



## A tale of two pandemics: Fake news and COVID-19

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### Abstract

Whilst fake news has been around since the time of Aesop and, COVID-19 has been around for over two millennia less, they joined ranks in 2020. This paper looks at the interface between fake news and governments' responses to the COVID-19. It compares the approaches of Australia, Singapore and Thailand. Australia relies on a non-legislative approach, where the major digital service providers sign an industry code of practice that must meet the Australian Communications and Media Authority guidelines. As of mid-2021, Twitter, Google, Facebook, Microsoft, Redbubble, TikTok, Adobe, and Apple have signed the industry code of practice. In addition, online advertising that does comply with the requirements of the Therapeutic Drugs Administration can result in sanctions and financial penalties. Australians need to check for the required information on the appropriate government website. Singapore is one of a small number of countries that has specific anti-fake news legislation. Its fact-checking site does not appear to be widely used. Thailand uses its more overarching cybercrime legislation, which does not define fake news. It has developed a comprehensive social media monitoring organization to identify fake news. In addition, it has a website that citizens can check whether news on social media is correct or not. This site has proven extremely popular with several million hits since it commenced operation in late 2019. The paper examines the efficacy of each of the approaches in controlling the twin pandemics.

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### Introduction

Fake news was alive and well at least two millennia before Donald Trump discovered the term! One of the

earliest examples is the well known Aesop Fable of the “Boy who cried Wolf” (Aesop, 620–564 BCE). While disinformation is not a new phenomenon, digital technology can disseminate false or manipulated content at incredible speed (Khan, 2021, p. 2, para. 2). It is disseminated for political, ideological or commercial motives. Disinformation became a significant concern when the COVID-19 pandemic began spreading across the globe at the beginning of 2020. Khan (2021, p. 17, para. 84) concluded that disinformation is complex,

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multi-faceted and has serious consequences. The consequences include reducing the level of trust in democratic institutions. In addition, weak public information regimes allow disinformation to thrive.

This article compares the responses to fake news during the COVID-19 pandemic from three nations with different legislation and fact-checking mixes. Australia has no anti-fake news legislation but relies on the Therapeutic Goods Authority and a voluntary code with the platform service providers. Singapore relies on specific anti-fake news legislation and a fact-checking website. Thailand, on the other hand, relies on its cybercrime legislation and its fact-checking website.

Disinformation [a component of fake news] has no universally accepted definition (Khan, 2021, p. 3, para. 9). Wardle (2017) developed a seven stage matrix of fake news. It was further refined by (Smith & Perry, 2021) based on the earlier work of Smith (2020). In summary, *fake news* must meet three criteria: the material must be deliberately published or distributed; the material must contain disinformation or misinformation; and finally, it must be misleading by design (Smith & Perry, 2021, p. 346).

The members of the Association of Southeast Asian Nations have been leaders in the fight against fake news. Unfortunately, other than Singapore, their legislative responses use the more general cybercrime legislation and focus on the potential impact, ignoring the fact that it may have met the threshold in the definition above. The laws allow for the arrest of persons for trivial offences, as is the case in Thailand (Smith & Perry, 2020). Schuldt (2021) comprehensively studied state-operated fact-checking websites in three Southeast Asian nations: Malaysia, Singapore, and Thailand. His analysis considered posts up to April 2020, which was in the early stages of the COVID-19 pandemic. Around 21 percent of the posts on the Factually site from Singapore and 53 percent on the Anti-Fake News site from Thailand were COVID-19 related. The analysis showed that the government fake-checking sites were not abused for propaganda purposes. There is a recognition around the world of the need to address the potential impact of fake news. Southeast Asian countries are likely to remain at the forefront in their role ‘as arbiters of truth’ (Schuldt, 2021).

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## Methodology

This research analysed the varying responses of three different jurisdictions to the impact of fake news during

the COVID-19 pandemic. It uses contemporaneous sources and analysis of relevant domestic legislation. In particular, the paper focused on the three countries, namely, Australia, Singapore, and Thailand, each of which developed a different approach.

