

COUNTRYSIDE ALLIANCE BRIEFING NOTE: ONLINE SAFETY BILL

Second Reading, House of Commons

Tuesday 19 April 2022

- **Online bullying and harassment are issues of genuine concern that the Countryside Alliance has campaigned on for many years. While we appreciate that there are controversies around this Bill, if it is to be taken forward we are calling on the Government to ensure it can be the effective response to this problem that is sorely needed.**
- **We welcome the Bill's attempt to tackle online abuse, in particular through its introduction of the new offences of Harmful communications, False communications and Threatening communications and through the steps it requires social media companies to take to prevent their platforms from being used to spread hatred.**
- **We do, however, believe that the Bill shows room for improvement in terms of its internal consistency and its likely effectiveness against all aspects of the problem.**
- **The Bill must effectively tackle the issue of extremist activists posting false, critical reviews of businesses, motivated by their ideological opposition to aspects of their operations or their owners' personal choices.**
- **The Bill must allow action against those who instigate campaigns of targeted harassment against others, regardless of whether they become active participants in sending harmful, false or threatening communications themselves.**
- **There should also be further clarification as to how the Bill will tackle the issue of harassment under the cloak of anonymity.**
- **The Bill leans heavily on definitions and details of regulations that are to be given in secondary legislation. There may be a case for amending the Bill to include considerations that the Secretary of State must have regard to in drawing these up.**
- **The legislation, whatever its final form, must be enforced rigorously and without fear or favour.**

Online abuse and the countryside

- **The Countryside Alliance has campaigned for protection against online bullying and harassment over many years. When we last surveyed members and supporters on this issue shortly before the pandemic, we found that 62% of respondents reported having experienced online bullying for supporting country sports, 78% believed the problem had got worse over the past year and 89% of businesses said they had received online abuse. 49% said that abuse had caused them to change their behaviour on social media.**

- The survey drew particular attention to online threats against farmers from militant vegans and animal rights groups who disagree with their livelihoods. Livestock farmers reported that they had been branded “murderers”, “paedophiles” and “rapists” after posting pictures related to sheep and dairy farming practices on Facebook and Twitter.
- A common, insidious tactic of extreme activists is to target businesses associated with farming and country sports with false, negative reviews on services such as Tripadvisor and Google Reviews. Businesses rely on maintaining a positive image on these sites to help attract custom, so this activity can risk serious financial loss.
- In early 2019 a group of militant vegan activists set up a website – projectcalf.com – that gave a detailed map showing the locations of around 9,000 dairy farms, including instructions on how to access them and encouragement to “document” information, “protest peacefully” and “expose” the “dirty business” of farming.¹ The site is no longer live, but a linked Facebook page remains accessible.
- A similar campaign was set up by a group calling itself ‘Stop the Cull’, which targeted game farmers. Again a map was hosted online showing the locations of game farms, one of which was subsequently broken into by members of the so-called ‘Animal Liberation Front’ who vandalised equipment and stole by releasing a claimed 9,000 breeding pheasants. A video of this transparent criminality remains live on Facebook.²
- Another tactic has been to source leaked data stolen from large companies during security breaches, comb it for the names of people involved with activities such as hunting and badger culls, and posting and sharing the results online, including over social media. In 2016 the ‘Stop the Cull’ group threatened to do this in relation to farmers in south Devon³, yet its Facebook page – which appears to be entirely devoted to promoting criminal activity – remains active to this day⁴.
- Marking the Second Reading of the Bill we are repeating our survey and soliciting individuals’ stories of online bullying and harassment that they have suffered. We will make this new evidence available as the Bill progresses through its future parliamentary stages.
- We also recently surveyed our supporters in connection with the EFRA Committee’s inquiry into rural mental health. 30% of respondents reported that they, or people they know, have suffered a negative mental health impact as a result of bullying, including online bullying, prompted by participation in or support for activities such as hunting and shooting.
- Comments by respondents to our survey included:
 - *“Many friends and family have been subjected to offensive comments online or in person by people who don’t understand what we do. My wife in particular has had to block people from social media to prevent retaliation. We’ve also had to increase security at our house following the leak of our personal information from Guntrader. I am also unable to speak about my involvement in country sports and work and have to keep my personal life and social media accounts totally separate from anything to do with work.”*

¹ The Argus, [09.02.19](#)

² Facebook, Stop the Cull, [ALF release 9,000 pheasants from game farm](#)

³ The Guardian, [22.03.16](#)

⁴ Facebook, [Stop the Cull](#)

