

Written Representation 64

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LETTER TO THE SELECT COMMITTEE ON DELIBERATE ONLINE FALSEHOODS

Preamble:

This letter serves to emphasise some concerns and questions regarding the government's prospective approach to tackling deliberate online falsehoods. While it is appreciated the government's care in convening a select committee to ensure the public is consulted and due deliberation is taken, numerous aspects of the Green Paper on falsehoods remain questionable. Any action that does not take into account these concerns will almost certainly undermine the legitimacy of government, both amongst the people with whom the government is accountable, and amongst the international community with whom Singapore has maintained a positive image. In what follows, I will outline some general comments on tackling falsehoods.

Thereafter, I will consider specific parts of the Green Paper, in particular how the twin justification of tackling both falsehoods and foreign interference simultaneously is likely to be operationalised, and what the scope is in ascribing the government's enforcement capabilities. Lastly, I will make the case that, because prospective legislation undoubtedly strengthens the government's hand in combating falsehoods, and given that this has the risk of stifling participation both in the press and amongst the public, that it is absolutely necessary that the public is accordingly empowered in its role to combat falsehoods through a freedom of information act.

1. Personal Statement

I write this letter to as a student majoring in Political Science at the National University of Singapore, and as an active citizen concerned about the well-being of Singapore as a society. I represent no political party, institution, or organisation, and have no financial interest to declare. What is written here are solely my own views, and are informed by my study of politics and my interest in current affairs. I am an avid follower of numerous news publications, including local mainstream outlets (Straits Times, Today, Channel News Asia), alternative outlets (Mothership, The Online Citizen), as well as foreign sources (Reuters, The Guardian), and I contribute actively to a group in Tembusu College called The Millegram, which aims to summarise important news for millennial-generation readers. As I am currently abroad on exchange, I will not be able to appear before the Committee.

2. Some Preliminary Points about Falsehoods and Ways of Combating it

The basic premise underlying this issue – that truth is important to a well-functioning society and falsehoods must be tackled – is without doubt a valid one. It is also true that upholding a commitment to truth requires every aspect of society to play its part. This includes, uncontroversially, an informed citizenry able to decipher right from wrong, and a press that is committed to the pursuit of truth. As has been stated in the Green Paper and in numerous occasions by public figures, this should be the first line of defence against online falsehoods.

In this regard, I welcome measures being implemented in schools to teach youths about the importance of media literacy. Such measures need to be well designed to help students develop an inquisitive and critical mind in whatever they read, and should not reduce media literacy to simple true/false or trustworthy/untrustworthy binaries.

To give a personal example, I was fortunate enough to have taken a module in Tembusu College by former Straits Times journalist Bertha Henson, where class activity consisted primarily in reading important news of the day, assessing how different newspapers covered the same story differently, and what the gaps and faults were in each report. Given this very hands-on, current affairs-based module content, I was able to both sharpen my reading ability and keep abreast of important news. Based on my experience, I would suggest there is much to be gained from doing the same in schools, serving the dual purpose of inculcating media literacy and fostering an interest in current affairs from a young age. This is the most effective way we can fight this fight against online falsehoods.

At the same time, it is worth pointing out that, in many cases, deciphering what is true from what is false is a complicated matter with no evident answer. In many cases, what might appear to one as untrue, is merely an opinion or subjective view. In others, factual debates are based on principles and assumptions that are subjective. That which has long held to be true has oftentimes been proven to be false upon the discovery of new truths, and conversely that which is widely believed to be false has often emerged as true. Discovering what is true demands a process of inquiry, evidence, reason and deliberation, and in many cases one must be wrong before one discovers what is right. This underpins the scientific method, is thought in schools in our education system, and is also part of the process by which government makes new laws in parliament.

