

**Baker
McKenzie.**

**ASIA PACIFIC
SURVEY ON FAKE NEWS
AND INTERMEDIARY
LIABILITY**

FOREWORD

The existence of fake news is no new phenomenon. The rise of social media, however, has made it easier to spread misinformation, now popularly termed as “fake news.”

The ongoing global outbreak of COVID-19 has thrown fake news into the spotlight, with governments worldwide racing against time to contain not only the spread of the pathogen, but also the flurry of fake news, with fears that online misinformation, if left unchecked, could be more infectious than the disease itself.

Different jurisdictions have dealt with the issue in different ways, with some taking a hard-line stance via legislation, and others preferring a softer approach via self-regulation.

In this guide, we provide an overview of fake news laws in ten Asia Pacific jurisdictions.

An important issue to consider, in particular, for technology companies and social media intermediaries, is whether the laws may impute liability on the platforms through which users disseminate fake news, and how these platforms can mitigate their risk of liability.

We invite you to contact us for a further discussion on issues relevant to your business.

This document is aimed at providing multi-jurisdictional reference information relating to fake news legislation in 10 jurisdictions surveyed. You should not rely on its content without taking steps to determine that such content is current and accurate, or without ensuring that you understand the implications arising from the use of the content, whether as is, or with amendment. This information is not, and should not be treated as, legal advice. This document is proprietary of Baker & McKenzie and was last updated in April 2020. The information is a summary only and for more detailed advice on issues relating to fake news legislation, please get in touch with your contact at Baker McKenzie.

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ARE THERE ANY LAWS IN THE JURISDICTION THAT TARGET THE SPREAD OF FAKE NEWS?



	YES, with a dedicated fake news statute	YES, but with no dedicated statute targeting fake news	YES, with no dedicated fake news statute, but with statutes specifically regulating COVID-19 fake news	NO
INDONESIA	✓			
SINGAPORE	✓			
CHINA		✓		
MALAYSIA		✓		
VIETNAM		✓		
AUSTRALIA			✓	
PHILIPPINES			✓	
TAIWAN			✓	
THAILAND			✓	
JAPAN				✗

ARE THERE ANY LAWS IN THE
JURISDICTION THAT TARGET THE
SPREAD OF FAKE NEWS?

**YES, with a dedicated
fake news statute**

QUESTION	RESPONSE
Are there any laws in the jurisdiction that target the spread of fake news?	<p>Yes.</p>
What is the relevant legislation and when did it come into effect?	<p>Generally, content disseminated via social media platforms (including fake news) is subject to Law No. 11 of 2008 on Electronic Information and Transactions as amended by Law No. 19 of 2016 (EIT Law), which came into effect on 21 April 2008.</p> <p>In addition, Indonesian government authorities also refer to applicable provisions on fake news in Law No. 1 of 1946 on the Criminal Law (Law No. 1/1946), which came into effect on 26 February 1946.</p>
How is fake news defined in the legislation?	<p>There is no specific definition of “fake news” under the EIT Law. However, the EIT law specifically prohibits any dissemination of fake news that causes any consumer loss in electronic transactions. “Consumer loss” is not specifically defined in the statute and may be interpreted broadly.</p> <p>Under Law No. 1/1946, “fake news” is defined as any false news that may cause disturbance among the people. Law No. 1/1946 explains that disturbance means “<i>more than anxiety and greatly disturbing the conscience of a significant number of people.</i>” This is a subjective test of the state of mind of people hearing the news, which can be difficult to assess.</p> <p>The regulator-in-charge, the Minister of Communication and Informatics (MOCI), and/or other relevant government institutions may determine what is considered fake news based on their assessment and reports from the public.</p>
What acts does the legislation target?	<p>The EIT Law prohibits the intentional and unlawful dissemination of negative content, including fake news, via any electronic system and transaction.</p> <p>Law No. 1/1946 prohibits the dissemination of any form of fake news.</p>
What are the penalties for contravention?	<p>Under the EIT Law, the applicable penalties are imprisonment of up to 6 years and/or a monetary penalty of up to IDR 1 billion (approximately USD 70,000).</p> <p>Under Law No. 1 /1946, the applicable penalty is imprisonment of up to 10 years.</p>

