

## **How the Protection from Online Falsehoods and Manipulation Act Applies**

### **Introduction**

1. This addresses how the Protection from Online Falsehoods and Manipulation Act (“Act”) applies to counter online falsehoods. It sets out some illustrations, examples and principles, most of which have been given publicly, during discussions on this issue, including during the debate on the Act in Parliament.

#### **I. Two Requirements**

2. There are two different and conjunctive criteria requirements for the Act to apply against statements:
  - (i) there must be a false statement of fact, and
  - (ii) it must be in the public interest to act.

#### **II. A “False Statement of Fact”**

3. The Act relies on the body of existing legal principles for determining what is a false statement of fact.

#### **A. General examples**

*Difference between statement of fact and opinion*

4. Below are illustrations of the difference between statements of opinion and false statements of fact, in relation to Section 2(2)(a) of the Act.

For the avoidance of doubt, **even where the statements below are false statements of fact, they will only be covered by the Act if they additionally meet the “public interest” threshold.**

The following are statements of opinion:

- (i) A states that a government policy is not working
- (ii) B states that climate change does not exist as a phenomenon.
- (iii) C submits a letter to a newspaper, stating that the Government, by banning a death metal concert, was beholden to Christians.
- (iv) D says that a certain tax rate is too high.

However, for each of the respective examples above, if:

- (1) In the case of (i) above: A additionally states that 500 companies had made complaints about the relevant policy, when this did not happen, the latter statement is a false statement of fact.
- (2) In the case of (ii) above: B additionally cites in support of his statement a study that does not exist, the latter statement is a false statement of fact.
- (3) In the case of (iii) above: C additionally signs off using his son's name when he had written the letter himself, C has made a false statement of fact.
- (4) In the case of (iv) above: D says that the tax rate is 10%, and it is not, the statement would contain a false statement of fact.

*Statements that are false because they are “misleading”*

5. The word “misleading” in Section 2(2)(b) of the Act reflects existing jurisprudence that statements that mislead through omission of material facts can convey a false meaning.
6. The following are illustrations of statements of fact that are false because they are misleading, in relation to Section 2(2) of the Act.
  - (i) A communicates a video of B making a false statement. The video recording is real, but is misleading because A had truncated the video to omit the context showing that B was only giving an example of a false claim made by another person.

As a reasonable person might assume from A's video that B had communicated the false statement of fact, A's communication of the video is the communication of a false statement of fact.
  - (ii) C states that D had been convicted of an offence. It is true that D had been convicted of this offence, but the statement is misleading because C omits to state that D's conviction had later been overturned on appeal.

As a reasonable person might assume from C's statement that D had been convicted of an offence, D's statement is a false statement of fact.
  - (iii) E publishes a news report stating that, according to a girl and her relatives, the girl had been raped by several men of a certain ethnicity. As the news report omits to state the police's findings that the girl had

fabricated the claim, E's statement can be misleading and therefore a false statement of fact.

- (iv) F states that the Government is showing "double standards" by applying two different permit regimes to political activist events on one hand, and a public meet-up by an influencer on the other. It is true that two different permit regimes are applied to the two different types of events. F's statement is a statement of opinion, and does not contain a false statement of fact.

However, if F states or implies that the same permit rules are applied to both types of events, and double standards were applied when granting a permit for one event and not another, when they were not, F's statement is misleading and therefore a false statement of fact.

## **B. Academic / field research examples**

The following are statements of opinion:

- (v) E, a professor of law, states that the death penalty in Singapore does not deter crime, as shown by several studies.
- (vi) F, a professor of medicine, states that a certain treatment is effective, citing a clinical study to support his statement.
- (vii) G, a history researcher, estimates there had been a certain number of casualties in a historical battle. He bases his statement on inferences drawn from various historical documents.
- (viii) H, an economist, states that the Government Investment Corporation (GIC) is funded mostly by Central Provident Fund (CPF) contributions, if one uses a certain methodology.
- (ix) J, a history researcher, states that Operation Coldstore had no national security basis. He bases his statement on inferences drawn from various historical documents.
- (x) K, a field researcher, conducts a survey in accordance with a certain methodology, and states his finding that a certain percentage of foreign workers are exploited.
- (xi) L, a medical researcher, states that, based on certain studies, children should not take a particular vaccine as it may cause autism.