In this regard, the Government must be aware that to implement legislation to tackle falsehoods means to put the coercive force of the law behind the determination of the truth. The Government must be aware that, as the elected government of the day, it holds a monopoly on the legitimate use of coercion, and it is on this basis that the Government can determine that a falsehood is a falsehood. The Government must be aware that this does not necessarily entail the use of reason, but only force. The Government must thus be wary that any legislation runs the risk that it is exercised in a way that does not appropriately establish the truth.

Furthermore, legislation that aims to punish purveyors of online falsehoods can only be a reactive measure, executed after news has already spread. It will thus only ever

be a blunt tool in combating falsehoods. In addition, given that one of the main motivations for the spread of online falsehoods are agents of foreign interference, legislation will have neither the deterrent effect, nor the legal jurisdiction over these actors. This letter makes the case that proactive measures of inculcating media literacy and creating conditions of transparency are fundamentally more effective measures of protecting against the spread of online falsehoods.

3. Specific Comments about the Green Paper and Potential Legislation

a. Primary Justifications

In paragraph (1) of the Green Paper, the aims in proliferating falsehoods are stated as follows:

- i. Sow religious discord amongst racial and religious communities
- ii. Exploit fault-lines
- iii. Undermine public institutions
- iv. Interfere in elections as well as other democratic processes
- v. Weaken countries

Among these motives, there are several things worth noting. Firstly, they all ascribe a malicious intent in the spread of falsehoods. In the Singaporean context, (i) and (ii) are fairly familiar, as the history of racial and religious fault-lines plays a significant part in our historical legacy. Accordingly, there are already existing laws in place to guard against these kinds of fault-lines being exposed. These legislations include the Sedition Act and the Maintenance of Religious Harmony Act. Because these legislations are specifically targeted at maintaining racial and religious harmony, it is the prerogative of the Select Committee to explain the need for new regulations, given that existing regulations, absent of the prerequisite of a falsehood, are likely to have a broader scope than potential new legislation targeting falsehoods.

The most important justification stated above is arguably the one regarding foreign interference in elections. Indeed, it is the primary justification for fake news legislation in nations like France, UK, and Germany, and the Green Paper goes into great detail about how fake news had allegedly undermined elections in numerous countries.

However, it must be noted that, in terms of foreign interference in the spread of news, Singapore already has safeguards in place. This includes the Broadcasting Act and Political Donations Act, which places severe restrictions on media platforms in receiving sponsorships from abroad. This weakens the justification for enacting new legislation as the opportunities for interfering in the Singapore press to spread falsehoods are already very limited, and have already been argued to have stifled the environment for some media sources to survive¹.

More importantly, the term “foreign interference” itself is one that invites ambiguity, and must be clearly and precisely defined. This is pertinent because of the globalised world today, and because Singapore stands as one of the most open to

¹ <https://www.todayonline.com/singapore/about-third-socio-political-websites-singapore-no-longer-active>

this globalised world. Singapore therefore can never be truly free of being in some way influenced by the external world. What the Select Committee must do is to delineate exactly where the threshold is whereby a particular act is deemed unacceptable or unlawful.

To give a brief illustration, in the French Presidential Election of 2017, Russian actors were alleged to have undermined the campaign of Emmanuel Macron and supported that of candidate Marine Le Pen, and accordingly were accused of having “meddled” in the election². At the same time, however, just before the second round of elections, former US president Barack Obama publicly backed the presidential campaign of Emmanuel Macron³. Given that Obama is a popular figure with a large following, his backing would almost certainly have had a wider reach than any influence by Russian actors, and thus he would certainly have “interfered” with the French elections. However, in the Obama case, no such allegations were put forth. It is necessary that the Select Committee states clearly what they mean and where the line is drawn where a foreign act becomes an unacceptable act of interference.