- *“My Facebook account was once targeted by anti-hunt supporters, following a comment I put on a very obviously fake photo of a fox that had apparently been murdered by the hunt. When in fact you could clearly see it had been hit by a vehicle on a road. I merely stated this and I started receiving abusive and threatening messages. I blocked all and removed the supposed friend responsible. But for a long time it made my anxiety and panic attacks significantly worse, as my ex friend knew my address.”*
- *“There needs to be far more action by the big tech companies to tackle the abuse online. I personally have reported hundreds of abusive comments with no action taken. As well as reporting the various animal extremist pages that are raising money to commit hundreds of thousands of pounds worth of criminal damage, again with no action taken from either the social media sites or PayPal, etc.”*
- Nobody should have to find themselves the subject of abuse, but the isolation and social exclusion that so often accompanies a rural lifestyle can make it all the harder to deal with. Farmers and other rural workers are already at an elevated risk of depression and suicide. Ideologically-motivated online bullying and harassment represent an especially unwelcome extra pressure.

Bill analysis

- The Bill targets two categories of social media platforms (‘user-to-user services’) and search engines, with differing provisions applying to each category. It is not entirely clear how the two social media platform categories are distinguished from one another – the Bill is essentially circular as to this point, with clauses referring to one another – but the distinction is to be set out in secondary legislation. The accompanying press release explains that Category 1 services are intended to be *“the largest online platforms with the widest reach including the most popular social media platforms”*,⁵ so Category 2B will presumably be reserved for smaller services which will face less stringent requirements.
- The Bill imposes various duties on platforms with respect to **illegal content**. All platforms (regardless of size) will be subject to the following requirements:
 - To carry out and keep updated a risk assessment regarding the risk of users encountering illegal content and steps taken to address them.
 - To take reasonable steps to mitigate and manage these risks, preventing users from encountering illegal content.
 - To minimise the period during which illegal content that has been posted is available, and swiftly take down such content when it is reported.
 - To include these provisions in the terms of service.
 - To use a range of measures to fulfil these requirements based on what is proportionate: these include appropriate design and terms of use, user blocking, content moderation and removal, and user support.
- The Bill describes the types of illegal content that platforms will be obliged to consider in relation to these requirements as ‘priority offences’. Per Schedule 7, this does include content that would give rise to an offence under various sections of the Public Order Act 1986 including section 4 (fear or provocation of violence), section 4A (intentional

⁵ DCMS PR, [17.03.22](#)

harassment, alarm or distress) and section 5 (harassment, alarm or distress), or under the Protection from Harassment Act 1997.

- Category 1 (larger) platforms will face additional new duties with regard to protecting users from ‘**legal but harmful**’ content, the definition of which will be given in secondary legislation. These duties will include:
 - Assessing the risk of adults being exposed to content defined as legal but harmful.
 - Setting out the risk assessment and responses in the terms of service.
 - Setting out rules about taking down, restricting promotion of or access to harmful content, and making these rules clear, accessible and consistently applied.
 - Empowering users through means such as restricting their own access to specific types of harmful content, activating content warnings and filtering out content from users whose identity has not been verified.
 - Establishing content reporting and complaints processes.
 - Keeping records relating to the performance of duties under the Act.
- More specifically, the Bill seeks to regulate what it refers to as “*priority content that is harmful to adults*”. Clause 54 defines this as content of a description designated as such by the Secretary of State in secondary legislation. The Bill does not define such content itself.
- Category 1 services will also be required to offer **identity verification** to all adult users, with Ofcom instructed to develop guidance. Users will not be required by law to undergo identity verification (although individual services could impose their own requirements), but this provision combined with the user empowerment duty may mean that over time, increasing numbers of identity verified users could choose to interact exclusively with one another on a given platform, or in general.
- If, however, part of the intended response by victims of online abuse is that they should restrict their interactions to other identity verified users, this does not address the risk of reputational damage resulting from harmful communications being viewed by third parties. Filtering non-verified users’ posts from view may indeed hamper content reporting and removal, since having rendered themselves unable to see the posts, victims would be reliant on reporting by other users. The Bill appears to focus on harms caused by content to the people who see it, whereas the existing law of defamation recognises that harm is often caused primarily by content being encountered by others.
- The Bill also includes a range of provisions that would mitigate against removing or restricting content. These include requiring Category 1 platforms to determine whether the content is “*of democratic importance*” or produced by a UK-based professional journalist, and requiring all platforms to take account of the importance of free expression and privacy. It is less clear how companies are expected to arbitrate between these interests and those of preventing harm, where they come into conflict; it will likely be for Ofcom to develop appropriate guidance.
- **Search engines** (described in the Bill as ‘Category 2A services’), in general terms, face only duties relating to illegal content and content harmful to children. There are no corresponding provisions relating to content that is legal but harmful to adults; therefore search engines will not be required to adjudicate content to the same extent as social media platforms. The same applies to the reporting mechanisms that are being required: these will not have to include reporting of content defined as legal but harmful to adults.

