

## **Written Representation 137**

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### **Written Submission to the Select Committee on Deliberate Online Falsehoods**

Deliberate online falsehoods (or “fake news”) are a phenomenon which has raised concerns not only among governments but also citizens around the world. While “fake news” is not a new emergence, it has been given prominence with the dawn of the internet, and in particular social media.

Some have described the phenomenon as a scourge, one which seemingly has free rein in the vastness of cyberspace, and which ought to be snubbed out.

The issue of “fake news” encompasses many aspects of disinformation, misinformation, and the intent of perpetrators of such a campaign, along with questions about the scope of legal redress and legal rights.

It is not my intention to delve into them in any depth here, since I do not have expertise in these areas and would thus defer to others who do and whom I am sure will make their own submissions to the Committee on these.

The Government’s concern about deliberate online falsehoods is, of course, a valid one, given examples of incidents around the world and here in Singapore. Most notably is the accusation levelled at Russia by the United States of the former waging a campaign of deliberate online misinformation during the US Presidential election in 2016. This has given rise to concerns about national security and the integrity of public institutions and democratic processes in countries targeted by those with ulterior motives.

Internally, it is to be noted that the falsehoods also stem from the authorities in the US government as well, including President Donald Trump himself, and his staff members.

For example, in his first year in office, it was reported that he had made 2,000 lies or misleading statements and claims as president.

See here:

[https://www.washingtonpost.com/news/factchecker/wp/2018/01/10/president-trump-has-made-more-than-2000-false-or-misleading-claims-over-355-days/?utm\\_term=.6787b7ed8279](https://www.washingtonpost.com/news/factchecker/wp/2018/01/10/president-trump-has-made-more-than-2000-false-or-misleading-claims-over-355-days/?utm_term=.6787b7ed8279)

In Singapore, several incidents within our shores have raised concerns from the Government, including several of which involved sensitive issues such as ethnicity or

race, and religion. The Government's concern that such publication of fake news which stir racial and religious sensitivities is valid, and the matter should be dealt with decisively.

On a broader level, as the US' 2016 presidential election experience has shown, even nations as powerful and resourceful as the US are not immune to external parties' attempts to sabotage democratic processes and institutions, let alone a small one like Singapore.

The threat of terrorism in Singapore also raises concerns over how the Internet and social media are being used by terrorists' in their propaganda efforts in recruitment and dividing society.

Vigilance by the authorities and indeed by all Singaporeans is necessary.

Experts such as those involved in the counter-terrorism fields would be best placed to offer advice to the authorities on this.

Having said all of the above, and that it is not my intent (and neither is it within my knowledge) to delve into these issues in any depth, I would like to nonetheless submit a few short suggestions for how the Government can deal with this phenomenon of deliberate online falsehoods, from my limited perspective as a casual user of online platforms.

### **Intent, and honest opinions**

In my opinion, what should be the main of the basic guiding principles behind any effort to ascertain if anyone has deliberately perpetrated falsehoods online should be that of intent.

This is important, in order for us not to stifle free speech which is guaranteed under our Constitution, in our effort to separate the weed from the chaff, so to speak. It is my hope that the Committee and the Government will place equal importance on the two in its eventual recommendation to the Government on how to deal with falsehoods, and to safeguard Singaporeans' constitutional right to free speech as well.

The two are not mutually exclusive and must be given equal weight or importance.

There is a need to be watchful that the authorities do not overreach in what could be, at times, a thin line which separates the two.

In cyberspace, often people – being humans with emotions which at times get the better of them – will express themselves in ways which, on hindsight, they may feel do not in fact represent what they feel or how they should have expressed their feelings or thoughts in a particular moment.

In such cases, it would not be fair (or right) to assign the guilt or charge of propagating deliberate online falsehoods to the person, without ascertaining the intent behind such publication or expression of such a view. In other words, the benefit of the doubt should be given to the person who, without having been established to have – for want of a

better word – “evil intentions”, may only have been caught up in emotions or passion for an issue at that particular point in time.

It would be disconcerting if such a person is judged to be propagating “deliberate online falsehoods”. It would set an extremely low bar indeed, and it would certainly have a serious negative effect on free speech.

Expressing honest opinions, including political views which are often partisan and emotionally-charged, and opinions which may seem to have veered into falsehoods, should not necessarily and automatically be considered intentionally malicious if the views and thoughts expressed contain certain inaccuracies of facts.

