

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM IOMPAR AGUS CUMARSÁID

### JOINT COMMITTEE ON TRANSPORT AND COMMUNICATIONS

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*Dé Céadaoin, 06 Márta 2013*

*Wednesday, 06 March 2013*

The Joint Committee met at 9.30 a.m.

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#### MEMBERS PRESENT:

Deputy Michael Colreavy,	Senator Sean D. Barrett,
Deputy Timmy Dooley,	Senator Terry Brennan,
Deputy Dessie Ellis,	Senator Eamonn Coghlan,
Deputy Tom Fleming,	Senator Paschal Mooney,
Deputy Noel Harrington,	Senator Ned O'Sullivan.
Deputy Seán Kenny,	
Deputy Michael Moynihan,	
Deputy Patrick O'Donovan,	
Deputy John O'Mahony,	
Deputy Ann Phelan,	
Deputy Brian Walsh,	

In attendance: Deputy Mary Mitchell O'Connor and Senators Fidelma Healy Eames and Fiach Mac Conghail.

DEPUTY TOM HAYES IN THE CHAIR.

*The joint committee met in private session until 9.50 a.m.*

### **Social Media: Discussion**

**Chairman:** The Oireachtas Joint Committee on Transport and Communications this morning commences its hearings on challenges facing individuals, families and communities from the rise of social media, including the challenges posed by cyberbullying and online harassment. We welcome those viewing at home on UPC channel 207, which is available in over 300,000 homes across the country.

Over the next four meetings, we plan to explore how the irresponsible use of social media channels might be curbed. We are also inviting members of the public and interested groups across the country to have their say and feed into the process. They can do so by going to our website at *oireachtas.ie* and we thank all those individuals and groups who have taken the time to make a contribution so far.

In commencing our public discussions on this matter, I emphasise that the committee's consideration of this area is not about politicians. Rather we want to explore how the rights of ordinary citizens can be protected on social media outlets. There has been increasing public concern about the nature of some social media commentary. These hearings are about protecting the citizens we serve, and ensuring that individual rights are maintained and vindicated across social media channels.

I thank the Minister for Communications, Energy and Natural Resources, Deputy Rabbitte, for his presence here today and look forward to hearing his perspective as we commence our discussions. This will be followed by a presentation by officials from the Office for Internet Safety. This office plays a key role in co-ordinating the State's approach to Internet safety. The social media companies will also assist us in producing an outcome that is in the public interest. We look forward to welcoming representatives from Twitter and Facebook at tomorrow's hearings. Next week we will hear from representatives of the National Anti-Bullying Coalition, who will inform us on the issue of cyberbullying.

We start this consultation with open minds. If we get this right, we will have endeavoured to protect individuals and safeguard the potential of social media from those who seek to subvert it. There is no doubt that social media have immense potential for public good and civic engagement and the committee simply wants to ensure that they do so without impacting adversely on people's individual rights. Informed by these public hearings, along with the submissions received from the public, we will prepare a report with practical recommendations to be considered by Government.

On behalf of the committee I welcome the Minister, Deputy Rabbitte, and his officials. By virtue of section 17(2)(l) of the Defamation Act 2009, you are protected by absolute privilege in respect of the evidence you are to give this committee. If you are directed by the committee to cease giving evidence in relation to a particular matter and you continue to do so, you are entitled thereafter only to a qualified privilege in respect of your evidence. You are directed that only evidence connected with the subject matter of these proceedings is to be given and

you are asked to respect the parliamentary practice to the effect that, where possible, you should not criticise or make charges against any persons or entity by name or in such a way as to make him, her or it identifiable. I also wish to advise that the opening statements you have submitted to the committee may be published on the committee website after this meeting. Members are reminded of a long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House, or any official by name in such a way as to make him or her identifiable.

I invite the Minister to make his opening statement.

**Minister for Communications, Energy and Natural Resources (Deputy Pat Rabbitte):**

I thank the Chairman and the members of the committee for inviting me to appear before them. In so far as I know this is the first committee of the House that has sought to address this relatively new phenomenon. My colleagues in the Department and I will be very interested to see the conclusions of the committee's deliberations. We will also be interested to hear first-hand from the other stakeholders who will also appear before the committee. It is not a road we have been down before and we are looking forward to hearing what they have to say in response to questioning from Members of the Oireachtas.

The arrival of social media has presented us with a complex, exciting and multifaceted sector, which holds within it the potential to fundamentally change the world we inhabit. However, it also brings its own challenges, as we all know. In the simplest possible terms, social media are online platforms that allow people create, share and exchange information, and to comment among themselves in virtual communities and networks. Moreover, they have been around, in one form or other, for more than 20 years. In the past five or six years, however, the technology has self-evidently reached critical mass and emerged as a mainstream phenomenon. Due to the fact that it is so new and dynamic, it is far too soon to tell what the actual implications will be but it is already a very safe bet that this revolution, and this is what it is, will have consequences for every human being on the planet. Given the wide range of devices and apps by which we can access social media, it is sometimes easy to forget that what has enabled this revolution is widespread and affordable Internet access. This is fitting because after all, the ancestor of the Internet was designed and built to facilitate research and development by scientists in distant facilities – to allow them to share information and experiences.

From its genesis, the Internet was used to create online virtual communities. This ability to bring people together at distance and to facilitate collaboration, learning, debate and discussion is precisely that which makes social media so compelling today, so useful and such a positive experience for so many people. Social media are used for everything now. Farmers use them to discuss crop husbandry and prices, software developers discuss code and fans discuss film, books or the match last night. Social media are everywhere, thanks to Internet-connected mobile devices. They are also a massively powerful educational tool – providing a recursive element to the previously “one way” relationship between information providers and recipients. At the highest level, social media have the power to be profoundly transformative – fundamentally disruptive to existing patterns of debate, existing political discourse and existing media. Democracy has always evolved and changed along with technology. These technologies have provided citizens with a new set of tools to engage with politics and *vice versa*. This is something to be welcomed and embraced, not feared.

However, the novelty and power of this technology brings challenges as well - right across the legal, social and personal spectrum. The same power that allows information to be shared in a free and open way also confers the ability to abuse, bully and harass others, sometimes under

the cloak of anonymity. Equally, some people have yet to fully appreciate that public messages on social media have the same legal character as if they were published in a newspaper. Defamation and harassment laws apply online in just the same way as they do offline. Also, there have been experiences all over the world where people have been insulted and bullied using this media and, as we know, we have had extremely unfortunate incidents here along similar lines.

Some of these things have the character of growing pains. As soon as practice evolves and behavioural norms online become embedded, either through education or experience, some of this behaviour will mitigate but there will always be some who are willing to use online media to bully, harass, or demean others. Government needs to be cognisant of the damage that these people can do and be prepared to react in a proportionate manner. Critically, social media or the Internet did not lead to the invention of bullying or harassment. These behaviours existed long before that. However, the nature of the Internet, or at least of many of the sites involved, is such that some aggressors can either hide behind anonymity or are simply braver or less caring about the effects of what they might say from the comfort and safety of their own home. For children, these concerns are particularly critical. The web is their future and social media are their media in a way that older generations will probably never be able to fully comprehend. We must ensure that children are free to make the most positive use possible of the web and that they can take full advantage of the opportunities it offers as an educational and social tool. This will not happen if confidence in the web as a safe space for children is lost in the wider community.

The relative novelty of this area and the pervasive and broad nature of its implications pose significant challenges for governments the world over in terms of coming to terms with it. To date, these media generally have not been subject to a formal regulatory regime akin to that used to regulate traditional radio and television broadcast media, either in Ireland or in other jurisdictions. There is a range of reasons for this even before one considers the challenge of keeping up with the rapidly evolving technologies involved.

The first main reason governance in this area is so complex lies with the fact Internet governance is, and indeed has to be, conducted on a multi-jurisdictional basis. There is very little that countries can do on their own given the international basis of the web. Moreover, the system is largely operated on a multi-stakeholder model, with governments as participants rather than controlling or ordering the process.

The second complicating factor around the governance of social media is the fact that they are, undeniably, media. This is not just due to the activity of traditional media players in using social media or even online media players. Social media themselves are now important media players even when there are no journalists or payment in the picture. They are an integral part of a large and diverse media ecosystem. As such, social media are treated in much the same way as any media, with due consideration given to Article 10 of the European Convention on Human Rights in any measure that might impact on them.

The third main reason relating to governance is the breadth of the implications. Many different areas of government are affected by this phenomenon and have an involvement but no single Department or State agency can steer or manage it. As Minister for Communications, Energy and Natural Resources, I have policy responsibility for providing a supportive legislative and regulatory environment to facilitate the development of high-quality communications infrastructure and services. However, I do not have sole responsibility for addressing how that infrastructure is used. Responsibility for measures to deal with harassment and abuse online sits with the Minister for Justice and Equality, in much the same way as his Department deals with the same issues in the offline world. To that end, his Department has established an execu-

tive agency, the office of Internet safety, that deals explicitly with online safety.