- That said, the Bill does specify that the provisions relating to user-to-user services will apply to any user-to-user functionality within services that are otherwise focused elsewhere. For instance, while Google is primarily a search engine, its **Reviews** product (which allows users to leave reviews of businesses that are linked to their location in the Maps product) would fall within the scope of the ‘user-to-user services’ provisions. The same would apply to dedicated customer reviews platforms such as Tripadvisor or Trustpilot, but not to sites dedicated to carrying professionally written product reviews.
- Clause 49 exempts from regulation “*Comments and reviews on provider content*” (6), but per (7) this exemption only applies to comments on, or reviews of, content that the original provider is supplying. For instance, if a firm invites visitors to review its own products, those reviews would be exempt from regulation. These clauses appear to have no bearing on services that exist to facilitate user reviews of third-party products and services.
- The Bill repeals the Malicious Communications Act 1988 and substitutes modernised provisions. Part 10 creates new offences of:
 - **Harmful communications**, defined as presenting “*a real and substantial risk that it would cause harm to a likely audience*” consisting of people who are likely to encounter the message.
 - **False communications**, which employs a similar harm element but also includes the property that the person sending the message knew that its content was false.
 - **Threatening communications**, which convey a threat of “*death or serious harm*” and where the sender either intended or was reckless as to whether the recipient would fear that the threat would be carried out.
- In the case of the Threatening communications offence, the definition of ‘serious harm’ includes serious injury, sexual offences and serious financial loss. There is a defence to a charge based on threat of serious financial loss to show that the threat related to a reasonable demand, and was a proper means of reinforcing it, but absent these factors an offence could be found to have been committed.
- Curiously, however, these new offences are not listed in Schedule 7 as priority offences that social media platforms must act to prevent, which may present an issue of internal consistency within the Bill.
- Section 153, which gives interpretations relating to the new offences, sets out that a person can be held to have sent a message if the person “*causes a communication (including an oral communication) to be sent, transmitted or published by electronic means*”. It is possible that this could be held to include those who incite others to send harmful, false or threatening communications, for instance by instigating a harassment campaign without actually participating in it, but the Bill may benefit from some clarification on this point.

Countryside Alliance position

- Online bullying and harassment are issues of genuine concern that the Countryside Alliance has campaigned on for many years. While we appreciate that there are controversies around this Bill, if it is to be taken forward we are calling on the Government to ensure it can be the effective response needed.

- The Bill leans heavily on definitions and details of regulations that are to be given in secondary legislation. There may be a case for amending the Bill to include considerations that the Secretary of State must have regard to in drawing these up.
- A key consideration with regard to content that does not rise to the level of an offence will be the definition of “*priority content that is harmful to adults*”, which the Bill will require the largest user-to-user platforms to act against in addition to illegal content. The Bill offers no such definition and leaves this to the Secretary of State in secondary legislation.
- The Bill must effectively tackle the issue of extremist activists posting false, defamatory reviews of businesses, motivated by their ideological opposition to aspects of their operations or their owners’ personal choices. Care must be taken to avoid stifling legitimate criticism but false messages, which are likely to fall within the scope of the new ‘False communications’ offence, need to be defined as priority offences.
- This might be achieved by an amendment to Schedule 7 of the Bill by including the new offences of Harmful communications, False communications and Threatening communications, listed in part 10, as priority offences for social media platforms to guard users against.
- The Bill must allow action against those who instigate campaigns of targeted harassment against others, regardless of whether or not they become active participants in sending harmful, false or threatening communications themselves. It may benefit from amendment to provide further clarification on this point.
- There should also be further clarification as to how the Bill will tackle the issue of harassment under the cloak of anonymity. Its provisions on making identity verification available to all users of large platforms, and allowing users to filter out content from unverified accounts, may be contributory but we are yet to be convinced they amount to a complete solution, particularly to reputational harms experienced because of content shared by anonymous accounts to third parties.
- Finally the legislation, whatever its final form, must be enforced rigorously and without fear or favour. A dairy farmer being targeted with death threats by vegan extremists may not enjoy fame, fortune or a high profile in the media, but that behaviour is also illegal and needs to be pursued just as vigorously.

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