

# 摘要

自 2016 年起在世界各國造成困擾、損害、甚至影響政治局勢，而使各國政府不得不開始正視之問題—假新聞(Fake News)，以法律的角度觀察，究竟應如何因應以及存在哪些解方，才能在這個虛實難分難解、真假層出不窮的後真相時代定紛止爭，為本文最初始之研究動機。

對未知的事物感到惶恐實屬正常，遂於此議題上亟待處理之首要問題是：我們面對的敵人是誰？假新聞？錯誤新聞？錯誤資訊？不實資訊？經分析與統整後，本文將規範客體鎖定為「不實資訊(Disinformation)」，並自其身處之網際空間出發，觀察及篩選出導致不實資訊氾濫之各項因素，再透過不同的規範力量提出法律層面之解方或點出其瓶頸。

除了理論層面之分析外，本文試圖取逕自外國最新提出之立法例與因應方式，包含德國、馬來西亞、新加坡、英國與美國，藉此分析出值得我國參酌或效法之立法模式或其他規範手段。

無論是採何種立法模式，無可避免地會在法律與自律兩股力量間互相拉扯，而探究新聞內容是否不實之認定方式，終將指向新聞查證一途，本文試圖在釋字第 689 號解釋後，建構不同對象之新聞查證義務理論，並整理國內、外與事實查核相關之組織及規範。期望本文可在「打擊假新聞」之路，理出我國未來可行之方向。

關鍵字：網路不實資訊、假新聞、新聞自由、言論自由、新聞查證、網路治理、  
網際空間

# Abstract

The initial research intention of the thesis is to seek for appropriate solutions in the legal perspective to resolve disputes on “Fake News”, which have brought disturbances, damages, and even political influences since 2016 and have caught attentions from governments around the world, under the difficult post-truth periods.

It’s normal that people fear of unknown things. Therefore, the primary problem we have to deal with is the confirmation of our enemy. Which one is the enemy we have encountered? Fake news? False news? Misinformation? Disinformation? Through analysis and clarification of related terms, the thesis regards “Disinformation” as the research target. Began with the environment, cyberspace, that disinformation existed, the thesis observes and analyzes factors of its drastically spreading and points out legal solutions and difficulties by different regulating powers.

Aside from theoretical analyses, the thesis tries to take approaches from foreign legislative experiences, including Germany, Malaysia, Singapore, the UK, and the U.S., so as to find out appropriate legislative models for Taiwan.

Whatever legislative model it takes, the regulating balance inevitably struggles between legal and non-legal approaches. The way to tell truth or false from news contents ends up lying in news verification. Therefore, the thesis attempts to construct the theory of news verification for different occupations after Interpretation No. 689 of Constitutional Court, and collects organizations and self-regulations concerned with fact-checking. Hoping the thesis plays a role in pointing out the direction for Taiwan to deal with “Fighting against Fake News Issues” in the coming future.

Keywords: Online Disinformation, Fake News, Freedom of the Press, Freedom of Speech, News Verification, Internet Governance, Cyberspace.