

FINANCIAL TIMES

March 12, 2015 3:46 am

Asia considers 'right to be forgotten' ruling prompted by Google

Simon Mundy in Seoul

[Share](#) [Author alerts](#) [Print](#) [Clip](#)[Comments](#)

When Mario Costeja González asked Google to remove search results relating to the forced sale of his house, the Spanish lawyer would not have been considering the implications for civil liberties in Hong Kong. But Mr Costeja Gonzalez's complaint had a global impact when the European Court of Justice last May ordered that individuals may be entitled to force search engines to remove embarrassing results.

The ruling has already compelled Google to remove more than 750,000 links in Europe, and is forcing Asian authorities to assess the proper balance between privacy and freedom of expression as they consider whether to follow the ECJ's lead by placing new restrictions on search engines.

In the next few months, Hong Kong's court of appeal will hear a petition from Google on this issue. Last year, a lower court ruled that Google libelled the film tycoon Albert Yeung by giving people who typed in his name prompts that implied his involvement in organised crime. Google argues that it is not a publisher, and that the suggestions are generated automatically based on previous searches.

The debate over the right to put restrictions on search engines accompanies broader concerns about free expression in Hong Kong and the wider region. Japanese journalists fear a new law could dramatically expand the category of "state secrets", while South Korea's government has been accused of using a 1948 anti-communist law to crack down on dissent. In Hong Kong, the territory's top privacy official, Allan Chiang, has called on Google to observe the "right to be

forgotten” outside of Europe. After last year’s pro-democracy protests against Beijing, critics fear this could provide a tool for Hong Kong’s government to restrict the free flow of information.

“Online discussion has a pivotal role in Hong Kong’s freedom of expression,” says Claudia Mo, a lawmaker on the territory’s legislative council. “The people’s right to know should override the individual’s right to be forgotten . . . To make a law to eradicate history is something else.”

There have been similar cases in Japan. In October, a court ordered Google to remove dozens of search results that linked a man to criminal activity. Unlike the ECJ decision this ruling did not set a formal precedent but it was a landmark for online privacy, says Hiroshi Miyashita, a professor at Chuo University in Tokyo. “I have no hesitation to say that the right to be forgotten has arrived in Japan,” he says, noting that Yahoo Japan, the country’s biggest search provider, is reviewing its policies in the area, despite winning an August case where a man sought to remove links reflecting his criminal past.

Tomohiro Kanda, a lawyer who represented the plaintiff in the October case, says he has received several similar enquiries since the ruling. The ability to target search providers is vital to people who would otherwise need to hire lawyers to sue individual websites, he adds, calling this “a new field of human rights”. But Google argues that it should not be search engines’ responsibility to censor information. “Search should reflect the information on the web,” says Taj Meadows, a policy official at the company.

The people’s right to know should override the individual’s right to be forgotten . . . To make a law to eradicate history is something else

- Claudia Mo, lawmaker on Hong Kong’s legislative council

South Korean communications regulators will report to the government this year on whether a European-style right to be forgotten should be introduced. “The European decision is not mandatory to follow but the feeling is that Korea needs to follow the trend,” says Uhm Yul of the Korea Communications Commission.

Yet the introduction of European-style rules for search engines would mean a new “decrease in scrutiny and criticism of the privileged”, says Yoo Seung-hee, a member of South Korea’s liberal opposition party. Ms Yoo claims that government and business officials are already taking advantage of South Korea’s strict online defamation laws, which focus on removing information from websites instead of search results.

Amid similar fears in Hong Kong, the privacy commissioner is urging opponents of legal changes to “keep an open mind”, a spokeswoman said, adding that he was “not lobbying for Hong Kong to set similar rules [to Europe’s]”, and was seeking “to strike a balance between the right of individuals to privacy and other rights and interests”.

Yet David Webb, a Hong Kong-based corporate governance activist, argues that a progressive

restriction of online information is already under way, pointing to the forced closure in 2013 of a smartphone app that provided detailed information on Hong Kong business people. Such moves could undermine corporate and political transparency and complicate due diligence processes, he adds, in a territory that profits hugely from its status as a global financial hub.

“It threatens our whole way of life here,” Mr Webb says.

Additional reporting by Nobuko Juji in Tokyo and Tae-jun Kang in Seoul

RELATED TOPICS Japan, Internet privacy

 Share  Author alerts  Print  Clip

 Comments

VIDEOS

Print a single copy of this article for personal use. Contact us if you wish to print more to distribute to others.

© THE FINANCIAL TIMES LTD 2016 FT and 'Financial Times' are trademarks of The Financial Times Ltd.