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## Results

### *Australia*

In Australia there is no Constitutional protection for freedom of expression (Australian Human Rights Commission [AHRC], 2019). There is however a common law right based on a “well-established principle of statutory interpretation in Australian courts is that Parliament is presumed not to have intended to limit fundamental rights, [including freedom of expression] unless, it indicates this intention in clear terms” (Australian Human Rights Commission [AHRC], 2019). In line with this common law right, the Australian Communications and Media Authority [ACMA] (2020) developed a position paper to guide the development of an industry code to address online misinformation and news. It preferred that digital platform providers agree to a single voluntary code so that users are afforded the “appropriate protections and remedies related to misinformation” (p. 20). They proposed that the platforms consider an outcomes-based regulatory approach with a robust reporting regime with regularly published performance indicators (p. 24). ACMA considered that the objectives of the Code should be to “reduce the impact of potentially harmful misinformation; empower users to identify the quality of news and information; and strengthen the transparency of measures to combat misinformation and make stakeholders accountable” (p. 27).

The position paper provided detailed outcomes sought from the Code. Users should be less likely exposed to harmful misinformation and readily be able to report or flag such misinformation. In addition, users would be equipped to evaluate news quality and information with political issue-based advertising and sponsored content being transparent to the user. Finally, users must be informed of action that is being undertaken to address misinformation and have access to an effective complaints handling process (pp. 27–31). In response, the Digital Industry Group Inc. [DIGI] (2021a) issued the *Australian Code of Practice on Disinformation and Misinformation* in February 2021. The foundation members were Twitter, Google, Facebook, Microsoft,

Redbubble, and TikTok (Digital Industry Group Inc. [DIGI], 2021c). By May 2021, Adobe and Apple had also committed to the Code (Digital Industry Group Inc. [DIGI], 2021b). The Code focuses on disinformation that can be verifiable as false, misleading or deceptive; it is propagated on digital platforms via inauthentic behaviours; and is reasonably likely to cause harm (Digital Industry Group Inc. [DIGI], 2021a, p. 5). Harm is defined as an action that poses an imminent or serious threat to democratic and policymaking processes or the public good (p. 4, para. 3.4). Inauthentic behaviour “includes spam and other forms of deceptive, manipulative or bulk, aggressive behaviours” (p. 5, para. 3.5). Satire and parody are excluded (p. 6, para. 4.4A). The Code includes the measures that the parties must commit (pp. 9–15, para. 5.8 to 5.30). Measures that can be implemented include removing posts (p. 9, para. 5.9D) and suspension and disabling of accounts (p. 9, para. 5.9F).

The Therapeutic Goods Administration (TGA) is tasked with safeguarding health by monitoring and enforcing compliance with “laws that regulate therapeutic goods in Australia” (Therapeutic Goods Administration [TGA], 2020a). They regulate advertising, medicines, medical devices, manufacturing therapeutic goods and undertaking laboratory testing. For instance, in July 2021, they issued guidance concerning communication about COVID-19 vaccines (Therapeutic Goods Administration [TGA], 2021). In its regulatory role, the TGA has issued infringement notices for breaching the *Therapeutic Goods Act 1989*. In April 2020, it fined a company for promoting a device that it was claimed, without foundation, provided COVID-19 protection (Therapeutic Goods Administration [TGA], 2020b).

Australia depends on the TGA and the industry Code of Practice on Disinformation and Misinformation. The signatories to the Code published their first transparency reports on 22 May 2021. Google (2021) reported its initiatives to identify misinformation on Google Search and YouTube. Initiatives addressing COVID-19 misinformation in Australia and internationally include elevating authoritative content and detecting and removing COVID-19 misinformation (pp. 20–24). They partnered with the World Health Organization and other health authorities, including the Australian Department of Health (p. 22). In March 2021, Google blocked or removed over 11,000 coronavirus-related advertisements from Australian-based advertisers (p. 24).