This is especially so on occasions where (accurate) information is scarce or is hard to obtain in order to ascertain or verify a view or an opinion, including information which can only be accessed through official (government) channels, if they were available, such as through a Freedom of Information Act (FOIA), for example.

In short, the intention behind the content should be one of the basic guiding principles in determining if someone is possibly guilty of spreading deliberate online falsehoods.

At the same time, Singaporeans’ right to constitutionally guaranteed free speech should be accorded equal consideration and weight when dealing with cases of possible infringements.

### **Repetitive behaviour or action**

The second guiding principle to consider, before a person or online platform is regarded to have engaged in deliberate online falsehoods, could perhaps be the repetition of such falsehoods on a regular basis on that platform or by the person. Repeatedly and deliberately publishing twisted facts, or untruth, with the intention to do damage to another person, organisation or the community must be dealt with firmly.

Repetitive behaviour or action shows recalcitrance and action should be taken by the authorities within the law.

At the same time, however, it is important that the authorities go through due process, as I further explain below.

### **Media**

Singapore’s media landscape, both mainstream and the online alternative, is strictly regulated with a myriad of legislations. This has led, in my view and that of not a few others, that the Government has stifled the free flow of information, encouraged (whether intentionally or not) self-censorship, and raised suspicions of the mainstream media, in particular, of its intent especially in matters political.

The tightfisted control that the Government has on the mainstream media is well-known.

At the same time, and especially in recent years, the Government has also taken a harder stance against the alternative media. This can be seen in the many online users who have been hauled up for infringements, and the new legislations which have been introduced, such as the Administration of Justice Act and amendments to the Election Act and the Films Act, among others.

Various legislations have been enhanced to provide the authorities, such as the Singapore Police Force (SPF) and the Info-communications Media Authority of Singapore (IMDA), with wider-ranging powers of search and arrest, some of which should raise serious concerns for Singaporeans.

Mere expression of a view can result in serious consequences, some of which are in my view, unfortunate and unnecessary, and which should have been dealt with by robust rebuttal and debate instead.

This unrelenting war, as it would seem, by the authorities against the slightest infringements made by online users should be stopped, and the authorities take on a more patient and tolerant approach, with the wisdom to allow robust debates which can lead to greater understanding of an issue.

An example would be the recent incident of Li Shengwu, where Li – the son of the Prime Minister's brother – made what the authorities thought were remarks worthy of a contempt of court charge, and indeed has duly charged him for that, after Li rejected the authorities' demand to post an apology.

Since the case is now before the courts, I shall refrain from speaking about its details.

Nonetheless, the episode provides a lesson for the authorities and for Singaporeans on how to better deal with such "grey areas", as some see it.

In my opinion, it would have been much better if the authorities, in this case the Attorney General's Chambers (AGC), had issued a strong and empathic rebuttal to Li's remarks.

Such an exchange, one would imagine, would and could have led to a much wider public debate about the roles of judges, and how they are appointed. Such a debate would shed light on how our judicial system functions, and it may even lead to new ideas on how the system could be improved.

The AGC's decision to take the purely legal route is unfortunate, because it slams the door shut on any hope of what would have been a beneficial public debate on an important topic.

Given the self-censorship that is evident in the mainstream media, and the cloud of threats of legal action against the alternative media, and also the fact that the case is currently before the court, no one dares to speak of the case and the issues it has thrown up.

Li himself declined to speak about it when approached in a recent interview.

In the end, what we get is silence.

This cannot be good for Singapore, for such silence borne out of fear or legal threat festers conspiracy theories, half-truths, untruths, or plain lies, the very things which we hope to eradicate in this campaign against falsehoods.

Li's example is not unique, or an exception. Several episodes in recent years have also, in my opinion, resulted in Singaporeans being more afraid to speak up, even when they have opinions honestly held.

Again, it is important to reiterate, instilling fear inevitably will lead to the propagation of falsehoods, or half-truths, or fake news.

When people start to speak in hushed tones behind walls, it does not provide opportunities for clarification, or rebuttal. And when these things carry on over prolonged periods of time, what you end up with is a more difficult problem to deal with.

