

Written Representation 12

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Title: Submission to the Select Committee on Deliberate Online Falsehoods - Fake news, misinformation, deliberate falsehoods, or unproven worries?

Dear members of the Committee,

I have attached my submission outlining my views on the latest announcements on "fake news/ deliberate online falsehoods".

In summary, my submission makes a case for "no legislation" due to a lack of understanding and careful study of "fake news", as evidently demonstrated in the Green Paper. Should it be unfortunate that legislation comes to pass, I have also outlined a number of principles with which to guide the formation and execution of such legislation.

I respect the Chairman's affirmation that the Committee will seek to ensure the legislation does not impact healthy public discourse, and I trust he meant this in the broadest sense to include the need for open criticism in Singapore's political space.

Rgds,

Howard Lee

Fake news, misinformation, deliberate falsehoods, or unproven worries? – a submission for deliberation by the Select Committee

1. This submission is not meant to propose any “actions” or legislation to tackle the “scourge of fake news/ online falsehoods”. If any do appear in this submission, they are consequential more than deliberate. Instead, it recommends that policy makers review the government’s current position on “fake news”, which is more notable for its lack of understanding and study of the issue, rather than a definitive stance supported by positive deduction.

2. I maintain that public awareness and the open exchange of information remain the best solutions against misinformation. The government has a more important responsibility to be a player in the propagation of this free exchange, rather than seek to be the arbiter of regulatory regimes and laws that, contrary to stated purpose, can adversely affect the circulation of information. I contend that a political determination to respond swiftly and effectively to misinformation works better at helping citizens and maintaining Singapore’s social-political stability – clearly a key concern in the government’s Green Paper – than any enforcement methods. Ultimately, misinformation cannot be resolved by legislation. It can only be reduced by ensuring that alternative information is made available in an open and unbiased media environment that encourages free and active participation.

3. To note, the term “misinformation” will be used in this submission as the umbrella term to include all manners of information that have varying degrees and severity of untruth. The term itself can actually be used to refer to a specific category of information, but for the expediency of this submission, it will have to suffice for now.

In need of clear definitions

4. A staggering number of terms have been bandied about in relation to the subject of “fake news”, including lies, myths, half-truths, hoaxes, misinformation, disinformation, propaganda, and now “deliberate online falsehoods”. Indicatively, the topic itself needs better finessing and understanding. Notable members of academia, including Cherian George and Lim Sun Sun, have pointed out the many forms that misinformation can take. The Singapore government’s current approach risks lumping this variety together under one banner, and continuing with this approach to implement countermeasures to “fake news” would only serve to muddy its purpose and lessen its effectiveness.

5. Moreover, it has also been noted by the *New York Times* that the inescapable political bias of “fake news” hold a direct risk to democracy, rendering it little more than a convenient tool by political actors to silence their critics. It is for this reason that the Singapore government’s current position becomes manifestly untenable. Action against “fake news”, contrary to what is stated in the Green Paper, does more harm than good to democratic processes. If any action is to be taken, the government need to first clearly define what it is targeting, and to steer clearly away from any action that can potentially hamper public discourse. Any action taken that risks impacting freedom of expression and are not directed at the interests and real-world concerns of citizens can only discredit the government’s efforts and risk accusations of political manipulation of laws.

An overt political focus

6. As such, a Parliamentary Select Committee comprising politicians should not have been convened to study this issue, given the clear risk of conflict of interest. This is compounded further by the overtly political terms used in the Green Paper jointly published by the Ministries of Law and Communication and Information. The examples provided to justify the formation of the Committee are focused on the threat of “deliberate online falsehoods” to political elections. The terms of reference for the Select Committee are also clearly skewed towards addressing political problems that these “online falsehoods” create.

7. Given the political slant of the matter at hand, it would have been a lot more prudent to set up an independent panel of individuals to study the issue. It should comprise legal professionals, media professionals from both the traditional and online space, academia, and civil society representatives who are concerned about freedom of speech. The government should be represented as an interested party, but to have an all-political panel, save one NMP, risks allegation of political agenda-setting. It does not make sense for the government to avail itself to such allegations.