There are solutions to these issues, however. In the first instance, children, parents and teachers all require support in terms of understanding the nature of the threats that can sometimes appear online. The Department of Education and Skills has already done some very positive work in this regard, including the publication of a new action plan on bullying that includes some concrete measures on cyberbullying. The office of Internet safety, which will present before the committee shortly, also has a number of measures in place to this end, which I will leave to it to explain. Non-Government players also have a role – I note particularly the work of the National Association of Principals and Deputy Principals in this area.

There is also a set of robust legal measures in place for defamation introduced as recently as 2009, which covers online comment. Similarly, section 10 of the Non-Fatal Offences against the Person Act 1997 deals with harassment. However, while this Act deals with direct communications with someone, it does not deal with communication about someone and at present is apparently being interpreted in a very narrow sense by the courts. We have existing mechanisms to deal with the abuse of the postal or telephone systems including the Communications Regulation (Amendment) Act 2007 which introduced measures dealing with the use of the telephone system to send messages which are grossly offensive or indecent, obscene or menacing or for the purpose of causing annoyance, inconvenience or needless anxiety to another person. It appears, however, that there may be a gap in the legislation in that electronic communications infrastructure is not covered by the measures. As such, there is no specific mechanism available to gardaí or the courts to deal with the type of difficulties we have seen.

My Department is considering ways to address any issues. It is not an easy task. There is a delicate balance to be struck between ensuring the constitutional rights of the individual to freedom of speech and access to information are maintained while introducing measures that can deal with abuse in a timely and effective manner. Determining an appropriate threshold for offences to ensure that a slew of vexatious or frivolous complaints do not arise is a challenge. We must be aware of these difficulties and ensure that questions of intent, credibility of threat and degree of menace receive due weight. The experience in other jurisdictions has been that this balance is not easy to strike and we fully intend to give any proposed measures full consideration before implementing them.

I am convinced that it is possible to ensure that people enjoy the full benefits offered by social media in their public and private lives while being protected against harassment and bullying if we remain open to appropriate and sensitive interventions. Interventions must tread the infinitesimally fine line between protecting individuals and ensuring that free speech and free and open debate are preserved. It will be difficult, make no mistake, but it is a balance we must strike again and again in light of new technologies. I look forward to hearing the outcome of the rest of the committee's discussions and will consider any recommendations it makes on the subject. While members will be wary of making sweeping recommendations given the complexity and importance of the area, I am sure they will engage constructively and sensitively with the issues involved. I wish the committee well in its work.

**Chairman:** I thank the Minister for a detailed outline of the Department's views. Members questions will proceed in the usual way.

**Deputy Michael Moynihan:** I welcome the Minister and his officials to the committee. The Minister outlined in detail the problem and the complexities of arriving at a solution to it. There are a number of issues to consider. The Minister acknowledges that there appears to be

a gap in the legislation. In the first instance, it is an international issue. Are discussions taking place at forums such as the United Nations? One must acknowledge the success of the Internet and the benefits it brings to individuals and society, but its abuse has disastrous consequences for young and old. We must examine how to put in place a legal framework for its safe use.

Certain issues emerge from the Minister's statement and comments which have been made on the issue over the last while. Comments posted on whatever online forum are subject to the same legal regime as if they were made in broadcast or print media. Many people using online systems do not believe that to be the case. They feel they can make comments of any description and have no responsibility for the consequences. That is a good place to start. The Minister has set out the Department's position and the committee is endeavouring to come up with recommendations from the next few meetings to see if we can move this difficult issue forward. What is happening at international level and is it too early to indicate the form of legislation the Department or Departments are working on or envisage? As the Minister rightly acknowledges, there may be a legislative gap.

**Deputy Pat Rabbitte:** Deputy Moynihan is probably correct to say that some people have the impression that the normal law of the land does not apply online and a minority behaves recklessly without any regard to the hurt they inflict. The truth is that defamation law and the criminal law relating to harassment apply online. In the latter case, the Garda has advised my Department that the interpretation by the courts of the law on harassment is very narrow. It may be worth the committee's time to probe whether it is feasible to refurbish the law in that particular regard. The Defamation Act 2009 applies to online comments as it does to comment offline. If defamatory content is posted outside the jurisdiction, redress poses a significant challenge to the average citizen. There is no point in brushing over that.

The answer to Deputy Moynihan's second question is "Yes". These issues have been discussed at the Council of Europe and to a lesser extent at European Union level. It has come to be discussed recently in the EU but has not traditionally been a manifest competence of the Union. The discussion has gone on more at the Council of Europe which has made recommendations and reached conclusions on safer and better Internet use, especially for children. The focus has been on children and the Department of Education and Skills has recently published guidelines on the area. If the Deputy is asking if I think it would be possible to legislate on an international basis, while I look forward to the committee's decision and the expert evidence, it is extremely difficult to do that. It is not feasible. Insofar as we can examine our domestic law for deficiencies, we are committed to doing so.

**Deputy John O'Mahony:** I thank the Minister for his presentation and wish him well in grappling with the complex issues he has outlined. The Minister mentioned the Defamation Act and the existing legislation whereby people can defend themselves. The difficulty is that it seems to be easier to bully online. It is easier to hide behind its anonymous nature and to isolate people. In the case of schoolchildren or young people bullying in the old traditional way, at least finished at 4 p.m. It is impossible to contain online bullying. It is easier to do and more people are suffering silently. The Minister has pointed that out and the complexity it entails. The big issue is to deal with the anonymity. What are the Minister's views on that? Is it possible to deal with it? If so, that would solve many of the issues. Some of the stuff that appears online would never appear in print. We often complain that the print media regulates itself and say that some of the stuff that appears in print should be restricted, but there is no comparison between what appears in print and what appears online. Is the Minister happy with the regulations that compel companies to remove material?

**Deputy Pat Rabbitte:** Is the Deputy asking am I happy with the arrangements to remove offensive material?

**Deputy John O'Mahony:** Yes.

**Deputy Pat Rabbitte:** The committee needs to probe this with the companies that come before it because I have difficulties with the take-down policy of some companies. These are reputable companies - major corporations. For example, Facebook alone has 1 billion users. Good corporate citizenship ought to mean that they should be prepared, in their host countries, to enter into sensible protocols about, for example, their take-down policy. Some colleagues have told me about a particular case or issue where it was difficult to find anyone in certain companies who would admit to having responsibility for this. What is offensive can be in the eye of the beholder but there are many examples where there is no disagreement between the company and the complainant. In those circumstances there ought to be identifiable access whereby the complainant can have his or her complaint assessed and where the company should act speedily. It would be very interesting to hear the companies' view directly on that question because it is not something that one could practically legislate for, even if one were minded to do so. In any event there are difficulties when one talks about taste and tone and so on. Even if one could address multi-jurisdictional facets of this, one would have great difficulties addressing in law the nuance associated with that.

Deputy O'Mahony is right that it is very difficult to deal with the anonymity issue. As a former teacher himself he is aware that bullying did not come in with the Internet. It has been there since the use of the felt-tip pen on the back of the toilet door and so on, but as he says, under the cloak of anonymity it can be used in a minority of cases to devastating effect. That is one of the difficult issues to deal with.

There is a major court case being heard in Germany around and about the terrain of Deputy O'Mahony's first question and it will be very interesting to see how it is decided. If my colleague, the Minister for Education and Skills, were here he would add to that answer by saying that parents have a role in this as well. The teaching profession is very familiar with this issue but parents have a role too.

**Deputy John O'Mahony:** I recently saw a survey that showed that sometimes parents are not even aware of what their children are doing. I agree that they have a role but the problem is the speed at which this happens and the secrecy which at times also affects the parents.

**Deputy Pat Rabbitte:** The phenomenon we are discussing has been around since the mid or late 1970s but it is the acquisition of critical mass over the past five or six years that has so accelerated the phenomenon with which we are attempting to tussle. It is reasonable to say that best practice will evolve because the pressures being experienced in this jurisdiction are being experienced around the world. Best practice will evolve. It is a question of all the stakeholders being involved. The parents have a critical role because it is true that in some cases they do not know but they ought to do their best and attempt to know the sites to which their children are signing up and so on.