QUESTION	RESPONSE
<p>Who is liable under the legislation?</p> <p>Can liability attach to the social media platforms on which users disseminate fake news?</p>	<p>Under the EIT Law and Law No. 1/1946, a person/user who disseminates fake news is liable for the content he/she disseminates.</p> <p>As for liability on social media platforms, Indonesia has generally adopted a safe harbor concept under MOCI Circular Letter No. 5 of 2016 on Limitations and Responsibilities of User Generated Content Platform Providers and Merchant Trading through E-Commerce (Circular Letter).</p> <p>Specifically, social media platform operators will not be held liable for user-generated content if they can prove that they did not create or upload the content.</p> <p>However, social media platform operators must:</p> <ul style="list-style-type: none"> • provide a mechanism for unlawful content management and reporting, such as reporting tools • comply with any official takedown request (TDR) issued by the MOCI, under MOCI Regulation No. 19 of 2014 on Negative Internet Content; otherwise, the platform operator may be deemed to maintain unlawful or negative content on its platform, and the MOCI can consequently block access to the platform in Indonesia • ensure that there is no unlawful content on their platforms (this includes proactively monitoring and removing any unlawful content (as opposed to removing content only upon a TDR issued by the MOCI), pursuant to Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions)
<p>Has the legislation been invoked to combat the spread of fake news about COVID-19?</p>	<p>Yes.</p> <p>It has been reported that the MOCI has issued several requests to social media platform operators to take down content related to COVID-19, although we are not aware of whether the MOCI has blocked access to such COVID-19-related social media.</p> <p>The Indonesian police also arrested individuals identified as the original disseminators of fake news related to COVID-19.</p>

QUESTION	RESPONSE
Are there any laws in the jurisdiction that target the spread of fake news?	<p>Yes.</p>
What is the relevant legislation and when did it come into effect?	<p>The Protection from Online Falsehoods and Manipulation Act (POFMA), which came into effect on 2 October 2019, is commonly known as Singapore’s “fake news law.”</p> <p>There are also other laws and statutes that combat the spread of misinformation in Singapore to various degrees, such as the Miscellaneous Offences (Public Order and Nuisance) Act, the Official Secrets Act, and the civil tort of defamation.</p>
How is fake news defined in the legislation?	<p>The POFMA addresses the communication of “false statements of fact” in Singapore.</p> <p>The POFMA defines a statement as false <i>“if it is false or misleading, whether wholly or in part, and whether on its own or in the context in which it appears”</i>.</p>
What acts does the legislation target?	<p>The prescribed statutory purpose of the POFMA is:</p> <ul style="list-style-type: none"> • to prevent the communication of false statements of fact in Singapore and to enable measures to be taken to counteract the effects of such communication • to suppress the financing, promotion and other support of online locations that repeatedly communicate false statements of fact in Singapore • to enable measures to be taken to detect, control and safeguard against coordinated inauthentic behavior and other misuses of online accounts and bots • to enable measures to be taken to enhance disclosure of information concerning paid content directed towards a political end <p>Specifically, the POFMA prohibits the communication of false statements of fact in Singapore, the making or altering of bots for communication of false statements of fact in Singapore, and providing services for communication of false statements of fact in Singapore.</p>

QUESTION	RESPONSE
<p>Who is liable under the legislation?</p> <p>Can liability attach to the social media platforms on which users disseminate fake news?</p>	<p>Any Minister in Singapore can direct the POFMA Office to issue directions to, among others:</p> <ul style="list-style-type: none"> • a person who communicated the false statement of fact, requiring that person to do either or both of the following: <ul style="list-style-type: none"> ◦ communicate a correction notice, which is essentially a statement that the false material is false, and/or a specified statement of fact ◦ stop communicating false material in Singapore • Internet intermediary or provider of mass media services, requiring it to do either or both of the following: <ul style="list-style-type: none"> ◦ communicate a correction notice to end users in Singapore who access the false material ◦ disable Singapore end users' access to an online location on which a false statement of fact is communicated <p>Prescribed Internet intermediary platforms under the POFMA Regulations include Facebook, Twitter, Google, Instagram and WhatsApp.</p> <p>In addition, the Miscellaneous Offences (Public Order and Nuisance) Act also criminalizes the transmission of a message which a person knows to be false or fabricated, punishable with a fine of up to SGD 10,000 (approximately USD 7,100) and/or imprisonment of up to 3 years. That statutory provision came into effect on 1 January 2020.</p>
<p>What are the penalties for contravention?</p>	<p>The communication of false statements of fact in Singapore, making or altering bots for communication of false statements of fact in Singapore, and providing services for communication of false statements of fact in Singapore, are all criminal offenses, punishable with a fine and/or imprisonment for individuals, and a fine in any other case. Depending on the offense, the maximum fine is up to SGD 1 million (approximately USD 710,000).</p> <p>The failure to comply with correction directions and access blocking orders is also a criminal offense.</p>
<p>Has the legislation been invoked to combat the spread of fake news about COVID-19?</p>	<p>Yes. From end January 2020 until end April 2020, at least six correction directions have been issued by the POFMA Office, targeting misinformation related to the COVID-19 situation, posted on online forums and Facebook posts.</p> <p>The Singapore government has also posted a series of clarifications on its official fact-checking website, addressing various clarifications on misinformation regarding COVID-19.</p> <p>On 27 April 2020, a Singaporean man was charged in court for allegedly posting in a Facebook group false information that supermarkets in Singapore would open only two days a week as part of enhanced measures to combat the COVID-19 pandemic.</p>

ARE THERE ANY LAWS IN THE
JURISDICTION THAT TARGET THE
SPREAD OF FAKE NEWS?

