

NewsBrands Ireland and Local Ireland

Opening Statement to the Oireachtas Joint Committee on Justice on the General Scheme of the Defamation (Amendment) Bill

Passing the Defamation (Amendment) Bill is crucial to the future of indigenous media in Ireland. Reform is long overdue, and without it, Irish journalism will continue to labour under one of the most repressive and financially ruinous defamation laws in Europe. They currently do so when those laws do not, in effect, apply to internet service providers and social media companies. This facilitates the spread of fake news, conspiracy theories and a coarsening of public discourse.

It is vital that the reforms, now prioritised by Government, be implemented as quickly as possible and, certainly, within the legislative timeframe of the current Dáil. We believe that the Joint Committee will play an important role in this.

Of the issues raised in its submissions to this Committee, NewsBrands would stress that:

1. Juries in defamation cases should be abolished without further delay. They are unpredictable, time consuming and costly. Civil jury decisions lack transparency. Jury awards, giving damages greatly in excess of those available in severe personal injury actions, have served to bring the legal system into disrepute. NewsBrands have been calling for this change for over forty years.
2. A serious harm test should be introduced in all defamation cases. Like retail outlets, the Irish media faces, on an almost daily basis, unwarranted and exaggerated claims for defamation. The costs of defending these claims are significant and are often unrecoverable even when the defence succeeds. A serious harm test would act as a deterrent to vexatious claims and alleviate the risks to Ireland's reputation associated with 'libel tourism'.
3. The proposals to restrict Strategic Lawsuits Against Public Participation ('SLAPPs') should not be allowed to delay the introduction of simpler, but no less important,

reforms. While measures to restrict SLAPPs are welcome, many of the problems associated with them would be alleviated by the introduction of a serious harm test. It would be better to allow the European Commission to finish its deliberations and to introduce an EU wide anti-SLAPP directive.

The pursuit of perfection should not lead to the loss of the good. If there are aspects of the Bill that this Committee concludes would require more careful consideration, other proposed reforms should nonetheless be introduced. The most important and effective changes - the abolition of juries and the introduction of a serious harm test in all defamation cases - can easily be enacted by way of single section legislative amendments, using tried and tested wordings.

NewsBrands urges the Joint Committee to speed the passage of the Bill because, without reform, the law of defamation will continue to undermine a free and independent press, which, like the Oireachtas, is one of the pillars of a democratic society.