An under-studied Green Paper

8. The political undertones of the Green Paper is not the only issue. Again, with the terms of references for the Select Committee, the government appear to have decided that “fake news” is already a severe problem that needs decisive action, even a legislative solution, to keep at bay. It also overtly focuses on “the phenomenon of using digital technology” and seems intent on identifying the “individuals and entities, both local and foreign” that circulate such falsehoods. Given the current ambiguity and uncertainty surrounding “fake news”, such a desire to jump straight to identifying the perpetrators and fixing them appears to be an exercise in haste. This is hardly an affirming reflection of a government that prides itself for its prudence and systematic approach to solving problems.

9. Moreover, while the focus seems to be on the effect that “fake news” has on political elections, the Green Paper itself mentioned many times that the examples given are disputed, with no clear and decisive outcome provided on how the stated online campaigns affected political results. The examples cited are also generally from countries with open political systems where citizens are free to use media to lead political campaigns, which is hardly the case for Singapore given its strict rules on election advertising. It is hence surprising that given this lack of congruence, the government has continued to proceed with this line of comparison and argument.

10. Indeed, in spite of the Law Minister’s claim that the “government has been studying this problem for a while”, “fake news” remains a topic of limited study, particular in relation to its real-world impacts. If anything, the Green Paper is peppered with articles of instances of “fake news”, not all generated by online sources, and as the Paper itself admits, none with a clear smoking gun to actual electoral outcomes.

11. It begs the question of what constitutes the government’s study of the problem, if no clear analysis was made on the effects that “fake news” has on its intended readers. Studies by BBC Global News and Blackbox Research specified readers’ *concerns* about fake news, but fell short of providing an understanding of the *effects*

that “fake news” has on readers or their *response* to it. Even so, the Green Paper seems more interested in the “consequences that the spread of online falsehoods can have on Singapore society”, rather than the individual actors that it is supposed to affect.

12. What is glaringly missing from the long list of examples in the Green Paper was the study conducted by the Michigan State University on how readers respond to “fake news”. The study indicates a clearly more discerning readership among highly wired societies, which the Law Minister has, to the contrary, professed increases Singapore’s vulnerability to “deliberate online falsehoods”. Such a study, arguably more in-depth than what the Green Paper has accumulated, points to the fact that “fake news”, in spite of its voraciousness, might not be as pervasive in influence to warrant such intense legal attention. If anything, the Michigan study suggests that in digitally connected societies, “many internet users trust search to help them find the best information, check other sources and discover new information in ways that can burst filter bubbles and open echo chambers”.

The appropriate response: VAT

13. This is not to say that “fake news” is harmless, just that the most appropriate response cannot be made blindly, without a clear understanding of the issues at hand or the potential harm “fake news” can cause. With the current information at hand, the Select Committee should not recommend anything more than a VAT approach: *Vigilance, Awareness, and Timeliness*. As the Green Paper stressed political misinformation as the key issue, perhaps a political example can be used to illustrate VAT.

14. In around March 2017, a message circulated on Whatsapp claiming the Singapore police was actively monitoring cyberspace for negative messages against the government and Prime Minister Lee Hsien Loong. The first to expose it as a hoax was *The Online Citizen*, an independent news website that the Law Minister has repeatedly berated for spreading falsehoods. However, the rumour did not die then, as another report surfaced again, and was once again debunked by *The Independent*, yet another independent news website. Even so, the message continued to be circulated in late 2017. An online search reveals that the rumour was not covered by traditional media, and the government has made no announcement to clarify or debunk the rumour.

15. Had the rumour held true, the message would have caused panic, fear and self-censorship among Singaporeans, not to mention discredited the Singapore government as a totalitarian regime. Yet a response from the government, much less a prompt response, was uncomfortably lacking – TOC has yet to update on any response from the police, to which it has diligently sent a query about the matter.

16. In this case, vigilance about the spread of this rumour, a desire to update the public about the matter and to clarify it in a timely manner would have served to debunk this piece of misinformation immediately. Unfortunately, that did not happen. The potential harm of the rumour, as with all cases cited in the Green Paper, remains unknown. The clear and simple course of action, however, should not have escaped the government.