**YES, but with no
dedicated statute
targeting fake news**

QUESTION	RESPONSE
Are there any laws in the jurisdiction that target the spread of fake news?	Yes.
What is the relevant legislation and when did it come into effect?	<p>There is no dedicated fake news statute in China, but rather, various laws and regulations targeting the spread of fake news, including:</p> <ul style="list-style-type: none"> • PRC Criminal Law, last amended on and effective from 4 November 2017 • Law of the PRC on Punishment for the Violation of Public Security Administration, last amended on and effective from 1 January 2013 • PRC Cybersecurity Law, which came into effect on 1 July 2017 • Administrative Measures for the Protection of International Networking Security of Computer Information Networks, last amended on and effective from 8 January 2011 • Administrative Measures for Network Information Services, last amended on and effective from 8 January 2011 • Provisions on the Administration of Network Information Content Ecology, which came into effect on 1 March 2020
How is fake news defined in the legislation?	<p>The laws and regulations do not provide an express definition of fake news, but it can be generally understood as rumors without (or drastically deviating from) a factual basis.</p>
What acts does the legislation target?	<p>The relevant laws and regulations generally and broadly prohibit any entity or person from knowingly producing, publishing, disseminating or transmitting fake news.</p> <p>In relation to the hosting entities of websites, applications or other kinds of platforms on which fake news can be disseminated, they are legally obligated to put in place adequate security systems to conduct censorship and prevent the spread of fake news on the sites/applications/platforms. These platforms should also take down the relevant content, preserve records and report to the competent authorities, once they become aware of any false information on their platforms.</p>

QUESTION	RESPONSE
<p>What are the penalties for contravention?</p>	<p>Criminal liability</p> <p>The person producing, disseminating or knowingly spreading fake news that seriously disturbed the social order can be subject to fixed-term imprisonment, detention or surveillance, depending on the severity of the offense.</p> <p>The hosting entity that failed to perform the network security administration responsibilities and resulted in the wide spread of false news can be fined, with its person-in-charge or other directly responsible personnel being subject to fixed-term imprisonment, detention or surveillance, depending on the severity of the offense.</p> <p>Administrative liability</p> <p>The person or entity producing, disseminating or knowingly spreading fake news can be subject to (as applicable) a warning, confiscation of illegal incomes, monetary fines, shutdown of the (domestic) website or application, revocation of the network connection qualification or operating permit, depending upon the severity of the situation. In case of an overseas website or application, the Chinese government can block the China users' access to such website or application.</p> <p>The person knowingly spreading fake news, falsely reporting the epidemic or otherwise disturbing the social order can be subject to detention of up to 10 days, and/or monetary fines.</p> <p>Civil liability</p> <p>In the event that the false information amounts to a slander or defamation of others, the offender may also be subject to civil liability, upon a claim from the offended person. Reliefs include the compensation of losses, apology, elimination of adverse impact and/or restoration of reputation.</p>
<p>Who is liable under the legislation?</p> <p>Can liability attach to the social media platforms on which users disseminate fake news?</p>	<ul style="list-style-type: none"> • The hosting entities of websites, applications or other kinds of platforms where the content can be posted and disseminated, including social media platforms on which users disseminate fake news • Content producers or providers • Internet users <p>A person or entity may act in multiple capacities - for instance, internet users may also produce the content by, e.g., writing the comments or messages.</p>
<p>Has the legislation been invoked to combat the spread of fake news about COVID-19?</p>	<p>Yes.</p> <p>The Chinese government has been very actively monitoring and combatting the spread of fake news about COVID-19, and imposing administrative (and in rare cases, criminal) sanctions on offenders pursuant to the relevant laws and regulations.</p>

