1. **Introduction**

Currently in Hong Kong, there is no specific statutory regime regulating the law of defamation regarding the liability of internet intermediaries. The courts have to resort to the common law of defamation and the defence of innocent dissemination in dealing with cases in this area. However, the common law is insufficiently equipped in regulating internet intermediaries. This essay recommends a statutory reform of the current law. The first part provides an overview of the common law’s position in Hong Kong. The second part analyses the underlying problems of the current doctrine. The third part discusses how other jurisdictions reform the common law doctrine. The fourth part provides a number of principles that should underlie any new law and a detailed reform approach based on these principles.

2. **Overview of the common law’s position in Hong Kong**

In the internet era, internet intermediary liability in defamation actions has been a huge source of legal controversies. When a user generates a defamatory statement and spreads it on the internet, questions arise as to whether any internet intermediary should be held liable for the statement\(^1\). Since there is no statutory regime in Hong Kong governing this area currently, in *Oriental Press Group Ltd. v. Fevaworks Solutions Ltd*\(^2\), the court laid out the common law approach in determining the internet intermediary liability.

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\(^1\) Gatley on Libel and Slander, §6.17
\(^2\) [2013] HKCFA 47
Under common law, a person is liable for defamation if that person participates in publishing a statement which causes harm to another person’s reputation. Here, ‘publish’ is given a wide meaning, including any act that assists in the process of conveying the defamatory words to a third party. Anyone involved in any part of the publication process, including the printer, the wholesale distributor and newsagents, can be held strictly liable for defamation, regardless of whether that person has knowledge of the defamatory content. Therefore, in assessing the internet intermediary liability, the court has to first evaluate whether that intermediary takes part in publishing the defamatory words. If the intermediary is not involved, it is not held liable for defamation at all.

If the intermediary is found involved in the publication process and thus held liable for defamation, that intermediary may need to establish the defence of innocent dissemination to negate the legal liability. In relying on the defence, the intermediary has to overcome two hurdles. First, as the defence is only available for persons other than ‘first or main publisher’, the intermediary needs to prove that it is merely a subordinate publisher. A person is identified as a first or main publisher if (i) he knows or can easily acquire knowledge of the content of the article being published (although not necessarily of its defamatory nature as a matter of law) (knowledge criterion); and (ii) he has a realistic ability to control publication of such content (control criterion). By disproving the two criteria, the intermediary can establish that he is only a subordinate publisher, for whom the defence is available. Secondly, the intermediary has to prove that he did not know and would not, by exercising reasonable care in the relevant circumstances, have

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3 Ribeiro P.J., Defamation and Internet Intermediaries, Defamation and Internet Intermediaries, Hong Kong Judicial Colloquium 2015
4 Vizetelly v Mudie’s Select Library Limited [1900] 2 QB 170 §180.
5 Note 1, at §76
known that the article contained defamatory content\textsuperscript{6}. The requisite standard of reasonable care will vary according to the circumstances. It may demand that the intermediary particularly monitor postings by certain forum members and postings on particular discussion topics, and take all reasonable steps to remove the defamatory content once it becomes aware of it. Once the intermediary overcomes the two hurdles, it can rely on the defence to negate liability.

3. **Underlying problems of the current doctrine**

Since the common law approach of the publication doctrine and the defence of innocent dissemination was evolved long before the internet emerged, it has been criticised as inappropriate and problematic in various aspects in dealing with internet intermediary liability.

3.1. The unduly complicated nature and lack of consistency

Generally, the rule of law requires that law can be easily understood and people be able to distinguish unlawful conduct from lawful one. However, the law of defamation regarding internet intermediary liabilities has been unduly complicated and highly fact-sensitive\textsuperscript{7}. The court’s rulings show a lack of consistency in considering whether an internet intermediary is a publisher.

Case laws adopt contradictory approaches in considering whether a search engine has to be responsible for the snippet and the underlying website held to be

\textsuperscript{6} Note 1, at §90
\textsuperscript{7} Emily Laidlaw & Hilary Young, Internet Intermediary Liability in Defamation: Proposals for Statutory Reform. Law Commission of Ontario. (2017)
defamatory. In *Metropolitan International Schools Ltd v Designtechnica Corp*\(^8\), Eady J categorised Google as a mere conduit based on the absence of human input in producing the search result. Google was therefore not liable as a publisher of the defamatory snippets. However, in *Trkulja v Google (No 5)*\(^9\), Beach J ruled that the jury was entitled to find Google a publisher on the ground that Google intended to publish every search engine result through intentionally creating the programmes.