**Deputy Michael Colreavy:** I thank the Minister for coming before us today. I will focus on schoolchildren. I represent a community where, unfortunately, in the recent past three young people died and there was certainly a *prima facie* case that cyberbullying was a contributory part, if not a major part, in the young people's decision to end their lives. Something so traumatic in our community made us wonder what we were doing and what we should do differ-

ently. The challenge for the Government, and for us all, is to ensure that people's basic rights can be safeguarded, that serious or persistent damaging behaviour can be addressed, all the while ensuring that the right to freedom of expression and freedom of access to information is not harmed. It is a question of respect. We are considering cyberbullying here but I am aware that there are many more stresses on people, whether they be financial ones or cutbacks in, for example, the number of guidance counsellors in schools. There is a need for greater communications and joint work between statutory groups and voluntary agencies.

The Minister's office and the Department of Education and Skills might be able to examine a further stress point. Although we are installing hardware in schools, we do not seem to have a structured system as part of the school curriculum for training youngsters in the safe and respectful use of social media. Research was published in May 2008. It surveyed nearly 2,800 students from eight post-primary schools. The figures were frightening. One in seven students reported having been subject to cyberbullying in the previous months. One in 11 admitted to having taken part in cyberbullying. More than 16% reported having received abusive texts outside of school hours. Nearly 18% reported that they had embarrassing or nasty pictures or video clips taken of them. Some 12.3% had nasty web postings made about them. More than one in ten children are going through this.

**Chairman:** Will the Deputy come to his question, please?

**Deputy Michael Colreavy:** Beyond installing the infrastructure, do the Minister's office and the Department of Education and Skills have a role in training young people in the safe and respectful use of social media?

**Deputy Pat Rabbitte:** Before I try to answer Deputy Colreavy's serious question, I will point out that while it would be natural that committee members would reflect the concerns being brought to them by constituents, parents, etc., it is also important to acknowledge that this technology is an exciting, revolutionary and unprecedented development in civilisation. Colleagues are focusing on the minority of serious new challenges that it poses for society and the Government, but its capacity to do good and to transform the way we interact with one another is almost unlimited. Consider its impact on political developments. Consider the phenomenon of the Arab Spring, which no one in these Houses would have predicted ten years ago. The technology has had an amazing influence.

Deputy Colreavy is focusing on some of the very sad instances that this country has seen. In this regard, we must do everything we can to protect our children in particular. However, I must repeat the fact that bullying did not come in with the Internet. There has been bullying inside and outside our school system since Adam was a boy. It can be elevated to a new level by this technology.

Best practice is slowly evolving. The committee will be interested to know that there have recently been a number of high profile cases in which court orders have been effected requiring the service providers to disclose the identities of anonymous persons posting offensive material. This relates to the question raised by Deputy O'Mahony. In many instances, it is possible to get service providers to track anonymous posters. This is under way in a number of jurisdictions.

"Yes" is the answer to Deputy Colreavy's question. The optimum co-operation between my Department and the Department of Education and Skills is desirable. Yesterday, the Minister for Education and Skills and I launched the high speed broadband programme for schools in the wider Dublin region, including counties Meath and Kildare. We visited a school where we saw

at first hand the extraordinary potential of this technology. In an inner city school four young women are taking higher level maths remotely. They are being taught by a teacher in a different school in Clondalkin. One could not afford to have a higher level maths class devoted to four students, but they can use the technology to study thanks to the co-operation of Coláiste Bride in Clondalkin. There are tremendous possibilities.

Schools teach and have regard to the safety considerations to which the Deputy referred. Students are way ahead of their parents in terms of knowledge concerning the pitfalls and the capacity of the technology.

Deputy Colreavy is correct in that it is undoubtedly a question of raising awareness. It is also a question of co-operation between the Departments and agencies involved. I anticipate that this is the area in respect of which the committee is likely to make recommendations.

**Deputy Noel Harrington:** I welcome the Minister and, in particular, his presentation. In this topical debate, which will be interesting to a wider audience, it is important that the Minister set the scene for-----

*(Interruptions).*

**Chairman:** I apologise, but will the person with a mobile telephone please turn it off, as it is interfering with the sound? I am also referring to iPhones.

**Deputy Noel Harrington:** It is important that the scene be set for the committee's upcoming work. Some 99% of online media content is positive and has been embraced by communities, including our own. We are probably discussing 1% of the 1% remainder. It is difficult to grapple with it.

In his presentation, the Minister identified the gap in legislation. I am interested in this matter. Various companies, for example, Facebook and Twitter, will appear before the committee. The Government will need to make a delicate intervention in a serious area. It is interesting to note the Minister's part in addressing the gap in legislation as regards electronic bullying and telephones. What work has been done so far and when does he expect the gap to be closed? While I do not expect that the legislation on social media will ever be copperfastened, the Minister might give us that assurance.

**Chairman:** I am being constantly informed about interference from a mobile telephone. I will adjourn this meeting if it continues.

**Deputy Noel Harrington:** In all debates on this issue thus far, I have not heard mention of an office for Internet safety. Perhaps as part of its work on this issue the committee should consider the establishment of such an office.

On international experience, the Minister has outlined the difficulties arising outside of this jurisdiction. It is hard to believe that no work has been done on development of an international protocol in this area. Bearing in mind the sensitivities and challenges involved, are efforts being made to address this on a cross-jurisdiction basis?

**Deputy Patrick O'Donovan:** I thank the Minister for his presentation, arising from which I would like to make a couple of points. I agree with the Minister's final comment that social media is a power for good and that bullying has always been and will continue to be a fact of life. Bullying is developing with technology. It has moved from a piece of chewing gum being

fired from the end of a ruler at the back of the classroom to iPhones. It will adapt as technology improves. In terms of how we are going to address it, we need to be realistic. The Minister put his finger on it when he said that cross-country legislative frameworks are not realistic. That is the first thing we need to acknowledge before deciding on what we can do.

The Minister said earlier that some people have yet to fully appreciate that public messages via social media have the same legal character as when published in a newspaper. The problem that arises is that for an awful lot of people, access to a system whereby they can clear their name, either in relation to a social media or newspaper article, is prohibitive. The courts in Ireland are for many reasons the reserve of people with money. Redress for a person who has been defamed in the print or social media is prohibitive. Up to now the focus of the conversation on this issue has been primarily around young people who are technologically mobile. The difficulty of accessing the courts in terms of cost and time arises. As the Minister said, there has been limited success in terms of obtaining court orders in this area. I believe the committee's focus must be on making our courts system more accessible to people in this modern era. We must ensure the Courts Service takes account of the changed environment in which we are operating. It is an institution that does not move as quickly as we would like it to.

In terms of its work in this area, the committee needs to focus on how to make the courts more accessible and affordable to people wishing to have their rights reinforced and on how we can ensure people are aware that when they post on a social media site it is the same as publishing it in *The Irish Times* or *Irish Independent* in terms of consequences. That is the challenge for this committee.

**Deputy Pat Rabbitte:** Deputy Harrington asked what is going on. The Minister for Justice and Equality has already referred the harassment issue, under the Non-fatal Offences Against the Person Act 1997, to the Law Reform Commission and asked it to report on that matter. The Deputy will be aware that in terms of changing criminal law the Law Reform Commission regularly reports, having teased out issues in the type of detail necessary. In this case, the Minister has made that referral, particularly in the context of cyber bullying. It will be interesting to read the findings of that report.

On Deputy Harrington's question about whether this issue is being debated on a cross-jurisdictional basis and so on, the answer is, "Yes". I referred earlier to the Council of Europe and European Union, where work is under way focused mainly on the production of guidelines in this particular area. Last year, the European Union adopted Council conclusions on better Internet usage for children. The Council of Europe and Organisation for Security and Co-operation in Europe has also contributed an amount of well considered recommendations and guidelines in this regard. If committee members wish, my Department can furnish details of these conclusions to them to assist the committee in its work.

**Deputy Noel Harrington:** That would be welcome.

**Deputy Seán Kenny:** I welcome the Minister. It is timely he should appear before the committee before it commences its work on this issue. As stated by the Minister, there have been enormous improvements in the area of communications on Facebook and Twitter, much of which is for the better. The Minister also mentioned the Arab Spring in the context of how social media can lead to social change. However, there is also a downside to it, which became evident during the riots in the UK. People involved in rioting are using Twitter and Facebook to communicate about and plan attacks. It is the downside of social media that people are bringing to our attention. This is the area we need to address.

The Minister mentioned the gap in the legislation. The committee engaged a couple of weeks ago with a barrister from the Minister's Department on the right to freedom of expression, which we were told at that time also includes the right to anonymity. While we must respect that right, the misuse of anonymity arises. A tweet to the "Frontline" programme approximately one year ago, which impacted on the debate taking place at that time, was disowned. That is a case of misuse of the right to anonymity. When representatives of RTE appeared before the committee they told us that they did not have the technological expertise to trace that tweet. It appears to me that this is an area in which there is a gap in the legislation. Facebook, Twitter and other social media sites have taken off since enactment of the Defamation Act 2009. People believe that this Act relates in the main to defamation in the print media.