QUESTION	RESPONSE
<p>Are there any laws in the jurisdiction that target the spread of fake news?</p>	<p>Yes.</p>
<p>What is the relevant legislation and when did it come into effect?</p>	<p>From 11 April 2018 to 31 January 2020, matters in relation to fake news in Malaysia were governed under the Anti-Fake News Act 2018, which was subsequently repealed by the Anti-Fake News (Repeal) Act 2020.</p> <p>Currently, there is no specific legislation that solely deals with the spread of fake news, although there are provisions that target the spread of fake news in Malaysia in the following legislation:</p> <ul style="list-style-type: none"> • Communication and Multimedia Act 1988 (CMA), which came into effect on 1 April 1999 • the Malaysian Communications and Multimedia Content Code (Content Code), which came into effect on 1 September 2004 • Penal Code, which came into effect on 31 March 1976 <p>Apart from legislative measures, the Malaysian Communications and Multimedia Commission (MCMC) launched in March 2017 "sebenarnya.my," targeting the online spread of fake news. It is a one-stop center for Malaysians to verify the authenticity of news content received online through social media platforms, instant messaging services, blogs, websites, and others before sharing.</p>
<p>How is fake news defined in the legislation?</p>	<p>Both the CMA and the Penal Code do not explicitly define fake news.</p> <p>Under the Content Code, content is false where, prior to communications, reasonable measures to verify its truth have not been adopted or taken.</p>

QUESTION	RESPONSE
<p>What acts does the legislation target?</p>	<p>CMA</p> <p>Under Section 211 of the CMA, content applications service providers (e.g. internet content hosts and internet access service providers) or other persons using a content applications service (e.g. the website operator) have the responsibility to ensure that the content provided is not indecent, obscene, false, menacing or offensive in character with the intent to annoy, abuse, threaten or harass any person.</p> <p>Under Section 233(1)(a) of the CMA, a person commits an offense if he/she improperly uses a network facility or network service or applications service to initiate the transmission of any comment, request, suggestion or communication which is obscene, indecent, false, menacing or offensive in character with intent to annoy, abuse, threaten or harass another person.</p> <p>Content Code</p> <p>The Content Code sets out guidelines and procedures for good practices and standards for online and broadcast content dissemination in Malaysia and applies generally to all content made available on a networked medium and to content application service providers. Part 1(2.3), Part 2 (7.0) and Part 5 [5.1 (ii)] of the Content Code prohibits dissemination of content which is false.</p> <p>While compliance with the Content Code is entirely voluntary, the MCMC has power to direct any person licensed under the CMA, such as internet access service providers or website operators, to adhere to the Content Code, and take down objectionable content, at the risk of additional fines being imposed.</p> <p>Penal Code</p> <p>Under Section 505(b) of the Penal Code, whoever makes, publishes or circulates any statement, rumor or report with intent to cause fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offense against the State or against the public tranquility, commits an offense.</p> <p>Although Section 505(b) of the Penal Code does not directly address the spread of fake news, any person, including any company or association or body of persons, whether incorporated or not, who publishes or spreads false news which result in causing public fear or alarm, may be charged under this section.</p>

QUESTION	RESPONSE
<p>What are the penalties for contravention?</p>	<p>Under the CMA, a person who commits an offense under Section 211 or Section 233 of the CMA shall, upon conviction, be liable to a fine of up to MYR 50,000 (approximately USD 11,600) and/or imprisonment of up to 1 year.</p> <p>Under the Content Code, any failure to comply with the MCMC's direction is an offense, which is punishable upon conviction by a fine of up to MYR 300,000 (approximately USD 70,000) and/or imprisonment of up to 3 years.</p> <p>Under the Penal Code, a person who commits an offense under S505(b) of the Penal Code shall, upon conviction, be liable to a fine and/or imprisonment up to 2 years.</p>
<p>Who is liable under the legislation?</p> <p>Can liability attach to the social media platforms on which users disseminate fake news?</p>	<p>CMA</p> <p>Under Section 211 of the CMA, content applications service providers such as social media platforms providers may be liable for providing false content if their users disseminate fake news.</p> <p>Under Section 233 of the CMA, individuals are liable for spreading false or fake news.</p> <p>Content Code</p> <p>Under the Content Code, content applications service providers can be liable for disseminating false content if they fail to comply with the MCMC's direction (which typically involves a direction to take down the false content).</p> <p>Penal Code</p> <p>Under the Penal Code, individuals and any company or association or body of persons, whether incorporated or not, can be liable for publishing or spreading false or fake news.</p> <p>Section 114A of the Malaysian Evidence Act 1950 creates a presumption that a person whose name, photograph or pseudonym appears on any publication depicting himself as the owner, host, administrator, editor or sub-editor, or who in any manner facilitates to publish or republish the publication, is presumed to have published or re-published the contents of the publication, unless proven to the contrary.</p> <p>Therefore, intermediaries such as website operators or social media platform providers may be presumed to be the publisher of the content made available on their platform, and can be liable for a criminal offense under the Penal Code for false statements made on their platform.</p>