TikTok (2021) provided statistics on violations by Australian video posters related to COVID-19. From October 2020 to March 2021, 651 videos with

the term “Coronavirus” or “COVID” were removed from the platform, as were 222 videos containing Australian medical misinformation (p. 3). TikTok developed a COVID-19 information hub with verifiable information. From November 2020 to March 2021, it received over 404,000 Australian page views and over 292,000 user views (p. 6). Nearly 17,000 Australian videos with inconclusive content or information which could not be verified were tagged with COVID-19 information notices (p. 7).

Twitter compiled Australia-specific data for the second half of 2020 (Twitter, 2021c), looking at violation of Twitter Rules (Twitter, 2021b); violating the COVID-19 misleading information policy (Twitter, 2020); and violating its civic integrity policy (Twitter, 2021a). Twitter found that more than 50 accounts violated the COVID-19 misleading information policy. Less than ten accounts were suspended, and more than 50 pieces of authored content were removed.

Facebook (2021, p. 37) launched a Coronavirus Information Centre of Facebook in Australia to provide a centralized hub of the most up to date information, including statistics from the health authorities. The hub had been visited by 6.2 million distinct Australians (p. 37). Microsoft reported on the initiatives taken with its products but did not provide any statistics (Microsoft, 2021). Similarly, Redbubble described the initiatives it had undertaken (Redbubble, 2021). Adobe (2021) and Apple (2021) reported on their current and future initiatives.

### *Singapore*

Singapore is unique amongst its Association of Southeast Asian Nations (ASEAN) in that it has enacted specific anti-fake news legislation, the *Protection from Online Falsehoods and Manipulation Act* (POFMA). In his Second Reading Speech, the Minister noted that online falsehoods are real and serious problems for democracies around the world (Tong, 2019). The government, based on the unanimous recommendations of a Select Committee, determined that the Government should have legislative powers to “swiftly disrupt” online falsehoods. The definitions in the Act are crucial to our understanding of the impact of the Act, namely: “a statement of fact is a statement which a reasonable person seeing, hearing or otherwise perceiving it would consider to be a representation of fact” (s. 2(2)(a); and “a statement is false if it is false or misleading, whether wholly or in part, and whether on its own or in the context in which it appears” (s. 2(2)(b)).

Ministers have the right to issue a Correction Direction (s. 11) or a Stop Communication Direction (s. 12). For instance, in February 2020, the Health Minister issued a correction order for a statement on Facebook claiming the inability of the government to trace the source of COVID-19 cases (Lee & Natalegawa, 2021). In May 2021, Facebook and Twitter hosted a post that referred to a claim by an Indian government official that a dangerous COVID-19 variant had originated in Singapore (Lee & Natalegawa, 2021). They were ordered to post a warning on their platforms that the claim was untrue.

The Government of Singapore established the *Factually* website in May 2012 (Ministry for Communication & Information, 2018). The website seeks to correct misperceptions of Government policy or matters of public concern that can harm Singapore's "social fabric". From its inception until February 2018, 186 articles were published on the Gov.sg website. Between February 2018 and 30 June 2021, a further 78 posts were added (Government of Singapore, 2021). Around nine of the posts were related to COVID-19. AFP also has a fake news checking site in Singapore (AFP, 2021). Since the beginning of May 2019, they have checked 63 photographs or videos, seven of which referred to COVID-19.

### Thailand

Thailand relied on its existing somewhat harsh cybercrime legislation and emergency decrees to control "fake news" during the COVID-19 pandemic. Under the *Computer-Related Crime Act No 2*, it is an offence to enter false data, likely to cause injury to the public, into a computer system (s. 14(1)(1)). It is also an offence to enter false data, which could affect the "maintenance of national security, public safety, national economic security, or infrastructure for the common good of the Nation, or to cause panic amongst the public" (s. 14(1)(2)). It is also an offence to publish or forward computer data, knowing it is false (s.14(3)). Thai authorities slowed the propagation of misinformation and disinformation during the early stages of the COVID-19 pandemic (Smith & Perry, 2020, p. 259).

