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Bill to Protect from Online Falsehoods: Refinements Needed

By Stephanie Neubronner

SYNOPSIS

The Protection from Online Falsehoods and Manipulation Bill Singapore is set to introduce should be viewed as a first step in developing a suitable approach towards countering the threat of disinformation online. To ensure Singapore develops sufficient resilience, additional details and refinements are needed.

COMMENTARY

FACEBOOK AND Google were amongst the first to react to the Protection from Online Falsehoods and Manipulation Bill the Singapore government announced on 1 April 2019. Raising objections about the implications on the freedom of speech, the bill was described as “overreaching”, and as giving the Singapore government immense power to promote its own agenda.

Observers have also cautioned that the bill could dampen public discourse and could result in over self-regulation, causing the stifling of public expression. More recently, a group of academics raised concerns over the bill’s implications for academic research work, which they described as involving discussions of “apparently established ‘facts’”. The danger of governments dictating to the public what is “true” has caused disquiet as well. Yet, Law and Home Affairs Minister K. Shanmugam has repeatedly stressed that the bill does not restrict free speech, and could even expose individuals to more viewpoints.

Wither Free Speech?

The bill seeks to protect society from the damage deliberate online falsehoods can cause. It is targeted at ensuring that corrections are published alongside a false statement of fact so that misinformed facts are corrected.

Aimed primarily at protecting public interest, which is broadly defined as protecting Singapore's national and social security, public health, finances and safety, preventing election meddling, and the dilution of trust in public institutions, the bill does not cover opinions, criticisms, satire or parody. Only if, and when a falsehood is deemed to have a severe impact on public interest will take-down orders be applied.

This suggests that unlike Germany's controversial Network Enforcement Act (also known as NetzDG), which sought to ban and block hate speech online and was criticised for censoring even legitimate expressions of opinion, the proposed law Singapore intends to implement makes a distinction between opinion and fact.

By ensuring factual statements are published accurately, the bill requires platforms to indicate statements that draw readers' attention to corrections should falsehoods be detected. By alerting readers to issues flagged in the original article, rather than immediately removing or blocking content, readers will be able to make informed decisions about the content they read.

Compared to the immediate removal of the questionable content, which NetzDG mandated, Singapore's bill does not prevent individuals from expressing their views. The bill, however, requires that facts are stated accurately and ensures readers are aware of inaccuracies.

However, what constitutes a statement of fact in relation to public interest is still not clear. Details as to what deserves government attention, who will be flagging objectionable content, and how falsehoods will be determined have not been exemplified in the proposed bill.

Such details are important. Without which, the blurred lines between what is considered objectionable and what will be excluded from the bill's purview will proliferate, adding to concerns about over self-regulation and the stifling of public expression in Singapore. Doubts over the government's role and purpose behind the introduction of such forms of legislation will also perpetuate.

Exerting Greater Control?

Despite assertions that the bill aims primarily to publish corrections, and not order the removal of posts, the power accorded to ministers to act at their discretion should posts threaten public interest, intensifies concerns about the bill according immense power to the government to promote its own agenda.

Clarifications as to how the bill will distinguish between opinion and fact are needed, so as to address these concerns and prevent the government from misusing its authority. Additionally, safeguards to ensure that the bill will continue to protect public interest and the freedom of speech in Singapore are needed. Besides the judiciary, an independent body could be set up to manage such issues, so as to protect against changes to the government system and/or the perspective that building resilience against disinformation is essential to ensuring Singapore's stability as a participatory democracy.

Ensuring the approach of publishing corrections alongside falsehoods, so as to inform the public of facts does not come across as heavy-handed is key to safeguarding the feasibility of such a process. The public also needs to be assured that the entire process is fair and transparent.

Disregarding these important details could amplify the notion of top-down surveillance and suggest that contrary to Singapore making strides towards becoming a participatory democracy, the country was implementing such forms of legislation in an attempt to exert greater control and constraint over its populace.

Holding Social Networks Accountable

Germany's NetzDG is essentially a restatement of existing German law. Intended to ensure existing laws are observed and enforced, NetzDG is targeted mainly at major social networks. Holding these platforms accountable for the spread of hate speech online, Germany threatened them with controversial deletion periods and substantial financial penalties.

Governments in Australia, France and the United Kingdom have also introduced laws in an effort to tackle the proliferation of falsehoods online. Ranging in scope and reach, these laws also target social media companies and hold them accountable for the moderation of content.

Together with Singapore's proposed bill, such legislation could assert the pressure social networks need to determine appropriate ways of preventing the distribution of harmful content, which they so far have been struggling to accomplish.

Yet, is holding social media companies accountable the solution? And, are social networks being burdened with too many responsibilities? While it is important to improve response times, manage the spread of falsehoods, and prevent the malicious use of social media platforms, the very fact is, individuals are the ones sharing and uploading the information. Edited versions of objectionable videos and images are also being posted online.

The public needs to understand the significance of identifying falsehoods and not propagating the spread of offensive content. Emphasising that each individual is accountable for the content posted is vital if long-term resilience capacities are to be developed.

Additionally, the bill currently does not address the issue of reposts and re-uploads directly. Requiring re-uploads to be flagged and checked all over again as new content will add immensely to the time needed to ensure the process of displaying corrections on all forms of the original content are made. Should it take too long to identify falsehoods, issue corrections and ensure readers receive these corrections; the impact of such amendments will be lost.

Importance of Mutuality of Effort

The recommendations released by the Select Committee on Deliberate Online

Falsehoods in September 2018 highlighted a broad range of issues that needed to be addressed. The Select Committee also acknowledged that a multi-pronged calibrated approach was necessary.

It is, thus, essential to recognise that a solely top-down approach to tackling the issue of online falsehoods is not the only measure Singapore has in its arsenal. A joint effort between all components of society and government is necessary if Singapore is to develop a strategy that promotes collective responsibility in safeguarding the country's defense against the threat of deliberate online falsehoods.

Moreover, bottom-up initiatives need to be encouraged as depending solely on the government to give directives is not optimal. More co-operative initiatives and citizen-led activities that operate on the principles of self-help and mutual assistance need to be encouraged. Everyday individuals need to feel included and necessary in this strategy.

To this end, the public needs to understand why rather than having an independent body appointed, which was what was called for during the public hearings the Select Committee held in March 2018, the government felt it was more effective to accord the power of managing falsehoods to ministers.

Doing so not only assures the public that their views have been considered, but promotes openness and transparency in the implementation of the proposed bill. Such communication will also ensure the citizenry remains engaged and are willing to cooperate in the development of resilience capacities.

Joint Effort Needed

In line with Facebook's Chief Executive Mark Zuckerberg's call for governments and regulators to play an active role in updating rules for the Internet, new regulations such as Singapore's proposed bill can be used to provide the baselines for what is considered prohibited, and ensure companies and society build adequate systems to enforce standards on harmful content.

However, in outlining rules for the governing of the Internet and also defining clear responsibilities, it is crucial that a clearly defined whole-of-government and whole-of-society approach is implemented. Individuals in particular, need to know how they can play a part and contribute beyond just being informed of such threats.

Social media companies alone cannot be held responsible for ensuring the sustainability of a nation. Governments too cannot implement solely top-down methods of ensuring resilience. A joint effort that transcends all levels of government and components of society is needed if Singapore is to be able to withstand the threats posed by online falsehoods, going forward.

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