QUESTION	RESPONSE
<p>Has the legislation been invoked to combat the spread of fake news about COVID-19?</p>	<p>Yes.</p> <p>The MCMC has opened a total of 220 papers of investigations under Section 233 of the CMA, relating to COVID-19 fake news. More than 10 individuals have been charged under Section 505(b) of the Penal Code.</p> <p>There have been no reported cases of social media platform providers being charged for providing/disseminating false content as a result of their users disseminating fake news.</p>

QUESTION	RESPONSE
Are there any laws in the jurisdiction that target the spread of fake news?	Yes.
What is the relevant legislation and when did it come into effect?	<p>There is no dedicated fake news statute in Vietnam, but rather, various laws regulating fake news, including:</p> <ul style="list-style-type: none"> • Civil Code (effective since 01 January 2017) • Penal Code (effective since 01 January 2018) • Law on Cybersecurity (effective since 01 January 2019) • Decree No. 15/2020/ND-CP on penalties for administrative violations against regulations on postal services, telecommunications, radio frequencies, information technology and electronic transactions (effective since 15 April 2020)
How is fake news defined in the legislation?	<p>The laws do not specifically define “fake news”, but prohibit the provision and sharing of false information for the purpose of causing public confusion or economic loss, obstructing regulatory bodies or law enforcers, and violating the lawful rights and interests of other organizations and individuals.</p>
What acts does the legislation target?	<p>The relevant laws prohibit:</p> <ul style="list-style-type: none"> • Providing information adversely affecting the honor, dignity and/or prestige of a person • Providing and sharing false information in cyberspace • Fabricating information or spreading false information to harm another person’s reputation or which infringes upon another person’s lawful rights and interests; or accusing a person of a fabricated crime and reporting it to the authorities
What are the penalties for contravention?	<p>Penalties include administrative penalty of up to VND 70 million (approximately USD 3,000); the possibility of civil action seeking compensation and other corrective actions as reliefs; and/or criminal sanction of up to seven years’ imprisonment for slander.</p>

QUESTION	RESPONSE
Who is liable under the legislation? Can liability attach to the social media platforms on which users disseminate fake news?	The individual/organization that carries out the prohibited acts is liable. Social media platform owners that actively store/spread false information may also be liable.
Has the legislation been invoked to combat the spread of fake news about COVID-19?	Yes. There have been reports in local media that Vietnamese authorities have actively sanctioned many social media users for posting and sharing fake news about COVID-19. The laws that the authorities have relied on are mainly the Law on Cybersecurity and Decree No. 15/2020/ND-CP (or before 15 April 2020, Decree No. 174/2013/ND-CP, the precursor of Decree No. 15/2020/ND-CP).

ARE THERE ANY LAWS IN THE
JURISDICTION THAT TARGET THE
SPREAD OF FAKE NEWS?

YES, with no dedicated statute
targeting fake news, but with
legislation specifically regulating
fake news regarding COVID-19



AUSTRALIA

QUESTION	RESPONSE
Are there any laws in the jurisdiction that target the spread of fake news?	Yes, but with no dedicated statute targeting fake news.
What is the relevant legislation and when did it come into effect?	<p>There is no dedicated fake news statute in Australia, but rather, Australian criminal laws may be broad enough to target the spread of fake news, including:</p> <ul style="list-style-type: none">• The National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018 (Cth) (Foreign Interference Law), which was registered on 19 December 2018.• The Foreign Influence Transparency Scheme Act 2018 (Cth) (Foreign Influence Scheme), which commenced on 10 December 2018.• Criminal Code Amendment (Sharing of Abhorrent Violent Material) Act 2019 (Cth) (Abhorrent Violent Material Law), which commenced on 6 April 2019. <p>Defamation law may also apply, which is substantially the same across each State and Territory but subject to separate implementing legislation. For example, in NSW, it is the Defamation Act 2005 (NSW), which commenced on 1 January 2006.</p> <p>Other, more general Australian laws may also apply to fake news in certain circumstances. These might include general prohibitions on misleading or deceptive conduct as well as classification laws relating to online content.</p>
How is fake news defined in the legislation?	The laws do not specifically define "fake news". However, the Foreign Influence Law defines communications activity broadly to include a communication or distribution of information or material to the public, which may be broad enough to indirectly regulate fake news.

