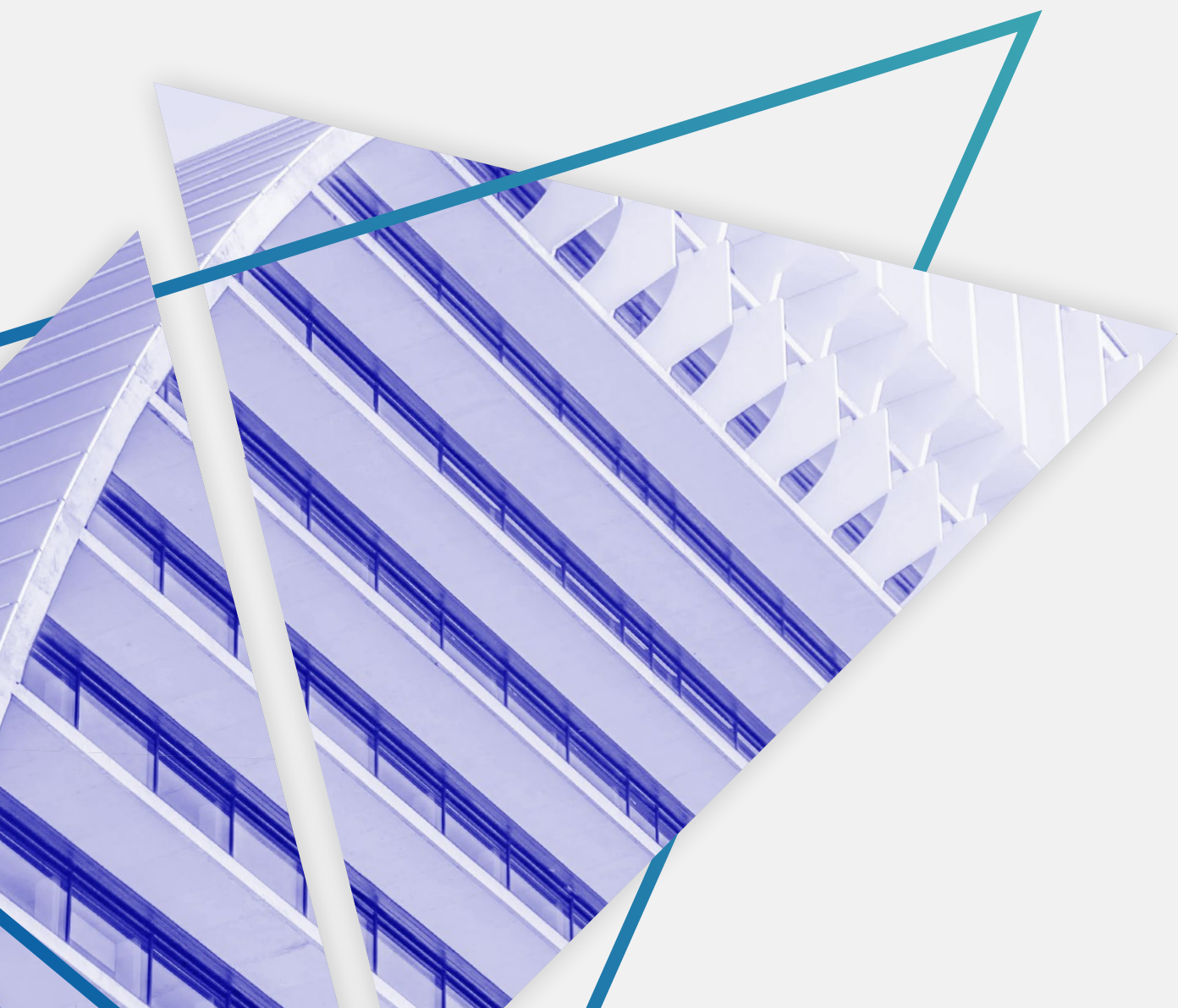


Corporate & Commercial

ALERT | 3 April 2024



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CORPORATE & COMMERCIAL
ALERT

Elections 2024: Internet service providers must prevent dissemination of fake news



With the national and provincial elections less than two months away, the Film and Publication Board (FPB) published a notice on 22 March 2024 in which it defines the terms “*misinformation*” and “*disinformation*”, and declares them to be propaganda for war, inciting imminent violence or potentially advocating hate speech. The distribution of any such content via any medium, including social media, is an offence in terms of section 18H of the Films and Publications Act 65 of 1996 (Act). The fine, if found guilty, is R150,000 and/or a two-year prison term.

The notice defines “*disinformation*” as information that is false and where the person disseminating it knows it is false, while “*misinformation*” is defined as information that is false but the person disseminating it believes it to be true.

An obligation is placed on internet service providers (ISP) who are aware of their services having been used for the hosting or distribution of such content, to report to the FPB, within 30 days of the publication of the notice, what reasonable measures the ISP is taking to prevent misinformation, disinformation and “*fake news*” being distributed on its platform. This obligation is seemingly imposed as an extension of section 27A(2) of the Act, which carries a penalty for non-compliance of a fine of R750,000 and/or a five-year prison term.

The notice goes on to say that ISPs, “*user-to-user services, including Social Media and Video Sharing platforms and search engines*” must ensure that their services do not breach section 18H of the Act ahead of the 2024 national elections. Within 30 days of the publication of the notice, these platforms must report to the FPB what reasonable measures they have put in place and the reasonable steps they have taken to prevent the dissemination of prohibited content during the elections. Presumably, this part of the notice is intended to extend the ambit of section 27A(2) to social media platforms operating under the FPB’s jurisdiction but which may not be registered with the FPB, as is required of ISPs.

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

PLEASE NOTE

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