On 26 March 2020, an *Emergency Decree on Public Administration in Emergency Situation* was proclaimed. The prohibitions included the reporting or spreading of untrue information concerning COVID-19 that may cause public fear. It is also an offence to deliberately distort information which may cause misunderstanding that might affect the peace and order or good morals of

the people. Officials will then suspend or edit such news. If the impacts are severe, prosecutions will follow under the Computer Crime Act or the Emergency Decree.

Extension of the decrees has continued. On 12 July 2021, Regulation No 27 came into force (Prachatai English, 2021). It includes the online offences of "sharing reports online that spur public unrest or fear, harm national security, or shed doubt on the state's response to the coronavirus crisis" (Prachatai English, 2021). It is still an offence even if the information is factually correct and "in the interest of public health". Regulation No 29 was promulgated to replace Regulation 27 on 29 July 2021 and "granted the government authorities new enforcement powers, enhancing their ability to censor online speech and investigate internet users" (Human Rights Watch [HRW], 2021). On 6 August the Civil Court ruled that the regulation was contrary to the law (Bangkok Post, 2021).

Thailand's Anti-Fake News Centre commenced operation on 1 November 2019 (Nation Thailand, 2019). During its first 11 months of operation, which included the first eight months of the pandemic, 20 arrests were made among 104 posters of fake news (Nation Thailand, 2020). Ninety-six cases were published to educate the public and warn them not to believe fake news. The Centre screens online posts and reported that for the 475 days between 25 July 2020 and 11 May 2021, it identified around 73.8 million COVID-19 related messages (Thai PBS World, 2021). Only 6,791 were considered to contain false information, with 3,376 necessitating further investigation. Of these, 2,242 messages were concerned with health issues and the remainder concerning government policies. In other words, only 0.009 percent of messages related to COVID-19 contained false information. As of 17 July 2021, nearly 7.3 million persons had visited the site to check whether what they had been told was true or not (Anti-Fake News Center, 2021).

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### Discussion

As has been seen, each jurisdiction has developed its own definition of fake news. Australia based its definition on Wardle (2017). Singapore and Thailand have tried to provide a simple definition which, unfortunately, leaves a considerable amount of leeway for judges to bring their understanding of what constitutes fake news. In addition, the offences of spreading fake news do not require that it be carried out with intent. Australia does not have any such a statute.

No doubt, platform service providers monitor posts throughout the world to remove inappropriate behavior. The benefit of the Australian approach of a voluntary code is that the providers know what the authorities expect of them, including reporting regularly. All of the platform service providers have established systems for the detection and removal of fake news. They have also changed their algorithms to prioritize verified COVID-19 information and remove posts that are likely to cause harm. Provided there is good cooperation between the government and industry, it is a cost-effective approach, particularly in the English speaking world. Fact-checking in other languages, particularly those that do not use Latin script, is complex. The development of a government fact-checking site would be justified due to the complexities of the Thai script. The Thai site apparently has been very well received by the population, with millions of visitors checking the truthfulness of the information. What is of concern is the fact that the Thai government is screening messages posted on the web.

At the time of writing in October 2021, all three countries were fighting the onslaught of the Delta variant after successfully fighting the original variant.

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## Conclusion and Recommendation

The convergence of the two pandemics has compounded the management of the COVID-19 pandemic. Three models for the management of the fake-news pandemic were investigated. Regardless of the approach adopted, the anti-fake news response should consider a provision such as that in the Singapore legislation that requires retractions. It may be more appropriate that the decision should be made by a government agency such as the Australian Therapeutic Drug Administration rather than by government Ministers.

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## Conflict of Interest

There is no conflict of interest.