Does the Minister believe there is need for further legislation in this area, particularly in regard to traceability of tweets which could be considered bullying, harassment or even worse?

**Deputy Ann Phelan:** I, too, welcome the Minister to this meeting. I agree with Deputy O'Donovan in regard to what it is the committee wants to achieve. Perhaps this will become more evident as we hear submissions from other people.

I take the Minister's point that we must steer the middle of the road in this area. On interference with the press, we are lucky in Ireland in that we can do and say almost anything without suffering consequences. This is not the case in many eastern European countries, in whose emerging democracies the Internet is playing a significant part. Ireland is to the fore in arguing for this, particularly across the Organisation for Security and Co-operation in Europe, OSCE, areas. We are to the forefront in arguing that freedom of the media is paramount and one of the three stools on which democracies are founded. We must be very careful not to stray into the area of trying to over-regulate the media on the Internet. We must deal with new technologies.

This reminds me of the cartoons that used to appear in *Punch* magazine in the 1800s, which could be described as the Facebook of its day. We have survived in politics since then and we will survive the Internet as well. We must steer very much to the middle of the road.

**Deputy Pat Rabbitte:** We think there may be a gap in the law with respect to the inclusion of telephone and SMS identifiable abuse and the exclusion of Internet technologies from the remit of that legislation. That may well be something that could be teased out in some detail by the committee.

The issue of anonymity is very complex, and it was raised by Deputies Kenny and O'Mahony. This is before coming to the very tough question from Deputy O'Donovan. It is possible to get a court order to require a service provider to make the identity of the person who posted the offensive material known. Deputy O'Donovan raises the pertinent question that gets to the heart of the matter, which is that the court system is like the Ritz in that it is "open" to everyone. That is a significant issue.

The print media has addressed the issue through the construction of the Press Council of Ireland and the press ombudsman, which has worked quite well. It provides protection to the media, rooted in the Defamation Act, and it provides protection from enormous damages. Some 90% of complainants want speedy apologies, retractions etc., which is provided by this route rather than going through the court system. Could we see a day when new social media would come under the kind of arrangements in place for the print media? It is not beyond the bounds of possibility and there are areas of the most well-established and respected elements of new media, some of which have made application to the Press Council of Ireland to be included.

The area could be examined.

Deputy Phelan raises the questions of incitement to hatred, racial abuse, etc. The law applies in that respect but I do not have an easy answer to Deputy O'Donovan's question about how easy it is to vindicate one's rights in this country. Access to the court system is prohibitively expensive for some citizens and the discussion is wider than the subject matter before us today. It may well be that there are some mechanisms short of the full court system that would allow speedy redress to most complainants.

That returns us to the point about take-down policy. If there was a working protocol in place where the complainant knew precisely where to go, and if the material was objectively offensive or hurtful etc., it would meet a fair measure of the complaints.

**Senator Terry Brennan:** As the Minister indicated, bullying has been going on since time began. Bhí sé mar sin nuair a bhí me ag dul ar scoil fadó. Bullying commences in our national schools. I am very concerned about bullies who begin in national school but continue to bully at second level and into adulthood. I know three or four young national school students who went on to second level within a few miles of their home. As people identified that these bullies were going to one school, other children were going to schools 15 and 20 miles from home, at great inconvenience and cost to themselves and their parents. That worries me.

My question relates to anonymity and anonymous letters. I know what I do with them when I get them. What responsibility is on local newspaper editors to identify the authors of anonymous letters about me or another colleague if they are printed? The editors do not give those names out.

**Chairman:** We have to keep within the social media sphere.

**Senator Terry Brennan:** It is the same with social media.

**Chairman:** We have a strict line.

**Senator Terry Brennan:** Anonymity is a big problem in social media. I label as a coward of the highest order anybody who writes an anonymous letter and is afraid to put a name to it or be identified on social media.

**Senator Fidelma Healy Eames:** I welcome the Minister and thank the Chairman for the opportunity to be here, as I am not a member of the committee. I am very grateful for the attention this subject is getting. I take all the positive aspects on board but I am here to speak about the abuse of social media.

I am a mother of teenagers and I do not know any second level teachers or mother of teenagers who is not tearing hair out because of the abuse taking place on social media. The Minister is correct in that social media or the Internet did not lead to the invention of bullying or harassment but it has worsened it. Our children are living in a parallel universe to the teachers in classrooms. There is an absolute responsibility on parents and educators but they cannot keep up. For example, fraping which is the act of raping someone's Facebook profile. It happens where a youngster has his or her status open on Facebook but another person posts a message as if the owner wrote it. The message could be of a sexual nature so it goes out into the world as if a person said it. This type of thing must stop and some controls must be put in place. What about sexting? Sexting means texting sexual images. Recently I heard that sexting is a criminal offence. Can the Minister verify that? I also heard recently that everything that one does on the

Internet leaves a digital footprint. Is it true that even if images or text messages are erased they can be found again? Everybody needs to work together to solve the problem and that is parents, teachers and youngsters. We need a set of guidelines and a place to report cases to until we have a system that is similar to the Press Ombudsman for the print and broadcast media. We need to know that sanctions exist. Until we have that, then the public will not be adequately educated or protected. Is it within the Minister's remit to provide a set of guidelines for people who have been hurt and damaged by social media, particularly youngsters?

A member referred to counsellors in schools. I am quite familiar with counsellors and they are very busy working with youngsters who have been hurt by abuse delivered via social media. I accept that there are good things happening.

**Chairman:** I want to hear core questions, Senator, as time is limited.

**Senator Fidelma Healy Eames:** We need to ensure that the abuse is not greater than the good. Can the identity of every user be registered with an IP address in this country? IPs were registered in the United State but their owners could not be tracked down. I thank the Chairman for the opportunity to speak.

**Senator Fiach Mac Conghail:** I am also not a member of the committee so I thank the Chairman for giving me an opportunity to speak. I commend the Minister on his impressive and reassuring handling and understanding of the area. He has signalled a way that the committee can address a few issues and we have seen his smoke signals clearly.

As someone who deals with and is on media at an ordinary human endeavour level, I can vouch that criticism does hurt whether it is anonymous or not. How politicians, parliamentarians or directors of national theatres can handle criticism posted on social media is something. I do not think that we are in a crisis. I heard the Minister say, and it is important, that we should develop a set of emerging best practice guidelines. He urged that the committee must be confident enough to address the issue from a point of strength and positivity. Social media is extraordinary, empowering, educational and a creative tool. I slightly disagree with Senator Healy Eames, not about the abuse, but that social media is an empowering tool for teenagers.

Yesterday, I attended the Oireachtas Joint Committee on the Environment, Culture and the Gaeltacht where three schools, one each from Indreabhán, Lucan and Cork made presentations as gaeilge because it was Seachtain na Gaeilge on the strengths and weaknesses of social media. They outlined the positive and empowering aspects of social media. It is extraordinary how social media develops human contact and opinions and elicits opinions from teenagers. It acts as a mediator for those relationships. According to those teenagers social media is not about the local but it is about the global world and being connected. Social media did not replace local communication but reduces their world.

The Minister may not be able to answer my question but perhaps one of his officials will. All of those teenagers put their criticism of *ask.fm* on the record. They cited it as being the one social media tool that had anonymity and all of us here have recognised that anonymity is a pervasive and negative element. Perhaps we should approach the anonymity of bullying and cyberbullying. Will the committee invite a representative of *ask.fm* to attend? Has the Minister been approached by *ask.fm*? Has his Department communicated with it in light of certain recent tragic scenarios and also, more importantly, on the issue of anonymity?

**Chairman:** I call the final speaker, Senator Eamonn Coghlan.

**Senator Eamonn Coghlan:** I welcome the Minister. I have listened to various points of view that were expressed by members of the committee today. The four words that come to mind while most people spoke were “accountability”, “responsibility”, “traceability” and “anonymity”. Accountability and responsibility go hand in hand. Where does accountability lie when it comes to the cyberbully? Does accountability lie with the adult who does it? Does it lie with the parent of the young person who is cyberbullying? Does it lie with the service provider? We know what happens if a defamatory comment is made in the print media. Obviously the newspaper is responsible for what it prints and it has legal protection. Does the responsibility lie with the education system in terms of teaching young people how not to abuse social media?

Traceability and accountability also go hand in hand. The Minister stated that one can seek a court order to identify an IP address. The difficulty that we have with the Internet is cyberbullying because 0.9% of what goes on it is not good. Is there any way that we can eliminate anonymity? For example, when someone seeks an IP address should he or she be asked to supply his or her passport number? Should they give a credit card number? If somebody wants to post something on the Internet should there be a charge? Imposing a cost could discourage people from posting something online. Is there any way to eliminate the anonymity of social media? Can a person who wants to post something online be clearly identified right from the beginning?