Misplaced focus on online media

17. As the case above proved, online media serve a functional and effective purpose in countering misinformation, possibly because they are better plugged into the same viral networks that facilitate a “self-soothing” approach to unravelling misinformation and propaganda. What it needs is not more legislation that hamper its effective operation, but a clear and decisive response from the parties concerned.

18. Conversely, to pin “fake news” legislation on online media is highly inappropriate, as online media is not the only space where misinformation can spread. Following the announcement of the Select Committee, *The Straits Times* published a political blog entry suggesting MP Seah Kian Peng insinuated in Parliament that NCMP Leon Perera was spreading falsehoods. On any given scale of misinformation, this entry would at best cast negative asperations on both Mr Seah and Mr Perera, and at worst be flagged as propagating suggestive lies. Most might have simply brushed it off as irrelevant and misguided gibberish. The point to note, however, is that our traditionally reliable mainstream media are just as susceptible to misinformed conjecture, which is arguably more potent due to their immense audience reach. To excessively focus on online media, as done in the Green Paper, is therefore a highly misplaced endeavour.

Should there be legislation?

19. With the current lack of clarity in the definition and understanding of “fake news”, any attempt to impose legislation relating to the matter truly bears no weight.

20. Nevertheless, should legislation against misinformation become a reality, I would recommend that the following principles, at the very least, be adopted in both the deliberation and eventual execution of laws, to ensure that political abuse of such laws do not happen. These principles are in line with the issues identified above, and present a more nuanced approach given the current lack of clarity and understanding in relation to “fake news”. They would also ensure that freedom of expression is upheld, any resolution process remains transparent, and legislation remain targeted to help vulnerable and helpless individuals rather than give more legal might to those well-resourced to correct said misinformation.

21. The principles are as follows:

i. Any definition of and decision on misinformation should be made by a collective of independent individuals, such as from mainstream media, online media, the legal profession, civil society, academia versed in the field of study, and laity. The government should play a minute role, if at all, in the considerations of such a body. This body may take the form of a professional press council or ombudsman. All members of such a body are to be made public, as should the body’s deliberations, to ensure transparency.

ii. No distinction should be made between online or mainstream media sources. All information sources made publicly available, including the more widely-circulated mainstream media, should be treated fairly and equally. If technology is to be considered a factor at all, the ability of online media to issue quick corrections and provide links to clarification should be taken into consideration and hence warrant that they be dealt with more favourably.

iii. Greater distinction should be made between varying definitions of misinformation, whereby a statement of opinion must be distinguished from a claim of fact, a deliberate attempt to mislead must be distinguished from a genuine intent to seek clarification, and so forth. Clearly, it would then be erroneous to evaluate all these variations using the same legislation.

iv. Greater distinction should be made between misinformation that can cause real harm to individuals and vulnerable groups, compared to other forms of misinformation. While the scope of laws might be taken in the broadest sense, the execution of laws should be permitted only in the most narrow and extreme cases.

v. Attention should be paid to misinformation that can cause real harm to helpless individuals, such as instances of hate-mongering, consumer fraud and online scams, rather than vague concerns about “political manipulation”. Not only does this serve citizens better, but a focus on actual harm would be of greater relevance to those most in need of such legislation.

vi. Adhere to the VAT approach. The focal action should always be ensuring clarity for the public good, not seek immediately to punish any sources of misinformation. Retrospectively, should the government not be able to respond in a timely manner to clarify misinformation, it cannot fault the source for “going to market” with it. In particular, this should be the default principle if the source has sought to clarify with the aggrieved party or gave opportunity for a right of reply.

22. These principles by no means encompass all that the Select Committee should consider in its deliberations, but serve as useful pivot points given the issues identified earlier in this submission. The intent of this submission is to elucidate the issues surrounding misinformation, and highlight a course of action where freedom of expression plays an enhancing, rather than debilitating, role in the matter.

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The writer is a former editor of news websites in Singapore and is currently a PhD student researching on Singapore’s media environment. The views expressed are his own and do not represent any group or entity he might be associated with.