It is thus a much better solution for the authorities to refrain from reaching for the closest knife at hand whenever an infringement is perceived, and to take counsel and exercise patience in dealing with the person or group involved. Resort to dialogue instead, if the person's or group's action is not of immediate threat to national security or the community. Reasoned and rational debate will bear more fruits than the hard edge of a knife wielded without mercy or on impulse.

Our media should be unshackled from Government control, and be allowed and guaranteed in law to be independent of any government. The media, whether mainstream or alternative, traditional or digital, should be given space to raise issues, even issues which may be uncomfortable for the government.

A freed media will lead to trust in them by Singaporeans, which could then turn to the media for reliable information, an important development in the fight against online falsehoods.

If there is distrust of the media (both mainstream and alternative) all around, the fight against deliberate online falsehoods will be more difficult.

## **Education**

My following suggestion may seem somewhat ill-conceived, given that it is not the government's job to provide the assistance suggested. Nonetheless, I would like to submit it for consideration.

Having been involved in the online world as a blogger for more than 10 years, and having been involved with The Online Citizen (TOC) as co-founder, editor and writer/reporter for some 9 of those years, I have worked with hundreds of volunteer writers who contributed to the portal.

From that experience, it is my view that even as the authorities demand bloggers (and other online users) fact-check their content before publication, so that they do not

unwittingly run into the areas of fake news and libel or defamation, it is often not as easy as it may seem to do.

This is because bloggers, mostly, are poorly-resourced and are amateurs, by and large, in the area of content generation, at least in the sphere of news reporting. Thus, we are often unaware of the pitfalls of some of these so-called “out-of-bound markers”, and even basic writing skills.

Often, occasions of perceived intransigence by the authorities are not borne out of any malicious intent on the part on bloggers. On the contrary, they are the results of passionate belief in an issue or point of view, which can lead to overzealous expression. But being so is not equal to being recalcitrant.

This is why, not infrequently, we see online users getting into trouble with the authorities. In my opinion, some of these occasions could have been avoided if these online users were better informed in the law, and trained in the skills of journalism, or simply story-writing.

The Government’s position on deliberate online falsehoods seems to be a militant one, fiercely seeking to root out perceived infringements. While in particular areas one would not fault it for being so (and indeed, one would commend the Government for its zero tolerance stance on these areas, such as in anti-terrorism measures), one wonders if there is not anything the Government could do to help improve the online space through engaging and assisting those who are involved in the propagation of news or content. I am, of course, referring to what are termed citizen journalists, besides casual users.

As mentioned earlier, it is perhaps not the government’s job to help such persons or groups establish themselves online. This, however, is not what I am suggesting. My suggestion is for the Government to go beyond the often unhelpful dichotomous discourse of “us-vs-them”, and to link arms, as it were, with those who can do better if they had the resources to do so.

In short, the Government should consider changing (or adapting) its position from one of militancy to one of serious engagement. The Government should see the benefits and potential of such engagements, going forward. (I further mention this below.)

Would the Government consider promoting or encouraging citizen journalism, and perhaps even funding such endeavours? By this I do not mean the government paying citizen journalists. The government’s role would be one of an enabler instead, to provide the means for writers and bloggers to be able to equip themselves better in their work. (Incidentally, the government should also view such non-mainstream journalism as desirable for Singapore.)

An example of how the Government could do this is to set aside a small fund which anyone interested in better writing or journalism skills can apply to, to help fund their application into relevant courses; and to also encourage those with relevant knowledge in journalism and law to offer their expertise to the public in conducting lessons or workshops which could help inform the online community on the pitfalls in these areas when publishing content online.

If nothing else, such a move would signal to the public that the Government's position is not one of simply meting out punishment and penalties and threats, but also one of going upstream, in effect, in its effort to stamp out fake news by helping to equip information disseminators with better skills.

I do believe in the potential of such initiatives, which could also help change the tone of the current "us-vs-them" situation we have.

It is my experience that alternative (ie, non-government affiliated) portals are ready and willing to engage with the authorities, and report and publish the views of the authorities if and when they are received by the portal. TOC, for example and as far as I am aware, has never denied or rejected publishing – often in full – letters or clarifications sent to it by the authorities.

To engage these websites would thus be the sensible thing to do, for it gives the authorities another channel (or channels) to combat fake news. I would suggest that semi-regular – perhaps once a year – meet-ups between the authorities (such as the Police, or the AGC, MPs and even ministers) and these online practitioners be held for dialogue purposes, where both sides can speak freely and openly about issues.