**Chairman:** I thank the Senator. The Minister can respond to those queries and perhaps make a closing statement.

**Deputy Pat Rabbitte:** I agree with what Senator Brennan has said. Unfortunately, the bully does grow up and in some cases bullying has resulted in other children being the first to drop-out or attend a different school at the expense and inconvenience of their parents.

In response to the question on the provenance of anonymous material, there is a question of editorial responsibility. Most good newspapers in the print industry would apply that. As Deputy Seán Kenny pointed out, there can be an issue when a particular tweet is transmitted through the broadcast media but its provenance has not been established. Normal editorial responsibility ought to apply in such a case. The problem is not exactly new. For example, in the present environment in which we operate, particularly when one is a Minister of any party-----

**Senator Terry Brennan:** That will never happen.

**Deputy Pat Rabbitte:** One never knows, stranger things have happened. I saw a comedian winning an overall majority in Italy. One never knows.

If one is a Minister, regardless of party, and one does an interview, there are half a dozen guys lined up somewhere in the undergrowth to phone in as interested citizens, but one learns after a time that they are not as unconnected and disinterested as one might think. In fact, I remember many years ago that it was announced I would be appearing on a radio programme, hosted by Marian Finucane, along with two colleagues from the House. I forgot about it and when I rang up to apologise, I got a very frosty reception. However, when matters thawed out I was told that there had been three telephone calls complaining about things I said on the programme.

**Deputy Patrick O’Donovan:** A good press office.

**Deputy Pat Rabbitte:** Therefore, it is not an entirely new phenomenon.

In response to Senator Healy Eames, the gap in the law I referred to is the Communications Regulation (Amendment) Act 2007. That Act introduced measures dealing with the use of the telephone system to send messages that are grossly offensive, indecent, obscene or menacing or for the purpose of causing annoyance, inconvenience or needless anxiety to another person. That is covered in that legislation, but there might be a gap in the legislation when it comes to electronic communications infrastructure. That is one of the areas the committee might productively examine.

Senator Mac Conghail asked about *ask.fm*. This is an issue for several jurisdictions. As I understand it, this material is posted from an eastern European state and for that reason it is extremely difficult, practically, to be able to seek redress. It is an issue. One of the members asked if member states meet to try to agree certain ways of addressing these issues. This particular issue appears to be one on which we ought to see whether there are any remedies available.

I refer Senator Coghlan to an e-commerce directive which dealt in a different context with the question he raised. That directive, which is quite recent, stipulates that service providers are mere conduits and are not liable for the information transmitted over their networks, and that member states cannot impose a general obligation to monitor the traffic over those networks. In fact, there is case law of the European Court of Justice on that issue. It is a very difficult matter. One can go to court and get an order to require the service provider where at all feasible, and in most cases I believe it is feasible, to expose the anonymity. However, one comes up against the issue raised by Deputy O'Donovan that not everybody can afford to go to the court for such an order, especially if there is a cross-jurisdictional dimension. The tough truth is that no country has yet been successful in identifying a solution to the question Senator Coghlan raises.

Chairman, one could go on but I have done my best to answer most of the pertinent questions in so far as I can.

**Chairman:** You have endeavoured to answer them as fully, openly and honestly as you can. The committee appreciates that. It will help us with our deliberations in the next few days. You have identified the take down policy and the accountability. There are many common areas which we need to focus on over the next few days, particularly with the companies' representatives when they appear before the committee. I look forward to working with you and your officials, whom I wish to thank sincerely for their help and support in preparation for this meeting and our future agenda. Thank you, and we will be in touch in the next few weeks.

**Deputy Pat Rabbitte:** Thank you, Chairman. We take this opportunity to commend the committee on the initiative. We will follow the committee's proceedings. We are particularly interested in the committee's engagement with the stakeholders, and we will see what we can do in co-operation to address some of the issues that were raised. I am glad that several colleagues have also put on the record the very positive, empowering and exciting dimension of the phenomenon we are addressing. What we are trying to do is find solutions to deal with the minority who abuse a powerful new technology.

**Chairman:** The committee wants to move ahead on that. It is a powerful technology for the people and the Minister pointed to the good it can do for communications. That is the thrust of the committee's deliberations over the past number of weeks.

On that note, we have received a telephone call from RTE. It cannot use any of the footage of the meeting because of the interference due to telephones or computers. I ask people to turn off their mobile telephones or we cannot continue. It is not helpful from the committee's point

of view as RTE and other broadcasters wanted to use the footage. I ask members to turn off everything. We need the outside connection with the media to be able to get the message across about what we are doing.

**Deputy Michael Colreavy:** Chairman, perhaps the problem is not the telephones, but iPads or laptops.

**Chairman:** The instruction is that we turn everything off. That is what the broadcasters want and they telephoned to make that request.

I thank the Minister and his officials. We will suspend briefly to allow the other witnesses to take their places.

*Sitting suspended at 11.18 a.m. and resumed at 11.22 a.m.*

**Chairman:** I welcome Ms Deirdre O’Keeffe, Ms Siobhán McCabe, Mr. Hugh Boyle and Mr. Edward Shortt from the office for Internet safety. The relevant provisions of the Defamation Act were referred to earlier so there is no need to read them again. I ask the witnesses to explain the role of the office, particularly in respect of public awareness in terms of Internet safety. I invite Ms O’Keeffe to make an opening statement.

**Ms Deirdre O’Keeffe:** I am pleased to be here and I thank the committee for the invitation to give it an account of the important work undertaken by the office for Internet safety. The office operates from within the Department of Justice and Equality. I am accompanied by the head of the office, Mr. Hugh Boyle, and by Ms Siobhán McCabe and Mr. Edward Shortt from the office.

Our work falls under two main headings. First, we encourage respectful behaviour in electronic communications, which includes social media. To put it another way, we are actively involved in counteracting the abuse of communications technology where it involves using phones, e-mail or other electronic means to send messages or images with the intention of harassing or intimidating the recipient or where they are intended to damage someone’s good name and reputation. This is clearly a serious matter. The second major area is to ensure we have robust arrangements to prevent, in so far as possible, the dissemination of illegal Internet content, especially child pornography.

Before I deal further with the two areas I have mentioned, let me emphasise that we regard the growth in electronic communications as an overwhelmingly positive development. Unfortunately, some people’s enjoyment of this great resource is impaired by its misuse in the hands of a few. Our role is to encourage a positive environment where the benefits of the new technology can be enjoyed. We try to counteract the misuse by not only raising awareness about the consequences of misuse but also by giving advice on how to respond. We are always at pains to stress that the response must be moderate and reasonable, but firm, and must not inflame an already dangerous situation.

I would like to give the committee an overview on how we go about our work. First, we identify our target audiences and then we select the messages appropriate to each of these audiences. In this way we can maximise the impact and effect. As an example, victims may need information on simple steps they can take to block access to their online profile or they may need helpline numbers. We aim to meet their needs.

Parents and teachers have responsibility for the persons in their care. Their position also

presents many opportunities to spot the danger signs that suggest a young person may be the victim of cyberbullying. The fact that bullying is being done electronically, by stealth, is likely to heighten the distress. Unlike situations where the person being bullied, physically or verbally, may have the opportunity to move away from the bully, in situations of cyberbullying, the victim may never feel removed from the source of the abuse. We work to help parents and teachers to spot and identify the danger signs. We also help them to address their concerns in this regard, particularly any concerns they may have about their own ability to understand the technologies, so enabling them to engage with their children about the use of these technologies.

In recent times, more emphasis has been placed on a third group, often called bystanders. Bystanders are, for example, team mates, work colleagues or fellow students. It is now recognised that bystanders may be able to play a significant role in breaking the isolation and misery of the victim. They may notice changes in the victim's mood or behaviour. Sometimes they can make sensitive and discreet enquiries or, more often, they can alert another who is in a position to deal with the problem. Our role is to make bystanders aware of the good they can do.

We also give much thought to the means by which we deliver our messages. We rely on print and, increasingly, on the Internet. Our printed materials are in high demand and are popular with parents. Our website is a useful resource with relevant advice. Its value is greatly enhanced by the numerous links to other sites, in particular to the helplines operated by the National Parents Council Primary, the ISPCC, the Professional Development Service for Teachers and the hotline service.

The office for Internet safety co-ordinates the EU-funded safer Internet project for Ireland. We partner with four agencies, the National Parents Council Primary, the ISPCC, the National Council for Technology in Education and the hotline, in channelling funding to initiatives in the Internet safety area. The office has also developed close relations with the Garda schools programme, particularly in the supply of awareness raising materials for visits to schools, including the materials produced for safer Internet day in February each year.