Case laws also reach inconsistent decisions as to whether a platform provider should be categorised as a publisher. This can be illustrated in two US cases. In *Cubby v CompuServe Inc*\(^10\), the defendant online forum was considered a mere distributor as it had little or no editorial control. In *Stratton Oakmont, Inc v Prodigy Services Co*\(^11\), however, a bulletin board operator was found to be a publisher as it exercised a certain amount of editorial control and reviewed every post at one time.

The courts disagree about the correct doctrine in assessing the intermediary liability in defamation as well. For example, the publication by omission doctrine adopted in *Tamiz v Google*\(^12\) is rejected in the *Fevaworks* case\(^13\).

The lack of consistency in the common law doctrine means that the final decisions reached by the courts regarding the liability of internet intermediary in defamation action are highly unpredictable. It is very difficult, if not impossible, for an internet

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\(^8\) [2011] 1 WLR 1743 at §50-51
\(^9\) [2012] VSC 533 at §16
\(^10\) 776 F. Supp. 135
\(^11\) 1995 WL 323710
\(^12\) [2013] EWCA Civ 68.
\(^13\) Note 1 §53
intermediary, to predict whether it would be ruled a publisher or not until the court decision.

3.2. Imposition of liability in the absence of blameworthiness

Courts from time to time impose liability on internet intermediaries when they are insufficiently morally blameworthy\(^{14}\). Sometimes even if an intermediary exercised its reasonable care, it can still be liable for the user-generated content that contains defamatory statements. In the aforementioned *Prodigy* case\(^{15}\), the defendant operator was categorised as a publisher on the ground that it exercised a certain amount of editorial control over bulletin board posts and set a guideline on the posts. Indeed it reviewed every post at one time. The defendant was therefore held to be liable for user-generated defamatory content. However, the defendant operator was not sufficiently morally culpable. It attempted to take reasonable care of the comments posted and tried to prevent illegal content by setting a guideline. It was actually infeasible and practically impossible for Prodigy to review every post at the time of the case due to increasing amount of traffic. The ruling therefore created a greater liability risk to platform providers, and sparked the US to make a statutory reform.

In *Trkulja*\(^{16}\), Google was found to publish defamatory content through search engine results on the ground that the relevant computer programmes written by Google amounted to publication. The ruling is questionable in several aspects. First, computer programmes can hardly be argued as a human intervention during

\(^{14}\) Note 6  
\(^{15}\) Note 10  
\(^{16}\) Note 8
the search. Creation of computer programmes meant that it was infeasible for Google’s administrators to check every search result right before distributing it to users. Secondly, the search result is actually no more than a hyperlink. It can hardly be said that Google endorsed or supported the defamatory content. It simply performed the functions of a search engine: to facilitate users to find the information they need.

3.3. ‘Catch-22’ dilemma and disincentive of monitoring

The common law doctrine creates a catch-22 dilemma for internet intermediaries regarding the monitoring duty\(^\text{17}\). Under the current doctrine, in order to establish the innocent dissemination defence, the intermediary must prove itself a secondary publisher by establishing that it does not have control over the content. However, at the same time, the intermediary must also persuade the court that it exercises reasonable care and commits no negligence in causing the content to be published. This creates a dilemma: if the intermediary does not monitor it does not take reasonable care, but if it monitors it is more likely a main publisher for whom the innocent dissemination defence is unavailable.

The inevitable result of this dilemma is that an intermediary would prevent monitoring on content to attract the innocent dissemination defence because exercising monitoring duty would drive the court to conclude the intermediary as a main publisher rather than a subordinate publisher. In *Fevaworks*, the respondent online forum was categorised as a subordinate publisher. The court’s reasoning is

\(^{17}\) Note 6
that the respondent only had two administrators and was impossible to monitor every post before publishing given that there were 30000 users and 5000 posts per hour. Besides, the respondent did not exercise prior editorial control over the posts. The decision was quite disputable. First, given the huge amount of users and traffic, one expects the respondent to have taken a greater care, by hiring more administrators and more frequent monitoring. The hiring of two administrators are certainly below the expected and required standard of reasonable care. Unfortunately, the court’s decision seemed to imply that the large amount of traffic reduced the respondent’s monitoring duty instead. Worse still, it led to an inevitable implication that had the respondent exercised greater care by hiring more staff to monitor the forum, it would have been regarded a main publisher instead\(^\text{18}\). Such ruling actually discouraged intermediaries from doing more to monitor the platforms in good faith\(^\text{19}\).