QUESTION	RESPONSE
<p>What acts does the legislation target?</p>	<p>The relevant laws target the following:</p> <ul style="list-style-type: none"> • Foreign Interference Laws: target intentional foreign interference and reckless foreign interference. These could potentially apply to the provision of fake news where the elements of the offences are made out, being that: <ul style="list-style-type: none"> ◦ the person engages in conduct with or on behalf of a foreign principal, or agent of a foreign principle, or the conduct is directed, funded or supervised by a foreign principal or agent of a foreign principal; and ◦ the person intends, or is reckless as to whether the conduct will influence another person in relation to a political or governmental process. <p>Preparing for a foreign interference offence is also an offence. The elements are that:</p> <ul style="list-style-type: none"> ◦ the person engages in conduct; and ◦ the person does so with the intention of preparing for, or planning a foreign interference offence. • Foreign Influence Scheme: aim to increase transparency of foreign principals who seek to influence political decision making. A person must register under the Scheme if they undertake certain activities (including communications activity) on behalf of a foreign principal if they are not exempt. • Abhorrent Violent Material Laws: target failures to expeditiously take down abhorrent violent material or failures to notify the Australian Federal Police of such material. • Defamation laws: target defamatory publications that are likely to harm a person's reputation (i.e. civil defamation), or affects the community, such as publications that have a tendency to endanger the public peace (i.e. criminal defamation). This could broadly capture false statements that are published about a person or organisation. There are offence provisions for both civil defamation and criminal defamation (under State/Territory criminal laws), which could also capture fake news in certain circumstances.

QUESTION	RESPONSE
<p>What are the penalties for contravention?</p>	<p>Penalties include:</p> <ul style="list-style-type: none"> • Foreign Interference Laws - offences: The penalties range from imprisonment for 10 years to 20 years. • Foreign Influence Scheme - offences: The maximum penalty for failing to register under the Foreign Influence Transparency Scheme is 5 years. The maximum penalty for providing false or misleading documents in response to an information notice is 3 years. Destruction of relevant records carries a maximum of 2 years imprisonment. Failing to comply with a transparency notice carries a maximum of 6 months imprisonment. • Abhorrent Violent Material Laws - offences: Maximum penalties for failing to remove abhorrent material expeditiously for individuals is maximum 3 years imprisonment or maximum AU\$2,100,000 or both. Maximum penalty for corporations is the greater of AU\$10,500,000 or 10% of annual turnover. The penalty for breaching the notification obligations is AU\$168,000. • Defamation laws: civil defamation - monetary penalties (award of damages); criminal defamation - maximum of 3 years imprisonment.
<p>Who is liable under the legislation?</p> <ul style="list-style-type: none"> • Can liability attach to the social media platforms on which users disseminate fake news? 	<p>The person(s) who are liable under relevant laws are:</p> <ul style="list-style-type: none"> • Foreign Interference Laws: Liability applies to the person or corporation who engages in the conduct or commits the offence. • Foreign Influence Scheme: The Scheme imposes penalties on the person who is required to register. • Abhorrent Violent Material Laws: Internet service providers, content service providers and hosting service providers have obligations to take down abhorrent violent material and must notify the Australian Federal Police within a reasonable time of becoming aware of the material. • Defamation laws: the original publisher, and any person or organisation (subject to limitations) who publish or re-publish/distribute the defamatory material
<p>Has the legislation been invoked to combat the spread of fake news about COVID-19?</p>	<p>No but note that:</p> <ul style="list-style-type: none"> • the Department of the Prime Minister and Cabinet informed the Senate Select Committee on the Future of Public Interest Journalism in January 2018 that, "the rise of social media and other technological platforms has created challenges for monitoring false and misleading news," and that the Department of the Prime Minister and Cabinet was considering the potential impact of 'fake news', including as part of ongoing cross-government work in relation to foreign interference; and • on 11 December 2019, the Australian Government opened consultation for a new law to be introduced in 2020 to impose additional and more onerous obligations on social media companies to remove certain kinds of prohibited content. The consultation period ended on 19 February 2020.