- (xii) M, an economist, states that the home ownership rate in Singapore is only 9%. He explains that this is based on a definition of home ownership that excludes leases of any duration.
- (xiii) N states that nine out of 10 jobs in Singapore went to foreigners, and sets out his methodology based on certain data that he refers to. The fact that the data is incomplete does not change the fact that this is a statement of opinion.
- (xiv) O, an NGO worker, publishes an online article stating that the social welfare system in Singapore has gaps, based on interviews with Government officials and social workers.

However, for each of the respective examples above, if:

- (5) In the case of (v) above: E cites data or studies that do not exist, E's statement is a false statement of fact.
- (6) In the case of (vi) above: the study F cites does not stand for what F says it stands for, F's statement is a false statement of fact.
- (7) In the case of (vii) above: G additionally states that a historical document states something that it does not, the latter statement is a false statement of fact.
- (8) In the case of (viii) above: H instead states that GIC directly draws down on CPF funds when GIC has no power to do so, the latter statement is a false statement of fact.

If H omits to explain that his statement is based on a certain methodology, H's statement can be misleading, and therefore a false statement of fact, as a reasonable person may assume that GIC draws directly from CPF funds, when it does not.

- (9) In the case of (ix) above: J gives an interpretation of a document; subsequently admits that his interpretation is inaccurate; and thereafter repeats his original misleading interpretation, then J would have made a false statement of fact. This is because his latest statement carries with it an implication that he honestly believes it, which cannot be true, given his earlier admission.
- (10) In the case of (x) above: K inaccurately states the number of workers interviewed, the latter statement is a false statement of fact.

(11) In the case of (xi) above: L inaccurately states the percentages in the findings of the studies cited, the latter statement is a false statement of fact.

(12) In the case of (xii) above: M instead inaccurately states the percentage of persons that own freehold property in Singapore, his statement is a false statement of fact.

If M omits to state that he had excluded leases of any duration from his computation, which is a material fact, M's statement is misleading, and therefore a false statement of fact.

(13) In the case of (xiii) above: N cites data that is fabricated, N's statement is a false statement of fact.

(14) In the case of (xiv) above: O additionally relies on an interview with a social worker and states that welfare assistance had been denied to a needy elderly person, when assistance had not been denied, the latter statement is a false statement of fact.

### **III. Public Interest**

7. Falsehoods can affect the public interest in a variety of circumstances:

(i) In some cases, a falsehood may have a one-off dramatic impact, and create an immediate threat of serious harm.

(ii) In other situations, falsehoods may affect the public interest through "slow drip". Such falsehoods can be just as dangerous. They undermine the foundations of our society, by attacking our institutions and eroding trust and cohesion over the longer term.

8. Examples that were given of falsehoods that can affect the public interest include the following:

(i) France: Falsehoods were spread almost a year before the Yellow Vest street protests, about the President, Prime Minister and other state institutions. These falsehoods harmed public institutions, by stirring up sentiments that the system was failing and turning against the people.

(ii) Sweden: A falsehood was spread that there were 50 "no go" areas in Sweden filled with illegal immigrants. The falsehood eroded trust in the police, by suggesting that the police did not have things under control and could not be relied on to protect society.

- (iii) Germany: A falsehood was spread that a mob of 50 “Arab-looking” men had assaulted women in downtown Frankfurt. The falsehood shifted public sentiments, and heightened societal tensions.
- (iv) Indonesia: A falsehood was spread that a Chinese woman threw items at a mosque and stopped prayers. Its ability to stir up racial tensions was demonstrated by how it led to angry mobs that destroyed Buddhist temples.
- (v) Locally: A falsehood was spread that some local supermarkets were selling plastic rice. The falsehood had the potential to disrupt people’s everyday lives, and cause public disquiet.
- (vi) If a falsehood was spread that could lead to huge losses on a Singapore stock exchange or for a bank in Singapore, public interest could be affected.

9. In view of the variety of circumstances in which public interest considerations can arise, the Act provides a range of measures that can be calibrated to suit the requirement of public interest in each case.

### **Conclusion**

10. These remedies provide the tools needed to protect the democratic public discourse, and safeguard our institutions and public interest against falsehoods that have negatively impacted many other societies and citizenries.

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