4. **Statutory approaches in other jurisdictions**

Due to the underlying problems of the common law approaches, foreign jurisdictions have adopted different statutory reforms.

4.1. Safe harbour

The model is also known as notice-and-take-down (NTD) regime. Under the model, intermediaries enjoy conditional immunity from liability as long as they


\(^{19}\) Adrian Fong, Dissemination of Libel by Online Social Platforms: Reinterpreting Laws to Meet the Information Age, SSRN, 2013
remove defamatory content or disable access to such content upon notice. Examples include Europe’s Electronic Commerce Directive (ECD)\textsuperscript{20} and the Defamation Act 2013 in UK.

Under the ECD’s safe harbour model, different levels of protection are afforded to different intermediaries according to their activities. First, a near absolute safe harbour is provided for mere conduits, usually the internet service providers (ISPs), as long as the transmission of the defamatory content is not initiated by the conduit; Secondly, a conditional safe harbour is provided for intermediaries that cache content, which means creating a local copy of third party content to make its access speedier. If the intermediary acquires actual knowledge that the source of the information has taken it down, or a court ordered the content be taken down, then it has the obligation to act immediately to remove the content, or it will lose immunity; Thirdly, the narrowest conditional safe harbour is provided for intermediaries that host content, namely platform providers. They only enjoy immunity in their capacity of storing third-party content, but no immunity in other functions such as content creation. Besides, such intermediaries can lose immunity once they fail to remove expeditiously content of which they have actual knowledge or awareness of the defamatory nature.

The safe harbour model, unfortunately, still suffers certain flaws. First, the court is tasked with categorisation of different internet activities in order to decide which level of protection is available for that intermediary. In \textit{Google France, Google Inc v Louis Vuitton Malletier}\textsuperscript{21}, the court ruled that the safe harbour only protects passive intermediaries which offer storage service, while active service such as

\textsuperscript{20} Directive 2000/31/EC, articles 12-14
\textsuperscript{21} [2010] E.T.M.R. 30 § 113
content creation is not protected. However, the distinction between active and passive internet activities remains fine and vague. Secondly, the law does not provide clear definition on ‘knowledge’. The law imposes obligations on intermediaries to remove content once it acquires knowledge of the defamatory nature. The European Commission further provides interpretation that actual knowledge can be obtained though a court order, a notice, or ‘general awareness’ of the illegal content. However it is still unclear as to what amounts to a notice and awareness. Sometimes a platform provider may receive conflicting allegations as to whether certain content is unlawful, as in Davison v Habeeb & Ors. This is hard to tell in a particular case whether an intermediary is considered to have actual knowledge of the defamation.

Thirdly, the law sometimes imposes liability on intermediaries which are not morally blameworthy. In Delfi AS v Estonia, it was held that Delfi, an online news portal, was not immune from liability for a defamatory article posted on its site on the ground that it was not a passive intermediary but a content provider, as it invited users to post comments, derived economic benefits from the comments, and had the power to remove objectionable comments. Therefore, even if Delfi took down the questionable content upon request immediately, it was still liable. The ruling disappointed many because Delfi actually had acted in a responsible way, by providing an online report button for users to report illegal content. Some even argue that the court was wrong to hold Delfi as a content provider instead of a host provider. The case revealed the highly controversial distinction between a host

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22 Directive 2000/31/EC, article 14
23 EC, Commission, Online services, including e-commerce, in the Single Market: Accompanying the document at 33
24 [2011] EWHC 3031 (QB) § 68
provider and a content provider and the failure of safe harbour model to avoid imposing liabilities on intermediaries that are not morally blameworthy.

