

**COUNTRYSIDE ALLIANCE BRIEFING NOTE: ONLINE SAFETY BILL**

**Committee of the Whole House, House of Lords**

**From Wednesday 19 April 2023**

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- This briefing summarises the primary improvements to this Bill that the Countryside Alliance is supporting to allow it better to address the issue of activist-motivated online bullying and harassment, and thereby better safeguard the mental health and general wellbeing of potential victims. These amendments have been tabled in the name of Baroness Buscombe, Lord Garnier and others.<sup>1</sup>
- The False Communications offence should be widened to include, first, financial harm (Amdt 266) and second, harm to the person or organisation (including a business) to whom or to which the information in it related (Amdt 267), 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 offending behaviour by others, the suggestion being to use the language introduced in Part 2 of the Serious Crime Act 2007 to define the inchoate offence of incitement. (Amdt 268)
- 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. (Amdt 106)
- 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. (Amdt 137)

**Schedule 4 – Codes of Practice under Section 36: Principles, objectives, content (Anonymous abuse)**

**BARONESS BUSCOMBE  
LORD GARNIER**

**Amendment 106**

Page 195, line 24, at end insert—

“(x) (in the case of a Category 1 service) users are protected from harm arising from offences under section 160 (false communications) or section 162 (threatening communications) committed by unverified or anonymous users.”

***Member’s explanatory statement***

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<sup>1</sup> Online Safety Bill, [Amendments to be moved in the House of Lords](#), 11.04.23

*This amendment would set the protection of individuals from communications offences committed by anonymous users as an additional objective for OFCOM Codes of Practice for regulated user-to-user services.*

### **Countryside Alliance comment**

- 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.
- The amendment suggested above adds 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. However, whether it is sufficient to address this issue fully is not entirely clear.

### **Schedule 7 – Priority offences (Inclusion of communications offences)**

**BARONESS BUSCOMBE  
LORD GARNIER**

#### **Amendment 137**

Page 205, line 36, at end insert—

“Communications offences

32A An offence under any of the following provisions of the Online Safety Act 2023—

(a) section 160 (false communications);

(b) section 162 (threatening communications).”

#### ***Member’s explanatory statement***

*This amendment would include the communications offences introduced in the Bill, and communications giving rise to them, within the definitions of “Relevant offences” and “Priority illegal content” for the purposes of Sections 53 (4) and (7), and otherwise.*

### **Countryside Alliance comment**

- 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.

- This amendment would therefore expand Schedule 7 of the Bill 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.

## **Clause 160 – False Communications (Fake reviews)**

**BARONESS BUSCOMBE  
LORD GARNIER**

### **Amendment 266**

Page 138, line 12, after “psychological” insert “, financial”

#### ***Member’s explanatory statement***

*This amendment, along with the other amendment to Clause 160 in the name of Baroness Buscombe, would widen the scope of the offence to include financial harm and harm to the subject of the false message arising from its communication to third parties.*

### **Amendment 267**

Page 138, line 13, after “audience” insert “or to the person or organisation to whom or which the information in it relates”

#### ***Member’s explanatory statement***

*This amendment, along with the other amendment to Clause 160 in the name of Baroness Buscombe, would widen the scope of the offence to include financial harm and harm to the subject of the false message arising from its communication to third parties.*

### **Countryside Alliance comment**

- The Bill currently includes, in clause 160, a new offence of False Communications, which we welcome.
- False Communications are currently 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*”.
- These amendments would therefore widen the scope of the Bill 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 the target of the harm did not find out, so may take steps to avoid the target becoming part of the audience. The intention is to harm a third party by spreading false information to others, not necessarily to harm the intended audience.

### **Clause 163 – Communications offences (Inchoate offences)**

**BARONESS BUSCOMBE  
LORD GARNIER**

#### **Amendment 268**

Page 140, line 11, after “causes” insert “or does an act capable of encouraging or assisting”

#### ***Member’s explanatory statement***

*This amendment would bring within the scope of the communications offences the instigation of such offences by others.*

#### **Countryside Alliance comment**

- The two new communications offences introduced in the Bill – the False Communications offence as outlined above, and the offence of Threatening Communications (clause 162) – target (as defined in clause 163) people who send or cause to be sent an offending communication.
- We are concerned that these offences are drawn insufficiently broadly 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 (for example, by posting false reviews of businesses for ideologically motivated reasons) would amount to an offence under the Bill as currently drafted. We argue it should. An offence of incitement applying to clause 160 would address this issue.
- Part 2 of the Serious Crime Act 2007 amended the law on inchoate offences. The language it used to define the offence of incitement was “*causes or does an act capable of encouraging or assisting*” an offence.
- This amendment would therefore bring similar language into this Bill so that incitement to online abuse might also be included in the offences.

**For more information please contact:**

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