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## References

- Adobe. (2021). *Adobe initial report on the Australian code of practice on disinformation and misinformation*. <https://digi.org.au/disinformation-code/>
- Aesop. (620–564 BCE). The Shepherd Boy & the Wolf. In *Aesop's Fables Interactive Book (adapted from the book "The Aesop for Children: with Pictures by Milo Winter", published by Rand, McNally & Co in 1919)* (p. 43). Library of Congress.
- AFP. (2021). *AFP fact check Singapore*. <https://factcheck.afp.com/afp-singapore>
- Anti-Fake News Center. (2021). *Anti-fake news center Thailand*. <https://www.antifakenewscenter.com/>
- Apple. (2021). *Apple news: Australian code of practice on disinformation and misinformation initial report*. <https://digi.org.au/disinformation-code/>
- Australian Communications and Media Authority [ACMA]. (2020). *Online misinformation and news quality in Australia: Position paper to guide code development*. <https://www.acma.gov.au/australian-voluntary-codes-practice-online-disinformation>
- Australian Human Rights Commission [AHRC]. (2019). *Freedom of information, opinion and expression*. <https://humanrights.gov.au/our-work/rights-and-freedoms/freedom-information-opinion-and-expression>
- Bangkok Post. (2021). PM revokes order gagging free speech after court injunction. <https://www.bangkokpost.com/thailand/general/2163175/pm-revokes-order-gagging-free-speech-after-court-injunction>
- Computer-Related Crime Act (No 2) B.E. 2560 (2017)* (Thailand). [http://web.krisdika.go.th/data/document/ext809/809777\\_0001.pdf](http://web.krisdika.go.th/data/document/ext809/809777_0001.pdf)
- Digital Industry Group Inc. (2021a). *Australian code of practice on misinformation and disinformation*. <https://digi.org.au/disinformation-code/>
- Digital Industry Group Inc. (2021b). *Disinformation code*. <https://digi.org.au/disinformation-code/>
- Digital Industry Group Inc. (2021c). *Major technology companies adopt new Australian code of practice on disinformation and misinformation*. <https://digi.org.au/disinformation-code/>
- Emergency Decree on Public Administration in Emergency Situation, B.E. 2548 (2005)* (Thailand). <https://www.nsc.go.th/wp-content/uploads/2018/08/translation-2.pdf>
- Facebook. (2021). *Facebook response to the Australian disinformation and misinformation industry code*. <https://digi.org.au/disinformation-code/>
- Google. (2021). *Australia code of practice on disinformation and misinformation: Google initial report*. <https://digi.org.au/disinformation-code/>
- Government of Singapore. (2021). *Factually*. <https://www.gov.sg/factually>
- Human Rights Watch [HRW] (2021). *Thailand: immediately repeal emergency regulation that threatens online freedoms*. <https://www.hrw.org/news/2021/08/03/thailand-immediately-repeal-emergency-regulation-threatens-online-freedoms>
- Khan, I. (2021). *Disinformation and freedom of opinion and expression: Report of the special rapporteur on the promotion and protection of the right to freedom of opinion and expression*. (Report No. A/HRC/47/25). <https://daccess-ods.un.org/tmp/6816772.22251892.html>
- Lee, K., & Natalegawa, A. (2021). *Amid COVID-19, fake news crackdowns do damage across Southeast Asia*. <https://thediplomat.com/2021/06/amid-COVID-19-fake-news-crackdowns-do-damage-across-southeast-asia/>