4.2. Broad Immunity

The US’s statute law provides broad immunity to internet intermediaries. Under Communications Decency Act (CDA) section 230, ‘interactive computer service’, including three types of intermediaries, namely ISPs, platform providers, and search providers, is considered not a publisher of any information provided by another information content provider. By giving such definition, intermediaries are no longer considered publishers and thus not liable for any defamation information by a third party at all. The only exception is federal criminal, communications, privacy and intellectual property matters. The purposes of section 230 are to overturn Prodigy\textsuperscript{26}, and to afford broader protection for internet intermediaries. Even if the intermediary has knowledge of the defamatory nature of the content, it was not obliged to remove the content. Traditional editorial functions, such as prior editorial control, would not put the immunity at risk.

The US model avoids the ambiguity of the EU model. Under the broad immunity model, all internet intermediaries are provided roughly the same level of immunity and protection. The court can therefore avoid the uneasy task of categorising internet intermediaries. However, it does not provide any incentive for intermediaries to self-regulate and remove defamatory content. The defamatory content published on the internet is left undeterred and un-remedied\textsuperscript{27}. In \textit{Jones v

\textsuperscript{26} note 10

\textsuperscript{27} Ryan Gerdes, Scaling Back § 230 Immunity: Why the Communications Decency Act should Take a Page from the Digital Millennium Copyright Act’s Service Provider Immunity Playbook
Dirty World Entertainment Recordings LLC, Sarah Jones, brought an action to sue a website for photos posted on the site which harmed her reputation. The action was unsuccessful under section 230.

4.3. Notice-and-notice model

This model is adopted in Canada in 2015. Although the model was initially to deal with copyright infringement, it provides some insights for defamation law reform. Under the system, a copyright holder who has evidence of copyright infringement sends a notice to certain internet intermediaries, including ISPs, storage service providers and search engines. These intermediaries are then under an obligation to forward the notice to the person mentioned in the notice. Failure to forward such notice results in statutory damages between $5000-$10000. The model is not flawless. First, the government does not state any mandatory criteria for the content of the notices. Some notices are of threatening nature such as deportation and revoking scholarship, with some even stating that the accused alleged of copyright violation can be liable for $150000. In view of this, the government is considering providing more detail regarding the notices. Another flaw is that the forwarding notices can be burdensome for ISPs. TekSavvy has to process around 5000 notices a day.

4.4. Human Rights model

28 521 F3d 1157
29 Canada’s Copyright Act
30 note 7
Recently, the international community has paid increasing attention into the internet intermediary liability for defamatory content generated by a third party.\footnote{note 7} The international community proposes a right-based approach and emphasizes that restriction on access to internet-based content must not violate Article 19(3) of the International Covenant on Civil and Political Rights, which provides that any restriction must be prescribed by law and necessary to pursue a legitimate aim. In this background the Manila Principles were published. The principles emphasize that internet intermediaries should be shielded from liability for third-party content and content can only be restricted upon a court order.

Brazil passed the Marco Civil which takes the right-based approach in regulating the internet.\footnote{Marco Civil Law of Internet in Brazil <https://www.cgi.br/pagina/marco-civil-law-of-the-internet-in-brazil/180> accessed 14 January 2020} It stipulates that provider of internet connection is not civilly liable for third party content, while platform providers are only liable when they fail to comply with a specific court order. Different from the safe harbour model, the intermediary is not required to remove content upon a user’s complaint or notice. This avoid the ambiguous situation such as what amounts to a notice and what the intermediary should do when receiving contradictory notices. The framework also afford great protections for internet intermediaries. However, the model is flawed in the sense that victim of defamation cannot get the alleged defamatory content removed immediately.

\section{5. Principles of reform}
In this essay, it is proposed that the reform should follow the below principles:

5.1. Media freedom must not be compromised

Freedom of expression and freedom of media are two important values in Hong Kong. Not only are they given constitutional protection\(^{34}\), but they are also enshrined in case laws\(^{35}\). The role of media in checking and balancing the government is uniquely important and powerful\(^{36}\). Any unreasonable threat to the two values are intolerable. However, the publication doctrine in the common law of defamation poses an unacceptable threat to freedom of expression and freedom of media\(^{37}\). Under the doctrine, media can be held responsible simply for repeating defamatory statements, despite that they are not morally blameworthy\(^{38}\). In view of this, under the new law, the definition of publication must not be construed such widely to hold internet intermediaries liable even though they only play subordinate role in conveying the defamatory ideas. Otherwise, the freedom of expression and media will be put under threat.