The agencies that participate in the EU programme are heavily focused on young persons still in the education system. This reflects the importance attached to that cohort when it comes to forming good habits in what is already their main means of communication. The emphasis on that section of the population is justified by the evidence. They are high consumers of technology and we want them to be aware of the dangers of misuse. We also want to ensure they carry these messages into their adult years. Collaboration with the five agencies I mentioned means we are getting the messages across in an effective, targeted and cost-effective way.

Before I conclude on this part of our work, I would like to stress that the office is not a law enforcement body, nor does it pursue or investigate individual cases. Instead, our role is to heighten general awareness. I mentioned the hotline a moment ago and this brings me to the second major area of our work. The office for Internet safety supports the work of *hotline.ie*. The facility is operated by the Internet Service Providers Association of Ireland to receive reports from the public of illegal activities on websites and is part-funded by the EU. The activity can vary but, for the most part, it relates to child pornography. The service has formalised its links with the Garda Síochána. Under agreed arrangements, the hotline service notifies the Garda Síochána where a site is considered to contain illegal material. The Garda Síochána investigates the matter where the site is hosted in Ireland and in other cases it notifies the authorities in the other jurisdiction where a site is hosted outside of Ireland. The hotline is part of an international network, INHOPE. It has played a major role in reducing incidents

of child pornography, including inadvertent viewing on the web. As we know, those who are determined to view and exchange material have developed ways of doing so by using methods which circumvent the web. The Garda and police forces internationally continuously seek out such activity with some very welcome success. As far as the public is concerned, the chances of coming across child pornography on a website have been greatly reduced by the vigilance of members of the public who report the sites to the hotline and by the mechanisms operated by the hotline service and its counterparts abroad for removing the offending material. The work of the office for Internet safety and its partners is subject to annual scrutiny by the European Commission and by experts retained by it. I am pleased to say that our performance so far has always attracted positive comment.

I hope I have given members sufficient information to help them to understand our role. My colleagues and I would be pleased to try to address any questions or comments members may have.

**Chairman:** I thank Ms O’Keeffe for that overview.

**Deputy Michael Moynihan:** I welcome the officials from the office for Internet safety. Their role is challenging given the speed at which technologies continue to evolve. In her opening remarks, Ms O’Keeffe encouraged respect but I think that at this stage, we have to go beyond that kind of language. I know the office does not have the power to investigate but comes under the remit of the Department of Justice and Equality. We need stronger language even though, as was said during the discussions with the Minister, a small minority of people are abusing this. I encourage the office to look at the language it is using and to use stronger language to ensure it is fit for purpose in this regard and gives the impression that it is tackling this in a very serious way. We might have the greatest intentions to encourage people from junior infants to adulthood, but not wanting to be flippant, certain aspects of the game are very serious, including registering IP addresses outside particular jurisdictions. As public representatives, we all know people who have suffered greatly as a result of cyberbullying, as does the wider public. We will no doubt be talking to the officials again when we have further deliberations.

**Deputy Michael Colreavy:** I thank the officials for appearing before us today and commend the work they are doing in regard to child pornography, which is a very serious issue. There appears to be good co-ordination, communication and joined-up working between the Government here and governments internationally to address this problem. However, I am not so sure that is the case in regard cyberbullying, the specific area we are zoning in on today.

Part of the office’s role is awareness raising among the public. I have spoken to the parents of youngsters who died by suicide where there was *prima facie* evidence that cyberbullying was a key part of it. They became aware of the office’s existence only after talking to some people concerned about this phenomenon. The office needs to do a little work to raise awareness about what it does so that parents and teachers can get advice before the crisis point is reached.

The *hotline.ie* website is understandably focused on child pornography, but there should be an equivalent site or a section of *hotline.ie* to help handle cyberbullying. Perhaps we need to go in this direction. A person, in particular a young person, who is being cyberbullied or a teacher or parent should have easy access to a source which will trigger a series of steps. Either *hotline.ie* or a site like it could be the vehicle to do that.

**Deputy Seán Kenny:** I welcome the officials from the office for Internet safety and pay tribute to them on the work they do. There must have been a misunderstanding on my part. I

thought we were talking about Internet security because the office said it did not have a law enforcement role. When we raised questions before, in particular about the traceability of tweets, we were told there was a section in the Department of Justice and Equality which dealt with those kinds of issues. Is there a separate section dealing with security?

**Chairman:** That is a good question.

**Ms Deirdre O’Keeffe:** To answer the question in a general sense and to repeat something the Minister, Deputy Rabbitte, said, anything that is illegal offline is illegal online. If an illegal issue arises which needs to be dealt with, it is dealt with in the normal way if it happens in an online circumstance as much as it happened in an offline one. In a general sense, the Department of Justice and Equality has a role to play in that regard. Locating the office for Internet safety in the Department of Justice and Equality is an effort to ensure that whatever linkages are necessary, in terms of pursuing an illegal act, are dealt with. That is one of the reasons for locating the office in the Department of Justice and Equality.

**Deputy Seán Kenny:** Does the office have people with expertise, or people attached to it, who can trace the source of a tweet which may be inappropriate or may be pornographic? Does it have somebody who can trace the source of tweets, because that was the difficulty we came up against when we had other hearings? I think we met a barrister from the Department of Communications, Energy and Natural Resources and others and they said the Department of Justice and Equality had a section dealing with Internet security. I accept the office is dealing with safety, and I have the greatest respect for everything it does, but the issue we came up against before was a specialised type of expertise in the Department which could trace the source of a tweet which may-----

**Chairman:** That view was given by the legal adviser to the Oireachtas. That is where that came from.

**Deputy Seán Kenny:** That is right. Is there somebody with that kind of expertise elsewhere in the Department of Justice and Equality?

**Mr. Hugh Boyle:** In a very strict sense, within the Department, the answer is “No” but we rely on the Garda which has specialised units-----

**Deputy Seán Kenny:** That clears that up.

**Mr. Hugh Boyle:** That is where the expertise is.

**Ms Deirdre O’Keeffe:** The points Deputy Moynihan made were very relevant. The objectives we have are to try to support, assist and raise awareness *vis-à-vis* focusing on children and young people, in particular. We continually review the messages we try to give and how we try to give them. In a continuously changing technological world, it is extremely important to stay on top of that. However, I completely understand what Deputy Moynihan said and we continually review the messages we give and how we try to give them.

**Deputy Michael Colreavy:** I would like to ask a supplementary question on that matter. Has the office considered whether the teacher training schools could offer a specific module on Internet safety and the need for respect when using the Internet? While all the great capabilities of the Internet are welcome, people need to show respect when they are using it. Should this be part of the teacher training programme? Could the office make any input in that regard?

**Ms Deirdre O’Keeffe:** I am not really in a position to comment on what should or should not be part of the teacher training programme.

**Deputy Michael Colreavy:** Ms O’Keeffe is in such a position.

**Ms Deirdre O’Keeffe:** That is a matter for the Department of Education and Skills. One of the big benefits of the office is that it has networks with other people. Representatives of the education sector and the National Parents Council Primary are involved on our Internet safety advisory committee. We work closely with them on all of these issues. The views of the various partners on what should be done are discussed and the diversity of opinion is analysed at that committee on an ongoing basis. We work closely with our colleagues in the Department of Education and Skills, which is responsible for the development of teacher training programmes. We have formalised and informal links with them.

**Deputy Michael Colreavy:** I would have said that if the office identifies a need for something like this, based on the feedback it is getting, its observations should be seriously considered, at a minimum, by the Department of Education and Skills.

**Chairman:** If it is helpful, I suggest we could feed that into our report.

**Deputy Michael Colreavy:** Perhaps. I also asked about the use of *hotline.ie* or an equivalent to report cases of cyberbullying.

**Ms Deirdre O’Keeffe:** The purpose of *hotline.ie*, which deals with all illegal content and not just child pornography, is to give the public a facility to report something illegal encountered on the Internet. If the site in question is hosted in Ireland, the matter is reported to the Garda. If the site is hosted outside Ireland, it is reported through the Garda to its police colleagues in other countries. The content that is considered to be illegal is referred to the Internet service provider with a view to having it taken down. That is what *hotline.ie* does. I hope that answers the Deputy’s question.

**Deputy Michael Colreavy:** I think it does. The only problem is that the person who contacts *hotline.ie* to report cyberbullying might not know it is technically illegal.

**Ms Deirdre O’Keeffe:** When the matter is referred to *hotline.ie*, a judgment on that aspect of the matter is made at that point.

**Deputy Michael Colreavy:** Okay. I thank Ms O’Keeffe.

**Chairman:** I have to excuse myself because I have another commitment. I ask the Vice Chairman to take over. Deputies Noel Harrington, Patrick O’Donovan and Ann Phelan will be the next three members to speak.