Deeper understanding of each side's perspective will benefit online discourse which can lead to less fake news or falsehoods, intentional or otherwise.

Such meetings, in fact, were held after the 2011 General Election, between the then new ministers, such as Prime Minister Lee Hsien Loong, ministers Chan Chun Sing and Tan Chuan-jin, and members of the public and the online community.

Having been privileged to have attended some of these occasions, it was a pity to me that they were not continued.

The government should consider re-introducing such meetings, and make them a permanent feature in its engagement plans.

### **Independent body**

The question of how to ascertain, decide and punish those who are accused of intentionally propagating malicious online falsehoods brings us to the suggestion of an independent body to oversee cases.

To have to deal with each and every incident of alleged offence in this area of online falsehoods in the courts would be time-consuming and an unnecessary drain on public resources. Only the most egregious cases should be brought to the courts for judges to decide on guilt.

One would imagine that this would involve cases of national security, terrorism and such.

Otherwise, the cases and those accused in them should be dealt with by an independent body, through due process.

An accused should also have recourse to legal assistance, given that often accused persons would be up against the limitless and powerful resources of the state without any means to engage their own counsels.

Accused persons should, of course, be given the opportunity to present their defence, and/or also to admit their guilt. Importantly, they should also be allowed to make restitution by way of removing the offending content, issuance of an apology, or both, without further repercussions or demands from the authorities.

There does not seem to be any need for further legislations to deal with deliberate online falsehoods.

Under various existing laws, such as the Public Order Act, the Protection from Harassment Act, the Films Act, the Administration of Justice Act, the Broadcasting Act, etc, the authorities in fact already have an arsenal of legal remedies to deal with online content it sees as problematic

This is covered in Mr Ian Chong's submission to the Committee, made public here: <https://medium.com/submissions-to-the-select-committee-on-deliberate/transparency-media-literacy-and-addressing-social-divisions-29502919acb>

I would like to quote Mr Chong in this part:

*“Singapore is fortunate in already having a comprehensive and robust set of laws and law enforcement tools that can be easily turned to deal with online misinformation and disinformation. This body of laws and instruments makes Singapore different from other jurisdictions where there is concern about online misinformation and disinformation affecting electoral outcomes, social stability, and confidence in state institutions. Moreover, the Singapore state has a track record for acting quickly on issues relating to online misinformation and disinformation. In this respect, Singapore does not need any additional legislation to manage online misinformation and disinformation, unlike other jurisdictions. For Singapore, it is merely a matter of applying existing legislation and capabilities to online misinformation and disinformation, something well within the remit of the executive and judicial branches of the Singapore state.”*

One therefore would agree with Mr Chong that there isn't a need for any new legislation the government may be contemplating.

Any new legislation will add to the already-present perception that the Government is killing a fly with a hammer, that is, overreaching, and overreacting.

## **Conclusion**

As mentioned above, the basic guiding principles the authorities should adopt in dealing with the phenomenon of deliberate online falsehoods are (a) the intent behind the content, and (b) that citizens' constitutionally guaranteed and protected right to free speech is not trampled on; (c) engagement is better than strict enforcement.

While we rightly should be concerned about malicious content online, we should also be mindful that the online world has a way of coming to an equilibrium. That is, it will sort itself out, and users will adapt to the relatively new environment.

In the earlier days of the Internet's advent in Singapore, the authorities expressed particular concern about anonymous postings online which, it thought, would give the persons behind them a "cover" to post whatever they wanted without consequence. Since then, it is clear that this is no longer the case. Anonymity, while still exists, is no longer a cover for those with ill-intent.

Perhaps in this time too, as we consider measures to deal with fake news, we should also be mindful that we do not overreach and stifle creativity, free expression, and in their places create a climate of self-censorship and fear in speaking up.

This would be unfortunate but more importantly, the consequences will be worse for it will lead to the very propagation of online falsehoods the authorities are trying to grapple with.

My last suggestion therefore is for the authorities to exercise patience, except in the most egregious cases, allow time and space for Singaporeans to learn from experience how to navigate the online landscape, while at the same time keeping a diligent eye on things, on those with malicious intent.

End.