5.2. The new law must be simple

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\(^{34}\) Basic Law article 27, Hong Kong Bill of Rights Ordinance (Cap. 383), article. 16  
\(^{35}\) University of Hong Kong v Hong Kong Commercial Broadcasting Co Ltd & Anor and Secretary of Justice [2015] HKCU 2921; Oriental Press Group Ltd v Inmediahk.net Ltd [2012] HKCU 714  
\(^{36}\) Doreen Weisenhaus. Hong Kong Media Law – A Guide for Journalists and Media Professionals, Hong Kong University Press  
\(^{37}\) Andrew Scott, Reform of Defamation Law in Northern Ireland: Recommendations to the Department of Finance, LSE Research Online  
\(^{38}\) Oriental Daily Publisher Ltd & Anor v Ming Pao Holdings Ltd (明報集團有限公司) & Ors (2012) 15 HKCFAR 299
A good law should be easy to follow. The current law imposes different judicial treatments for various kinds of intermediaries, ranging from ISPs, platform providers and search engines. The court often has to deal with the difficult task in categorising intermediaries into mere conduits, main publishers or subordinate publishers. Case law in this categorisation task is unnecessarily inconsistent and hardly unpredictable. Worse still, intermediaries are put into the catch-22 dilemma and do not know whether they should have a tighter or looser monitoring mechanism. The new law must give simple, understandable and codified rules for intermediaries to follow and enable them to know how to handle allegedly defamatory statements to avoid liability.

5.3. Intermediary is not appropriate arbiter

The new law should not impose a quasi-judicial rule over the internet intermediaries to assess the legality of the content. First, this creates an enormous burden on intermediaries. They will have to hire more people to monitor and check every single content. This can be especially burdensome to some small and medium media in Hong Kong who allow readers to upload comments while being unable to afford huge monitoring cost. Secondly, intermediaries are not equipped with the requisite legal knowledge to judge the legality of content\(^\text{39}\). To avoid lengthy trials and high legal costs, intermediaries simply take down any post that it considers may be found defamatory. This constitutes private censorship and over-removal of content by intermediaries and harms free press and free expression in Hong Kong. Therefore, the new law must not put any quasi-judicial role on internet intermediaries to assess legality of content.

\(^{39}\) Daniel Leisegang, No country for free speech?: An old libel law and a new one aimed at social media are two threats to free expression in Germany. Index on Censorship
5.4. Right of reputation is recognised

It must be borne in mind that right of reputation is enshrined and protected under common law. Internet has increased the speed of publication and the range of reachable audience, thus making defamatory statement more harmful to the victim’s reputation than ever. This justifies more social responsibility on internet intermediaries to avoid defamatory statements. Therefore, the new law cannot afford broad immunity for internet intermediaries, and must impose on intermediaries certain responsibility in monitoring online platforms.

6. Recommendations and discussions

Based on the above principles, the following recommendations are made:

6.1. Importing endorsement requirement into publication definition

The traditional definition of publication should be abolished. An endorsement requirement should be incorporated into the definition of publication. In order to prove that the defendant intermediary has actual participation in the publication, the plaintiff needs to prove that the defendant intermediary endorses the statement. The endorsement requirement should be viewed objectively in a reasonable person standard, that is, whether a reasonable person, when reading the statement, would find that the defendant intermediary endorses the defamatory statement. If the court finds a positive answer, the intermediary is liable for defamation. The defendant intermediary is allowed to negate the endorsement criterion by putting a disclaimer on its website stating that the posts on the platform does not represent
its opinion. The new definition of publication *de facto* eliminates the risk of internet intermediaries in incurring defamation liability for third party user-generated content.

6.2. Codified notice-and-notice regime

Although it is recommended that intermediaries should not be held liable for defamation by third party user-generated content, intermediaries should be imposed social responsibility for monitoring the content. In view of this, a codified notice-and-notice regime on intermediaries should be enacted on intermediaries except ISPs. Under this regime, users who suspect that a statement is of defamatory nature may give notice to the intermediary. The notice is statutorily required to include certain elements: the allegedly defamatory content and the internet identifier, the legal basis for the claim that the statement is defamatory, the remedy sought by the claimant, such as content removal and an apology, the claimant’s contact information, and the statement that the complaint is made in good faith. The statute may provide a standard form of notice for users. Intermediaries who receive such a notice is required to forward the notice to the author of the statement, and attach such a notice to the statement so that readers are notified of the defamatory claim, with a reasonable time, eg. 24 hours. However, the intermediary is not required to take down the notice unless the claimant successfully seeks a court order.