QUESTION	RESPONSE
<p>Are there any laws in the jurisdiction that target the spread of fake news?</p>	<p>Yes.</p>
<p>What is the relevant legislation and when did it come into effect?</p>	<p>There is no dedicated fake news statute in the Philippines, but rather, various laws and regulations targeting the spread of fake news, including:</p> <ul style="list-style-type: none"> • Revised Penal Code, which came into effect on 1 January 1932 • Civil Code, which came into effect on 30 August 1950 • Cybercrime Prevention Act, which came into effect on 3 October 2012 • Bayanihan to Heal as One Act, which came into effect on 25 March 2020
<p>How is fake news defined in the legislation?</p>	<p>The relevant laws do not expressly define the terms fake news, false news and false information.</p>
<p>What acts does the legislation target?</p>	<ul style="list-style-type: none"> • Publishing or causing to be published as news, any false news which may endanger the public order, or cause damage to the interest or credit of the State through printing, lithography or any other means of publication (Article 154(1), Revised Penal Code) • All crimes, including Article 154 of the Revised Penal Code, committed by, through and with the use of information and communications technologies, are punishable (Section 6, Cybercrime Prevention Act) • If the fake news tend to: <ul style="list-style-type: none"> ◦ pry into the privacy of another’s residence ◦ meddle with or disturb the private life or family relations of another ◦ intriguing to cause another to be alienated from his friends ◦ vex or humiliate another on account of his religious beliefs, lowly station in life, place of birth, physical defect or other personal condition (Article 26 of the Civil Code) • Creating, perpetrating or spreading false information regarding the COVID-19 crisis on social media and other platforms, such information having no valid or beneficial effect on the population, and are clearly geared to promote chaos, panic, anarchy, fear or confusion (Section 6(f), Bayanihan to Heal as One Act)

QUESTION	RESPONSE
<p>What are the penalties for contravention?</p>	<ul style="list-style-type: none"> • Article 154, Revised Penal Code Criminal penalty of imprisonment (from one month and one day to six months) and a fine ranging from PHP 40,000 to PHP 200,000 (approximately USD 800 to USD 4,000) and civil liability • Section 6, Cybercrime Prevention Act Criminal penalty of imprisonment (from six months and one day to six years) and a fine ranging from PHP 40,000 to PHP 250,000 (approximately USD 800 to USD 5,000) and civil liability • Civil Code Damages (i.e., actual damages, moral damages, etc.) • Section 6, Bayanihan to Heal as One Act Criminal penalty of imprisonment of two months, and/or a fine ranging from PHP 10,000 to PHP 1,000,000 (approximately USD 200 to USD 20,000).
<p>Who is liable under the legislation?</p> <p>Can liability attach to the social media platforms on which users disseminate fake news?</p>	<ul style="list-style-type: none"> • Revised Penal Code/Cybercrime Prevention Act Any person who published or caused to be published false news through printing, lithography or any other means of publication, including posting in cyberspace • Civil Code Both natural and juridical persons • Bayanihan to Heal as One Act Individuals and groups creating, perpetrating or spreading false information regarding the COVID-19 crisis on social media and other platforms <p>Existing laws do not generally impose liability on social media platforms used by users to disseminate or spread fake news.</p>



PHILIPPINES

QUESTION	RESPONSE
<p>Has the legislation been invoked to combat the spread of fake news about COVID-19?</p>	<p>Yes.</p> <p>In a recent report by the Philippine National Police's Anti-Cybercrime Group (PNP-ACG), 24 suspects were arrested for spreading fake news on social media platforms, as well as 8 other suspects for spreading false information, with the PNP-ACG using as basis Article 154 of the Revised Penal Code in relation to Section 6 of the Cybercrime Prevention Act.</p> <p>Local news sites have also reported incidents, where Section 6(f) of the Bayanihan to Heal as One Act has been invoked to enforce arrests without warrant against those who allegedly spread false information on social media platforms regarding the COVID-19 pandemic.</p>

QUESTION	RESPONSE
Are there any laws in the jurisdiction that target the spread of fake news?	Yes.
What is the relevant legislation and when did it come into effect?	<p>There are various laws in Taiwan that regulate the spread of different types of fake news, including the following which specifically target the spread of fake news related to COVID-19 or diseases:</p> <ul style="list-style-type: none"> • Article 14 of the Special Act on COVID-19 Prevention, Relief and Restoration, which came into effect on 15 January 2020 • Article 63 of the Communicable Disease Control Act, which came into effect on 21 June 2019 • Paragraph 3, Article 41 of the Disaster Prevention and Protection Act, which came into effect on 24 May, 2019 • Paragraph 3, Article 27 of the Satellite Broadcasting Act, which came into effect on 5 February 1999 • Paragraph 1, Article 63 of the Social Order Maintenance Act, which came into effect on 31 July 1991
How is fake news defined in the legislation?	Rumors or untrue information
What acts does the legislation target?	The acts of dissemination of rumors or incorrect information concerning epidemic conditions of COVID-19 or other communicable diseases, disasters, etc., resulting in damage to the public or others
What are the penalties for contravention?	<ul style="list-style-type: none"> • Article 14 of the Special Act on COVID-19 Prevention, Relief and Restoration - Criminal penalties of imprisonment of up to three years, detention and/or a fine of up to NTD 3 million (approximately USD 100,000) • Article 63 of the Communicable Disease Control Act - Criminal penalties in the form of a fine of up to NTD 3 million (approximately USD 100,000) • Paragraph 3, Article 41 of the Disaster Prevention and Protection Act - Criminal penalties of imprisonment of up to three years, detention or a fine of up to NTD 1 million (approximately USD 33,333) • Paragraph 3, Article 27 of the Satellite Broadcasting Act - Administrative penalties in the form of a fine from NTD 200,000 to 2 million (approximately USD 6,666 to 66,666) and being compelled to suspend the program or advertisement or to take necessary rectification measures • Paragraph 1, Article 63 of the Social Order Maintenance Act - Administrative penalties of detention of up to three days or a fine of up to NTD 30,000 (approximately USD 1,000)