*Deputy John O’Mahony took the Chair.*

**Vice Chairman:** I have asked to remind those present to ensure their mobile telephones are switched off because the interference they cause can cause difficulties for those reporting the committee.

**Deputy Patrick O’Donovan:** Can I say something on that point? This is a communications committee. The Members of the Oireachtas have been asked on several occasions to minimise the amount of paper we use. Deputy Seán Kenny and I have brought our laptops to recent meetings of the committee with a view to trying to reduce the use of paper. We have been

told we cannot use technology that has been given to us by the Oireachtas in committee rooms. It should be the aim of the communications committee to reduce the amount of paper it uses. I cannot access documentation from the Office for Internet Safety because I have been asked to turn off my computer. This is a bit of a farce. We are being told to turn off a facility that has been provided by the Oireachtas.

**Vice Chairman:** I take on board exactly what the Deputy is saying. It is a little like social media in the sense that it is evolving quickly. It needs to be dealt with.

**Deputy Patrick O'Donovan:** With the greatest of respect, the problem seems to be confined to this committee room. We do not seem to have this difficulty when we meet in the other committee room.

**Vice Chairman:** We will have to return to this issue. I am passing on the communication that has come through.

**Deputy Michael Colreavy:** I understand a suppressor can be got to allow people to use their laptops without interfering with the telecommunications of the committee.

**Vice Chairman:** I accept that. We will advance this the next time we meet in private session.

**Deputy Noel Harrington:** I welcome Ms O'Keeffe's presentation. I am embarrassed to say that when the Minister referred to the Office for Internet Safety in his presentation, I thought it sounded like a group we should invite in. I did not realise that representatives of the office were the next to speak. I regret to say I had never heard of the Office for Internet Safety before this morning, which is probably even more embarrassing for me. It is probably my fault. I have three young children, two of whom have access to the iPads and iPods that every child of 11, 12, 13 or 14 seems to have. Obviously, the office plays a strong role. Its presentation is central to the work this committee will do in the coming weeks to assess whether the State should intervene in the area of social media. I believe any intervention should be absolutely minimal and should be aimed at ensuring people act within the law. I want to pick up on the point that was made about something that is legal or illegal offline also being legal or illegal online. That is not strictly the case, unfortunately, in one small respect. The Minister made the point that there is a gap in the legislation relating to online contact that takes the form of harassment or bullying. Our work will have to focus on this narrow sphere.

I was very interested in what Ms O'Keeffe had to say in her presentation. I am deeply embarrassed as a parent that I had not heard about the work done by her office. Online bullying takes place on many platforms, including Facebook, Twitter, LinkedIn, YouTube and *ask.fm*. The websites I have mentioned account for a significant amount of online activity. Offline bullying should be dealt with where it happens. In my opinion, bullying in the playground should be dealt with in the playground and bullying at home should be dealt with at home. If bullying takes place on Facebook, Twitter or another platform, does the office have a presence to deal with it? Has it been in contact with the companies in question to deal with some of the issues that have come to light? We will address those issues in the coming weeks when we hear the testimonies of various parties.

Is Ms O'Keeffe satisfied that her office is in a position to do its work competently? I appreciate that much of its work relates to child pornography and similar issues. Is Ms O'Keeffe satisfied that the legislation governing issues like online harassment and cyberbullying is up to

scratch? If not, can she say whether she has reported or commented on areas where she would like legislation to be introduced to allow the office to do its work fully? Has she worked or had any contact with the Minister's office or the Law Reform Commission? Has she had any feedback from them, obviously through the Department? While I had not heard of the office before today - *mea culpa* - I believe it has a central role in what we are trying to do. The lack of awareness of the role of the office is a problem that needs to be addressed. I do not know whether it should be addressed by the office or by this committee. Information about this resource needs to get out there. Perhaps this presentation will do some good in that regard.

**Vice Chairman:** Before I call Deputies Patrick O'Donovan and Ann Phelan, I would like to clarify what I said earlier about the problem of telecommunications interference. The Chairman suggested that RTE had said the problem of interference could prevent it from reporting on our proceedings. While RTE has assured us that it will continue to report, it is concerned that people will find it more difficult to follow proceedings due to interference and this will affect the quality of the recording.

**Deputy Patrick O'Donovan:** I am concerned that we are being asked, on the one hand, to take a more technological approach to our work and, on the other, to switch off technological devices.

The Minister stated there is a robust set of legal measures in place for defamation and referred to section 10 of the Non-Fatal Offences against the Person Act, which deals with harassment. The Act deals with direct communications with a person but does not deal with communications about a person. This is a straightforward anomaly. Does the office for Internet safety have a statutory role in terms of making recommendations to the Minister for Communications, Energy and Natural Resources and-or the Minister for Justice and Equality on implementing changes to legislation? Has the office made a recommendation to either Department on this anomaly?

To reinforce the point made by Deputy Colreavy, I understand there is not much point in tracing someone for an act unless the act in question is illegal. If there is a loophole, an act may well be undesirable but it is certainly not illegal. If we are not taking steps to make the act illegal, the loophole must be closed.

How many members of staff are available to the office and what is its annual budget? There is a lack of awareness about the office. Is its role purely advisory in nature or can it make recommendations on legislative and regulatory deficits? We are trying to identify where are the gaps in terms of what we can we achieve. We are realistic about what we can achieve, bearing in mind the Minister's comment that the Internet as a platform is a conduit for good and only a small minority will abuse it. How does the office fit into the picture in terms of making deliverable and realistic changes?

**Deputy Ann Phelan:** I welcome Ms Deirdre O'Keeffe. I must confess that I was not aware of the office for Internet safety. If Members of the Oireachtas are not familiar with it, there is clearly a glaring problem with awareness. My lack of familiarity with the office may be because I do not have children in secondary school, although I have heard of the great work it has done with the Garda in tackling child pornography. I assume the reason for its success in this area was that action was taken at international level. The Minister stated that trying to combat cyberbullying may not be as easy as dealing with child pornography at international level. I ask Ms O'Keeffe to comment.

Much work is being done in the private sector by people who are trying to develop applications. This brings me to the policy about which the Minister spoke where certain words can trigger a take-down policy. Does the office have any role in this area, for example, in developing such a policy? Is it engaged with individuals in the private sector who are trying to develop take-down policies?

**Vice Chairman:** Ms O’Keeffe outlined the function of the office for Internet safety. I concur with many Deputies’ comments on the lack of awareness of the office. Can a parent, school principal or individual experiencing cyberbullying contact the office directly? Does it provide a helpline or telephone line? Perhaps this has been clarified already.

**Deputy Michael Colreavy:** I have a brief supplementary question. If the joint committee were to make a recommendation that allegations of cyberbullying be routinely sent to *hotline.ie*, would the office for Internet safety have sufficient resources available to it to handle the increased workload arising if it were to be made publicly known that *hotline.ie* was to be the initial point of contact for allegations of cyberbullying?

**Ms Deirdre O’Keeffe:** I hope to address all of the questions, of which there were many. On the public persona of the office or the fact that some people were not aware of its function, in fairness to everyone, this may be because we work through partners, for example, the Garda schools programme, the National Parents Council Primary and the National Centre for Technology in Education, NCTE. We do a great deal of work through our partners which disseminate a large quantity of material on our behalf. We hope schools have come across this material through those bodies. I have with me copies of some of the booklets we have produced. Requests for booklets are submitted to us from parents and schools and we meet these requests all the time. Demand for these booklets is very strong. I am sure I can provide members with the most recent figures on demand. It may be that people are not aware of the office for Internet safety but they will be aware of our work through the schools, Garda schools programmes and the National Parents Council, with which we work all the time. I am reminded also that we work through the ISPCC and Childline. We work through many partners.

The key role of the office is to try to provide information and support to various people. Deputy Michael Moynihan asked whether we offered anything specific in terms of the strength of the support we give to people. I have with me some material we produced for Internet Day in February this year. I can leave copies or send some to the joint committee after the meeting. The material is in the form of a leaflet, bookmark and poster for use in schools and so forth. The leaflet contains a specific message to young people who believe they are in difficulty in this area. It contains specific steps, written carefully and in plain English, for those who believe they are victims of cyberbullying. It also contains the information the Deputy seeks on our contact details, including a telephone number, website and e-mail address for those who need to contact us. Our telephone line is not intended for use by children who may be in a particular difficult situation immediately, although obviously we will also take such calls. We try, through our website and telephone lines, to refer such children and young people on to where they would receive the help they need, for example, specialist services operating in this area.