6.3. Discussions

The recommendation has various advantages.
First, it affords better protection for freedom of expression and freedom of media. Internet intermediaries are generally not held liable for defamatory statement made by a third party unless the intermediaries are shown to have endorsed it. By making a disclaimer, intermediaries can negate the defamatory liability. Online media are thus more willing to invite commentators to write commentaries on their platform and are not forced to take down suspectedly defamatory statements. Self-censorship and private censorship can be avoided.

Second, it simplifies the law. The court no longer has to deal with the difficult and ambiguous categorisation task. All internet intermediaries, in fact all media, except ISPs, are assessed with the same test and the same standard, i.e., endorsement test. It makes the law more understandable and predictable.

Thirdly, it strikes a fair balance between freedom of expression and right of protection by imposing social responsibility for intermediaries. On one hand, an intermediary avoids defamatory liability by putting a disclaimer; on the other, it is required to remind users that certain statement is alleged of being defamatory upon complaints. It is also under an obligation to take down statements under a court order.

Fourthly, it can better achieve justice by only holding morally blameworthy intermediaries to legal liability. Intermediaries are generally not held legally liable unless they show endorsement for the allegedly defamatory content.

Fifthly, internet intermediaries are not made arbiters of the legality of content, as it only needs to take down content upon a court order.
Some limitation is acknowledged, however. Under the new law, in the worst case the aggrieved victim may not be able to bring anyone to justice, if the author of the statement is unidentified while the internet intermediary has put a disclaimer on the post to negate its liability. Despite this, justice does not allow one’s liability to depend on the existence of another defendant\textsuperscript{40}. An internet intermediary’s liability should depend on its moral blameworthiness which is independent from the existence of the author. It is also submitted that the new law already provides sufficient protection for the victim. The victim can mitigate the harm by sending a notice to the intermediary and apply for a court order to take down the defamatory post. Another limitation is that the court still has to distinguish ISPs from other intermediaries because ISPs are not regulated by notice-and-notice regime while other intermediaries are. However, the difference between ISPs and other intermediaries is much clearer than the difference between mere conduits, main and subordinate publishers. The latter categorisation task is much more controversial and vague.

It is submitted that the above foreign models should not be applied to the Hong Kong situation. First, the Europe’s safe harbour model is unduly complicated. The categorisation task makes it hard to tell whether an online media platform posting articles by its own reporters while allowing readers to write comment on it should be categorised as a content provider or host provider. Besides, the NTD regime encourages internet intermediaries to remove every statement that suspectedly contains defamatory speech. This is an unacceptable threat to media freedom. Secondly, the broad immunity model in the US and the human rights-based approach provide insufficient protection for right of reputation as they fail to

\textsuperscript{40} Note 7, at p.84
impose social responsibility on intermediaries to monitor the content. It is found that the notice-and-notice regime in Canada can best fit the Hong Kong situation, striking a fair balance between freedom of expression and right to reputation. However, the Canada’s model suffers from the loophole of the lack of statutory criteria of notice. Therefore, in the recommended model a statutory requirement and suggested from of notice are provided to deal with this flaw.

7. **Limitation of this essay**

This essay does not discuss publication by omission doctrine. The doctrine is applied in a line of cases. In *Tamiz v Google*, Richards LJ applied the doctrine and ruled that an intermediary is not a publisher before receiving notice of the defamatory nature of the content but becomes a publisher by omission once it receives the notice and fails to take down the questionable statement within a reasonable time. As the doctrine is expressly rejected in *Fevaworks* by Ribeiro P.J., this is not considered a part of Hong Kong law and not discussed in this essay.

8. **Conclusion**

This essay finds that the current law of defamation regarding internet intermediary liabilities is problematic. The law is unduly complicated and sometimes fails to achieve justice by imposing liability on intermediaries that are insufficiently morally blameworthy. As the law is desperately in need of reform, this essay explores the approaches adopted in other jurisdictions. The essay recommends that the endorsement requirement be imported into the publication requirement and that

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a notice-and-notice regime be imposed on all internet intermediaries except ISPs. It is believed that the new law can better achieve justice and strike a right balance between freedom of expression and right to reputation.