- Microsoft. (2021). *Microsoft report on Australian voluntary code of practice on disinformation and misinformation*. <https://digi.org.au/disinformation-code/>
- Ministry for Communication & Information. (2018). MCI's response to PQ on Gov.sg's Factually website. *Parliamentary Question*. <https://www.mci.gov.sg/pressroom/news-and-stories/pressroom/2018/2/mcis-response-to-pq-on-gov-factually?category=Public+Comms&page=3>
- Nation Thailand. (2019, November 1). Anti-Fake News Centre in Action. *The Nation Thailand*. [https://www.nationthailand.com/news/30377990?utm\\_source=homepage&utm\\_medium=internal\\_referral](https://www.nationthailand.com/news/30377990?utm_source=homepage&utm_medium=internal_referral)
- Nation Thailand. (2020, December 3). Anti-Fake News Centre has taken legal action against 61 offenders in past year. News. *Nation Thailand*. [https://www.nationthailand.com/news/30399009?utm\\_source=homepage&utm\\_medium=internal\\_referral](https://www.nationthailand.com/news/30399009?utm_source=homepage&utm_medium=internal_referral)
- Prachatai English (2021, July 19). Thailand: Amid record COVID-19 deaths, authorities must offer vaccine rollout that prioritizes at-risk and marginalized groups. *Prachatai English*. <https://prachatai.com/aggregator/categories/1>
- Protection from Online Falsehoods and Manipulation Act 2019*, (Singapore). <https://sso.agc.gov.sg/Acts-Supp/18-2019>
- Redbubble. (2021). *Redbubble Limited: Australian code of practice on disinformation and misinformation initial report*. <https://digi.org.au/disinformation-code/>
- Schuldt, L. (2021). Official truths in a war on fake news: Governmental fact-checking in Malaysia, Singapore, and Thailand. *Journal of Southeast Asian Affairs*, 40(2), 340–371. <https://doi.org/10.1177/18681034211008908>
- Smith, R., & Perry, M. (2020). "Fake News" legislation in Thailand: The good, the bad and the ugly. *Athens Journal of Law*, 6(3), 243–264. <https://doi.org/10.30958/ajl.6-3-3>
- Smith, R., & Perry, M. (2021). Fake news and the convention on cybercrime. *Athens Journal of Law*, 7(3), 335–358. <http://doi.org/10.30958/ajl.7-3-4>
- Smith, R. B. (2020). *Fake news in ASEAN* [Unpublished master's thesis]. University of New England, Armidale.
- Thai PBS World. (2021). Govt to get tough on fake news about COVID-19 and vaccines. *Thai PBS World*. <https://www.thaipbsworld.com/govt-to-get-tough-on-fake-news-about-COVID-19-and-vaccines/>
- Therapeutic Goods Act 1989* (Australia). <https://www.legislation.gov.au/Details/C2021C00376>
- Therapeutic Goods Administration [TGA]. (2020a). Compliance management. *Department of Health, Therapeutic Goods Administration*. <https://www.tga.gov.au/hubs/compliance-and-enforcement/compliance-management>
- Therapeutic Goods Administration [TGA]. (2020b). *Pete Evans' company fined for alleged COVID-19 advertising breaches*. (Media Release). <https://www.tga.gov.au/node/904354>
- Therapeutic Goods Administration [TGA]. (2021). *Communicating about COVID-19 vaccines* (Guidance). <https://www.tga.gov.au/node/936608>
- TikTok. (2021). *Australian Code of Practice on Disinformation and Misinformation: Initial Report*. <https://digi.org.au/disinformation-code/>
- Tong, E. (2019). *Second reading speech by senior minister of state for law, Mr Edwin Tong on The Protection from Online Falsehoods and Manipulation Bill*. <https://www.mlaw.gov.sg/news/parliamentary-speeches/second-reading-speech-by-senior-minister-of-state-for-law-mr-edwin-tong-on-pofma>
- Twitter. (2020). COVID-19 misleading information policy. *Help Center*. <https://help.twitter.com/en/rules-and-policies/medical-misinformation-policy>
- Twitter. (2021a). *Civic integrity policy*. <https://help.twitter.com/en/rules-and-policies/election-integrity-policy>
- Twitter. (2021b). *The Twitter Rules* (as at 7 February 2021). <https://help.twitter.com/en/rules-and-policies/twitter-rules>
- Twitter. (2021). *Twitter: Australian code of practice on disinformation and misinformation initial report*. <https://digi.org.au/disinformation-code/>
- Wardle, C. (2017). Fake news. It's complicated. *First draft*. <https://firstdraftnews.org/latest/fake-news-complicated/>