

## COUNTRYSIDE ALLIANCE BRIEFING NOTE: ONLINE SAFETY BILL

Remaining Stages (Day 2), House of Commons

Monday 05 December 2022

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- In this briefing we summarise the primary improvements the Countryside Alliance believes could be made to this Bill so that it can better address the issue of activist-motivated online bullying and harassment, and thereby better safeguard the mental health and general wellbeing of potential victims.
- The False Communications offence should be widened to include, first, financial harm and second, harm to the person or organisation (including a business) to whom or to which the information in it related, in order to address the issue of ideologically motivated false reviews of businesses and ‘false flag’ efforts to discredit organisations or individuals.
- The interpretation of the communications offences should be broadened to include the incitement of others, perhaps using language introduced in Part 2 of the Serious Crime Act 2007 to define the inchoate offence of incitement.
- Schedule 4, which defines OFCOM’s objectives in setting out Codes of Practice for Regulated User-to-User Services, should be expended to require the regulator to consider the protection of individuals from communications offences committed by anonymous users.
- Schedule 7 of the Bill should be expanded to include the new offences of False Communications and Threatening Communications, listed in part 10, as priority offences for social media platforms to guard users against.

### False communications

- The Bill currently includes, in clause 152, a new offence of False Communications, which we welcome.
- False Communications are defined as a message sent without reasonable excuse that *“conveys information that the [sender] knows to be false”* where *“at the time of sending it, the [sender] intended the message, or the information in it, to cause non-trivial psychological or physical harm to a likely audience.”*
- A common and 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 result in serious financial loss.
- These messages are false because they are not genuine representations of the posters’ opinions about the products and services the businesses supply. Activist posters often have no direct knowledge of these issues because they have never been a customer,

having simply heard about the business from others and disagreeing with its association with activities they oppose.

- Such behaviour should be prosecutable under the False communications offence, but the Bill currently limits offending messages to ones that can be shown to “*cause non-trivial psychological or physical harm to a likely audience*”.
- The definition should therefore be widened to include, first, financial harm and second, harm to the person or organisation, including a business, to whom or which the information in it related.
- These changes would also bring under the offence ‘black propaganda’ or ‘false flag’ efforts where disagreeable messages are sent under false branding, with the intention of discrediting the organisation that is purported to have sent it.
- In both cases, the organisation on which harm is being inflicted does not necessarily form part of the ‘likely audience’ for the message – indeed the culprit is likely to prefer that it did not find out, so may take steps to avoid letting it become part of the audience. The intention is often to harm a party by spreading false information to others, not necessarily to harm the intended direct recipient.

### **Communications offences**

- The two new communications offences introduced in the Bill – the False Communications offence as outlined above, and the offence of Threatening Communications (clause 153) – target (as defined in clause 154) people who send or cause to be sent an offending communication.
- Recent Government amendments (primarily no. 239 with further consequential amendments) would remove from the Bill a third communications offence, that of Harmful communications (clause 151 in the current Bill). While we appreciate the sensitivity of issues touching upon freedom of speech, this offence would have targeted abusive communications that do not involve false information or threats. Its removal dilutes the Bill’s effectiveness in tackling this specific category of online harm and the detrimental effects on victims’ mental health.
- We are also concerned that the surviving offences are insufficiently broad to include instigators and promoters of online pile-ons, ‘Twitterstorms’, etc. which can involve inciting others to make threats without having done so directly.
- It is also unclear that encouraging others to spread false information by posting false reviews of businesses for ideologically motivated reasons would rise to an offence under the current Bill. We argue it should. An offence of incitement applying to clause 152 would address this issue.
- Part 2 of the Serious Crime Act 2007 amended the law on inchoate offences. The language it used to define offences of incitement was “*causes or does an act capable of encouraging or assisting*” an offence.
- We would suggest that similar language be brought into this Bill so that incitement to online abuse might also be included in the offences.

## **Abuse by anonymous accounts**

- We are keen to see further clarification as to how the Bill will tackle the issue of anonymous harassment. Its provisions on making identity verification available to all users of large platforms, and allowing users to filter out content from unverified accounts, may contribute to tackling this problem but we are yet to be convinced they amount to a complete solution.
- Expecting users to restrict themselves to interactions with verified accounts would not address the issue of reputational harm, because content could still be shared by anonymous accounts to third parties. For targets of such attacks, simply restricting their own viewing to content from verified accounts may make the problem worse as it would be less likely that they would see the material and be able to take action against it.
- It is at this stage unclear how the Bill might be amended satisfactorily to address this issue. One solution may be to add to the objectives for OFCOM Codes of Practice for Regulated User-to-User services, as set out in Schedule 4, the protection of users from harms arising from communications offences committed by unverified or anonymous users.

## **Priority offences**

- Schedule 7 lists a set of 'priority offences' that social media platforms must act to prevent. We are, however, unsure as to why this list does not include the new communications offences created elsewhere in the Bill (in part 10, clauses 152-153, as outlined above).
- These are offences that social media and other user-to-user platforms are particularly well-placed to tackle since they are committed primarily on those platforms.
- Although the Bill does grant the Secretary of State the power to designate other offences as priority offences in Schedule 7, and she may indeed intend to do so regarding these offences after the Bill has been passed, we believe it would be an important point of clarification for these offences to be included within the definition from the outset.
- We would therefore suggest that Schedule 7 of the Bill be expanded to include the new offences of False Communications and Threatening Communications, listed in part 10, as priority offences for social media platforms to guard users against.

## **For more information please contact:**

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