In addition, if the Government is truly committed to upholding the truth, it must also consider the contrary case whereby there is foreign interference, but where that interference helps to establish facts rather than falsehoods. In the Green Paper, significant attention is placed on in the US Presidential Election of 2016, where there was said to be a proliferation of fake news originating from foreign sources that undermined the presidential campaign of Hillary Clinton. However, the account of the US Election provided by the Green Paper neglects to mention that arguably the most damning to Clinton’s campaign were her leaked emails, which are widely considered to be authentic, that revealed numerous misdeeds committed by Clinton, including her illicit collusion with Democratic National Convention during the Democratic primaries, which ultimately forced the resignation party chairperson Debbie Schultz⁴. While these revelations were alleged to have come from foreign actors, they also revealed facts about a presidential hopeful to voters. This would not be applicable under online falsehood legislation. A government committed to tackling falsehoods must not make use of potential online falsehood legislation to withhold important facts from its citizens. What is important here is that care be taken to ensure that the two concepts of “falsehood” and “foreign interference” not be conflated.

b. Grey Areas

Any potential measures, in particular legislation, aiming to quell online falsehoods need to account for circumstances where facts might change, or when new facts emerge that cast doubt on old facts. Such measures need to account for cases where facts might not be evident, or where what is being said does not involve absolute facts. This includes opinions, speculation, and satire. To provide an example, attached is a screenshot from the Government’s Factually fact-checking service.

² <http://www.abc.net.au/news/2017-05-05/why-putin-might-want-a-le-pen-victory/8498302>

³ <https://www.theguardian.com/world/2017/may/04/barack-obama-backs-macron-in-last-minute-election-intervention>

⁴ https://www.washingtonpost.com/politics/hacked-emails-cast-doubt-on-hopes-for-party-unity-at-democratic-convention/2016/07/24/a446c260-51a9-11e6-b7de-dfe509430c39_story.html?hpid=hp_hp-top-table-main_campaign-132pm%3Ahomepage%2Fstory&utm_term=.8fdec74b4ef7

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Is the Government planning to raise the GST after the 2015 General Elections?

There is no basis to these claims, and they are inconsistent with what the Government has recently stated.

06 Aug 2015







There have been claims on some online websites that the Government will raise the GST after the forthcoming General Elections to fund increased spending planned in the next term of government. There is no basis to these claims, and they are inconsistent with what the Government has recently stated.

In the 2015 Budget Statement in February, DPM Tharman Shanmugaratnam stated that the revenue measures the Government had already undertaken will provide sufficiently for the increased spending planned for the rest of this decade¹.

Budget 2015 introduced important revenue measures such as the inclusion of Temasek in the Government's Net Investment Returns (NIR) framework from 2016 onward², and the increase in the top marginal rates for personal income tax from Year of Assessment 2017. These measures came after moves in recent years to make Singapore's property tax rates more progressive, with significantly increased tax rates for high value residential properties, offsetting reduced tax rates for lower value homes.

In rounding up the 2015 Budget Debate, DPM Tharman stated, "We have prepared ourselves in advance and that must remain the way in which we plan for our budgets in the decades to come. With the change to incorporate Temasek in the NIR framework and the other tax changes I have introduced, in particular the increase in the personal income tax rate, we will be in a good position for at least the rest of this decade."³

In this photo, we see that the “fact” being checked is speculation that the government is “planning” to raise the GST following the 2015 General Elections. According to Factually, there was “no basis” to these claims. Would this have meant that such speculation would have been liable to be deemed as online falsehoods? Were there to be legislation in place, would this have been cause to prohibit such speculation from being aired, given that Factually is the government-sanctioned fact-checking service? And if such speculation was indeed prohibited, what would have been the recourse when it emerged that, in light of the 2018 Budget Announcement, such speculation was actually proven correct? How might legislation account for the fact that facts themselves are ever-changing? It is crucial that these grey areas be dealt with as lightly as possible if legislation is to be implemented.

c. The Need for a Separation of Fact-checking Powers

The example above illustrates the fact that no single entity ever holds a monopoly on the determination of what is true and what is false. Insofar as legislation allows the state to become the arbiter of what are falsehoods, safeguards need to be put in place to ensure that this power not be abused, because as has been stated, legislation merely makes coercion, rather than reason and evidence, the basis of the truth.