QUESTION	RESPONSE
<p>Who is liable under the legislation?</p> <p>Can liability attach to the social media platforms on which users disseminate fake news?</p>	<ul style="list-style-type: none"> • The person who disseminates the rumors or incorrect information • A satellite broadcasting business, the branch office and agent of a foreign satellite broadcasting business, and other types of channel and program supply business that violate the principle of fact verification • If social media platforms on which users disseminate fake news remove the fake news after receiving complaints in a timely manner, liability should not attach to such social media platforms.
<p>Has the legislation been invoked to combat the spread of fake news about COVID-19?</p>	<p>Yes.</p>

QUESTION	RESPONSE
Are there any laws in the jurisdiction that target the spread of fake news?	Yes.
What is the relevant legislation and when did it come into effect?	<p>There is no dedicated fake news statute in Thailand, but rather, various laws and regulations targeting the spread of fake news, including</p> <ul style="list-style-type: none"> • Computer Crime Act, which came into effect on 24 May 2017; and • Emergency Decree on Public Administration in Emergency Situation, which came into effect on 25 March 2020, specifically for fake news relating to COVID-19
How is fake news defined in the legislation?	<p>Under the Computer Crime Act, there is no specific definition of "fake news."</p> <p>Under the Emergency Decree on Public Administration in Emergency Situation, fake news is news that is untrue and may cause public fear, as well as deliberate distortion of information which causes misunderstanding and hence affects peace and order, or the good morals of people.</p>
What acts does the legislation target?	<p>The Computer Crime Act targets the provision of distorted or false data into a computer system, either wholly or partially, which causes damages to other people.</p> <p>The Emergency Decree on Public Administration in Emergency Situation prohibits the reporting, providing and sharing of false information through the media (such as social media platforms, journals, or newspapers) regarding COVID-19.</p>
What are the penalties for contravention?	<p>Penalties include criminal sanctions of imprisonment of up to 5 years and/or a fine of up to THB 100,000 (approximately USD 3,100).</p>
Who is liable under the legislation? Can liability attach to the social media platforms on which users disseminate fake news?	<p>The individual that carries out the prohibited acts is liable.</p> <p>Social media platforms through which users disseminate false data may also be liable.</p>
Has the legislation been invoked to combat the spread of fake news about COVID-19?	<p>Yes.</p> <p>It has been reported that the Thai authorities have actively taken legal proceedings against individuals who spread fake news regarding COVID-19, under the provisions of the Emergency Decree on Public Administration in Emergency Situation.</p>

ARE THERE ANY LAWS IN THE
JURISDICTION THAT TARGET THE
SPREAD OF FAKE NEWS?

NO

QUESTION	RESPONSE
<p>Are there any laws in the jurisdiction that target the spread of fake news?</p>	<p>No</p>
<p>Is the spread of fake news a concern in the jurisdiction, especially given the COVID-19 outbreak?</p>	<p>Yes.</p> <p>Spread of fake news in Japan tends to occur in the event of natural disasters, such as earthquakes and typhoons. There was a previous report on the arrest of an individual who posted fake news via social networking services, in relation to an earthquake in 2016, arrested, but the person was later released. The basis of the arrest was the existing Penal Code, specifically for obstruction of others' business.</p> <p>Fake news had likewise been spread in relation to the COVID-19 pandemic, , including through email.</p>
<p>Are there any plans or push to enact legislation to target the spread of fake news?</p>	<p>Not specifically.</p> <p>In fact, the Japanese government discussed in 2019 the possibility of creating a new law or regulation concerning fake news, but concluded that the issue should be dealt with via voluntary rules of relevant industries, not through laws or regulations.</p> <p>There are no industry guidelines on fake news to date.</p>
<p>Are there any non-legislative measures targeting the spread of fake news, such as government or independent fact-checking websites?</p>	<p>Yes, certain non-profit organizations and business associations in Japan conduct fact-checking and media literacy awareness campaigns.</p>

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