worse than the disease.²⁷⁴

103. Amend the law on libel to make the use of fake accounts/fake names in making libelous comments as per se proof of malice. Social media platforms should be held accountable. To discourage inaction by the social media platforms, malice should be presumed on the part of the publisher (i.e., social media platform) if the libelous comment is made by a fake or fictitious person and such platform fails to take down the libelous content within a reasonable time.

104. File a bill requiring influencers or social media personalities with large following to disclose to their followers whether they received material or monetary considerations with advertisers, politicians, and personalities. The bill should be patterned after the United States Federal Trade Commission ("FTC") disclosure rules where the FTC requires influencers to disclose whenever they have any financial, employment, personal, or family relationship with a brand, including receiving free or discounted products and other perks. Disclosures should be easily seen and understood by the viewers. Violators should be penalized with civil penalties and

²⁷³ See December 9, 2021 Hearing, TSN, p. 39.

²⁷⁴ Id.

damages. However, the bill should focus on the advertisers, brands, and social media platforms – not the influencers.

105. Require government offices to have policies governing their employees' "sideline" digital media work while handling their respective official social media accounts. Government offices that maintain official social media accounts, such as the PCOO, should have a policy regulating their employees digital work outside of their official functions. These government offices should ensure that their employees are not engaging in or spreading disinformation and hate speech outside of their official functions.

106. Campaign finance regulations should bring in transparency and accountability. People hiring digital campaigners should be compelled to disclose what campaigns they have commissioned, how much, and who are the people involved. Also, campaigns now take on very different formats, such as influencers posting or hashtags that are made to trend. **Legislation needs to be broad enough to capture these techniques that the disinformation producers use to elude accountability.**

107. Pass the following legislative measures:

- a. Impose administrative sanctions against government officials or employees who use government resources to wage disinformation campaigns against the public it is supposed to serve.
- b. Strengthen the capacity of the educational bureaucracy to produce high-quality textbooks.
- c. A memory law patterned after that of Germany, that penalizes the denial of agreed-upon historical truths, subject to the right to freedom of expression and with assurance of independent judicial intervention.

d. Strengthen the capacity of the government's own massive media and information infrastructure to report the news independent of government influence.

e. Hold social media platforms accountable and treat them as information utilities.

f. Strengthen the capacity of the public to become critical and discriminating users of content by reviewing and improving the Department of Education's current Media and Information Literacy or MIL program for high school students.

g. Prohibit creators of harmful content to monetize their content.

108. Promote a "whole of society" approach that will require a lot of monitoring, civil society support, and support for independent audits. Ensure the participation of all stakeholders, especially the social media platforms, advertisers, media, and public relations agencies.

a. Social Media Platforms:

i. Social media platforms should be more transparent in relation to microtargeting. These platforms should also provide the necessary tools for advertisers to better monitor and have more control over their ad placements. This is in response to the advertisers and media agencies which said that it is "practically impossible" for them to monitor their ads that were inadvertently placed in content which are not so favorable.

ii. Social media platforms should be made responsible for its algorithms, which in some instances, create a cycle of feeding harmful,

inflammatory, or untrue content to its users. They should be compelled to release the details of their algorithms and core functions to trusted independent researchers to determine if such algorithms artificially amplify false and manipulative information on a wide scale.

iii. Social media platforms should allow advertisers to do a detailed audit on where (i.e., specific page, channel, or video) their ads appear.

iv. Social media platforms should extend their direct reporting system for requests for takedown to civil society organizations as well. Reporting should be more open to the public.

v. Social media platforms should have policies requiring collaboration with civil society groups, advertisers, media agencies, and government.

b. Academe / Civil Society Groups

i. The academe and civil society groups should be allowed to help in the direct reporting of takedown requests which is currently only available to law enforcement agencies.

ii. Government and/or social media platforms should consider accrediting independent civil society groups, non-governmental organizations, or members of the academe to review content and identify which channels are purveyors of disinformation.

iii. Academe and civil society groups should collaborate with regional and global institutions to have a wider perspective in combatting disinformation.

c. Advertising industry players

i. Advertisers and its creatives and media agencies should be in constant dialogue with social media platforms to ensure clean and credible content and improve algorithms for the proper placement of ads.

ii. The 4As, MSAP, ASC, PANA, IMMAP, and other similar associations should update their self-regulatory standards, including their respective Code of Ethics, to encourage transparency and accountability in digital marketing.

d. Media – The KBP should expand the coverage of its self-regulatory standards to cover the social media accounts and podcasts of its anchors.

e. Government

i. Government should provide more support or social safety nets to digital workers.

ii. Government should fund more research on networked disinformation.

iii. Government should identify the role of government officials in disinformation efforts (based on fact-checking efforts, most online disinformation are from government officials).

iv. Government should focus on strengthening enforcement actions and compelling compliance of internet service providers with their obligations under the Cybercrime law.

v. Schools should have a multi-platform information literacy and critical thinking in the basic education curriculum, similar to Finland's model.

vi. COMELEC should play an active role in combating disinformation during elections given that a representative democracy is not possible with rampant disinformation.