This can be illustrated by the very loose way in which the term “fake news” has been used in American politics. While it was originally used to refer to false stories that

undermined the Clinton campaign, the very same term was soon used by Donald Trump to refer to mainstream media publications that were critical of him⁵. If, hypothetically, Trump were to be empowered with fake news legislations, he would easily be able to exploit them to crush many highly-reputed mainstream media sources.

To be clear, this is not to say that the Singapore government acts in any way like the Trump Administration, but rather that legislation will introduce the possibility that our press and our constitutional right to free speech can be undermined in an unjust manner, be it with the incumbent government or with prospective governments formed by other political parties in the future.

An ideal way to ensure power is not overly concentrated in this regard is in the establishment of an independent government ombudsman, which is vested with the authority to investigate complaints made against the government. Such a move is extremely timely, and many respected public figures, including Ambassador-at-Large Tommy Koh⁶, historian Thum Pingtjin⁷, and former civil servant Chirag Agarwal⁸, have all argued in favour of such an institution being established.

d. Empowering the People through Freedom of Information Legislation

An essential way that online falsehoods can be tackled is to create the best possible conditions of openness and accountability such that falsehoods cannot proliferate. All members of society must be empowered in such a way that they can pursue the truth and not be left in the dark over important matters. It is precisely in situations where individuals feel left in the dark and powerless that false stories start to gain attraction. As eminent academic Chua Beng Huat has pointed out, rumours and conspiracies are social products “generated under conditions in which information is absent, inadequate or untrustworthy”⁹. This is echoed by Ambassador-at-Large and former Dean of Political Science at NUS Chan Heng Chee, who says that the “ubiquity of political rumours is symptomatic of a politically suppressed society”.

If our government truly believes that falsehoods are a problem, and wants to tackle it seriously, it is important that they see their own role in creating such conditions, not necessarily in perpetuating falsehoods but in leaving situations where individuals and groups, in search of answers which they are not provided, come up with theories and explanations which ultimately end up as falsehoods. A government committed to truth and openness, held accountable to citizens empowered by a freedom of information act, will go a long way in stopping falsehoods at its roots.

Indeed, such a move will not be out of touch with the rest of the world. Freedom of information laws are present in over 100 countries, with many only introducing them

⁵ <https://www.theguardian.com/us-news/2018/jan/25/how-trumps-fake-news-gave-authoritarian-leaders-a-new-weapon>

⁶ <https://sg.news.yahoo.com/ambassador-at-large-tommy-koh-still-wants-an-ombudsman-for-singapore-075242414.html>

⁷ <https://medium.com/submissions-to-the-select-committee-on-deliberate>

⁸ <https://www.todayonline.com/singapore/how-ombudsman-could-benefit-singapore>

⁹ Chua, Beng Huat. 1995. *Communitarian ideology and democracy in Singapore*. London: Routledge.

in the last several decades. In some cases, the introduction of such legislation has been known to produce “increased transparency in national government with a greater openness of culture and decision making in public”, as well as “increased local accountability of elected representatives and the public sphere”¹⁰. In this regard, I have no doubt that freedom of information will be a proactive barrier to online falsehoods, strengthening both public participation and government legitimacy.

4. In Summary

I am grateful for the opportunity to write to the Select Committee and play my part in determining how online falsehoods can be tackled. I have articulated here my view that the best protection against online falsehoods are in proactive measures emphasising media literacy and public transparency, while raising concerns over potential legislations. I have also made the case that a Freedom of Information Act and an independent ombudsman need to be strongly considered. I hope that these considerations can be taken into account, and that appropriate measures will ultimately be chosen by the Select Committee.

¹⁰ Elizabeth Shepherd (2015) Freedom of Information, Right to Access Information, Open Data: Who is at the Table?, *The Round Table*, 104:6, 715-726, DOI: 10.1080/00358533.2015.1112101