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Proposed law must balance effectiveness and liberties

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Proposed law must balance effectiveness and liberties

Eugene K. B. Tan

For The Straits Times

The threat of deliberate online falsehoods, or more popularly fake news, has to be taken seriously.

Other countries have suffered coordinated attempts by foreign state actors or other organisations to manipulate public opinion and influence elections, undermine social cohesion and even incite violence. We cannot discount similar attempts by unfriendly countries or organisations to hurt Singapore and Singaporeans.

In Singapore, existing laws to deal with the spread of such insidious information, such as the Sedition Act and the Penal Code, may be inadequate as they tend to kick in only after the deliberate falsehoods have been disseminated. They are also not equipped to effectively thwart online falsehoods propagated by local or foreign players as part of a

larger conspiracy to subvert our society.

Given existing gaps, there may need to be a dedicated law to deal with this evolving threat. Last week, Parliament resolved to establish a Select Committee to examine deliberate online falsehoods and to recommend how we can better tackle the scourge.

This follows the release of the Government's Green Paper on the same subject a week earlier.

As the issue of fake news and online misinformation is rather broad, it would be practical for the Select Committee to focus on one aspect of it: that is, the spread of false or misleading information resulting from a coordinated effort whether as a matter of statecraft or for the purpose of making profits. This sends a clear signal that any law to be considered is targeted and will be used against those mounting deliberate, mischievous efforts to sway Singapore, rather than at individuals inadvertently spreading inaccurate information.

Circumscribing the scope of any proposed law on fake news helps address concerns of those who fear such laws can curb freedom of speech and expression or be used to silence political dissent.

In enacting such a law, the authorities will have to strike a balance between effective laws and maintaining liberties.

For example, such a law will likely empower the authorities to direct telcos and social media platforms (like Facebook, Twitter, WhatsApp and Instagram) to do what is necessary to foil online falsehood campaigns. This could include the power to direct such entities to take down online falsehoods and purge them from circulation, close accounts used to disseminate falsehoods, employ data analytics to monitor developing threats and provide user information to the authorities.

What needs close study is whether Internet service providers and other media platforms should be shielded from legal liability for the actions of

third-party users in propagating falsehoods using their services.

If such platforms are shielded from legal liability, they may be less responsive to the harms posed

To be clear, the battle against fake news is not a zero-sum game where falsehoods requires the curbing of fundamental freedoms. On the contrary, freedom of speech and expression can help ensure that bad speech and falsehoods are decisively exposed for what they are.

by deliberate online falsehood campaigns. But if too onerous a burden is placed on media platforms, there will be a detrimental impact on the growth of online services and their being an important means of upholding freedom of expression.

To be clear, the battle against fake news is not a zero-sum game where triumphing over falsehoods requires the curbing of fundamental freedoms. On the contrary, freedom of speech and expression can help ensure that bad speech and falsehoods are decisively exposed for what they are.

As such, any law must delicately balance the interests of protecting the home front while also ensuring that our constitutional freedoms and societal values that define us are not diminished. The interests may compete but they are not conflicting objectives.

In this regard, law enforcement agencies must also ensure that counter action taken is proportionate to the threat level and be withdrawn promptly once

the threat is neutralised. There is also a need for judicial oversight to constitute a key plank of any proposed law, including judicial review as well as independent or judicial supervision before more severe powers are exercised. This helps ensure that executive decisions, including those made in moments of crisis, can be subject to scrutiny.

Laws are an important means to deal with the threat of disinformation but they are by no means the panacea. There is the continual need to bolster Singaporeans' information literacy so that they do not succumb to fake news in the first place. Correspondingly, it is vital to develop trust and confidence in key information and news sources such as newspapers, television and radio stations.

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