We keep our website under review to ensure it remains interesting and attractive to young people who may find themselves in a difficult position. It provides a large amount of information on what a person should do in particular circumstances and who they should contact. Telephone numbers and e-mail addresses are provided on the website. Our aim is to ensure that anybody who has a query or question or finds himself or herself in a difficult position is able to go to the correct source and may, through the telephone line, get directed to wherever they need

to go to get-----

**Deputy Noel Harrington:** The office has a good website and publications. Has it considered developing a more high profile presence on Facebook, Twitter, LinkedIn and *ask.fm*? These are the forums where the children are found.

**Ms Deirdre O’Keeffe:** I do not know if we are on those at the moment but we will certainly consider that if we are not doing so already.

**Deputy Michael Colreavy:** It is an excellent suggestion.

**Ms Deirdre O’Keeffe:** Yes, it is an excellent suggestion. I have been told that the website contains references to all these things and refers us on.

**Deputy Noel Harrington:** A front door is needed on these websites.

**Ms Deirdre O’Keeffe:** To return to my original point, we are concerned to ensure our messages remain up to date but we are also concerned to ensure the means by which we transmit those messages to young people particularly, who are at the cutting edge of all the social media in place, are such that we continue to be able to talk to them in the way they will want to access us and listen. While we pride ourselves on these guides and books, these are largely directed at parents who might still prefer to have the written word. We are very conscious that so far as our target audience is concerned, they are accessing us in more modern technologies and we are trying to keep abreast of that, if possible, to ensure the means by which we transmit to our target audience are up to date. Is that okay?

**Deputy Noel Harrington:** Yes, as long as the office for Internet safety is where the parents are.

**Ms Deirdre O’Keeffe:** Yes. One of the difficulties we face in this area is that the technology is evolving very quickly.

**Deputy Patrick O’Donovan:** To follow on from Deputy Harrington’s question, suppose one does not have a Twitter and Facebook identity or presence, how does the office for Internet safety monitor likely activities, because that is where the young people are? If the organisation is not actively engaged in it, how does it monitor likely activities?

**Ms Deirdre O’Keeffe:** The office does not deal with individual cases. Our role is to raise awareness in a general sense and we devote our resources to doing that. We stay closely in touch. A question was asked if we have linkages with the big companies or with the industry generally. To respond to Deputy O’Donovan, we work closely with the Internet Service Providers Association of Ireland. That includes all the big players in the area. They include, Eircom, BT, Vodafone, HEAnet and Irish Broadband. That covers about 90% of the people operating in the area. We keep in close touch with this group of people to ensure our messages are up to speed and that we know what is going on out there.

**Deputy Patrick O’Donovan:** It is clear from the Minister’s presentation that the Internet Service Providers Association of Ireland has no role and is not legally responsible for content. The companies we will be dealing with in the coming weeks are. With respect, I think that is where the office should be.

**Ms Deirdre O’Keeffe:** Yes.

**Deputy Noel Harrington:** The Internet service providers are the conduits. Whatever goes up will go up.

**Deputy Patrick O'Donovan:** They are not the driver.

**Deputy Noel Harrington:** It is clear from talking to parents and children that the Internet Service Providers Association of Ireland is completely unknown to them. When one speaks to a child, a parent or a school about the pros and cons of Facebook and Twitter, that is what they understand and identify with. In terms of the awareness issue in the presentation, I suggest that is where the office will become more aware rather than dealing with the ISPs. They are in it to make a few bob. They will do the hardware and the conduit work. That is what they are interested in, and after that they do not care, but the companies have a responsibility. For me, as a parent, it is deeply embarrassing that I had not heard of it, and I would be very keen to look at some of those publications.

**Ms Deirdre O'Keeffe:** I take the Deputy's point which is well made.

**Deputy Michael Colreavy:** I asked a question relating to *hotline.ie*. If *hotline.ie* was to be used as the first point of contact by youngsters who feel they are being subject to cyberbullying, is this part of what *hotline.ie* is supposed to handle and does the office for Internet safety or whatever office operates the hotline have the resources to handle what would be a fairly significant increase in its workload?

**Ms Deirdre O'Keeffe:** I think the question is whether *hotline.ie* will have the resources to act on the reports that are made to it. At the moment we support *hotline.ie*. It is partly supported by the Internet Service Providers Association of Ireland and it receives part-funding from the EU safer Internet programme, for which the office for Internet safety is the co-ordinator in Ireland. We do not have any concerns about the level of service provided through *hotline.ie* at present. If *hotline.ie* were asked to take on an additional function, it would have to assess its resource needs and whether it could meet it. We support *hotline.ie* but it does its own business, so to speak.

**Deputy Michael Colreavy:** I still do not understand if it would be realistic for the committee to make a recommendation that *hotline.ie* would be the first point of contact. In my view we are talking about a fairly significant increase in workload. In May 2008 a survey was conducted of about 2,800 students, more than 16% of whom reported having received an abusive text outside of school. Not all of these would have been illegal.

**Deputy Ann Phelan:** Yes. I think the question that Deputy Colreavy is trying to ask is, rather like Childline, if somebody in difficulty telephones the office for Internet safety, can the office can deal with it? Is that the point?

**Deputy Michael Colreavy:** Yes, is it part of the brief of the office for Internet safety, is it equipped and does it have the resources to handle that type of work?

**Ms Deirdre O'Keeffe:** It is not part of our brief to deal with individual cases. Our brief is to raise awareness and provide support to people in so far as we can by providing information to them as to how they might proceed if they have a difficulty. That is the kind of information that was in this brochure. It is also on our website. We try to divert people to wherever they need to go for the information. The hotline website is not part of us but we work closely with it. It is supported by the Internet Service Providers Association of Ireland. It takes just under of 2,500 calls per year. We do not have any concerns about its ability to deal with those calls.

This may be an issue that the committee may wish to raise with the Internet Service Providers Association of Ireland. It is not particularly a question we can answer. We support and are involved with what it is doing at present. It is also supported by funding from the EU Internet safety programme and it is our view that it discharges that role adequately at present. If an additional role were to be recommended for it, that is a question it would need to answer. It is not a question we would be in a position to answer.

**Deputy Patrick O'Donovan:** On a point of clarification, is the sole role of the office for Internet safety one of awareness raising? I asked if it had a role in terms of legislation.

**Ms Deirdre O'Keeffe:** Our main role is awareness raising. However, we discharge that role by working closely with other people. The Internet advisory committee brings together all the key players in the area and looks at the issues arising. Many of these people would be linked closely to international developments and would bring back views on what is happening internationally and what they think should happen. Should we become aware of something through that channel that needs to be brought to the attention of whoever, then obviously that is something we would do.

**Deputy Patrick O'Donovan:** On a follow-up point, to return to the original question I put to the Minister, Deputy Rabbitte, in terms of the Non-Fatal Offences against the Person Act 1997, has the issue been discussed by that committee and, if so, has a recommendation been made to the Department?

**Ms Deirdre O'Keeffe:** I will refer that question to Mr. Hugh Boyle, who is a member of that committee.

**Deputy Noel Harrington:** Is the office for Internet safety satisfied with the current legislation, are there deficiencies in it, and can the witnesses identify areas where this committee would have a role?

**Ms Deirdre O'Keeffe:** Again, I will refer that matter to Mr. Hugh Boyle because he may have views on whether the committee has identified particular things, legislative or otherwise, where there might be something to be said.

**Mr. Hugh Boyle:** Generally speaking, the offence of harassment under section 10 of the Non-Fatal Offences against the Person Act 1997 would be the most relevant. I do not think too many prosecutions have been brought in the context of cyber bullying because there are difficulties with regard to people making complaints and with the complaint being sustained. This is very difficult for people.

**Deputy Patrick O'Donovan:** Does Mr. Boyle know how many prosecutions have been brought?

**Mr. Hugh Boyle:** No, I am afraid I do not.

**Deputy Patrick O'Donovan:** In terms of the anomaly identified by the Minister in the context of communications with or about somebody, is the office aware of that anomaly?

**Mr. Hugh Boyle:** That has certainly come to light. It is suggested the offence may be committed by use of telephone, but that is now seen as a little narrow. We probably need to look again at what is an offence.

**Deputy Patrick O'Donovan:** Has the office made any recommendation for a change to be

made?

**Mr. Hugh Boyle:** The Law Reform Commission is looking at a particular aspect of the offence, namely the question of whether the harassment must be persistent. There is an issue about this. Currently, in order to prove the offence, it must be shown that the harassment took place over a period of time and on a number of occasions. That is not always necessarily the appropriate definition. A one-off occasion could be sufficient to cause harassment. This is something the Law Reform Commission has been asked to look at and it is part of its work programme. However, I do not know when we can expect to hear from it on that.

On the question of the adequacy of the legislation generally, our discussion here this morning shows there are nuances and areas where the legislation needs to be re-examined in terms of the evolution of the use and misuse of the Internet and telephone services. This demonstrates the difficulty for the law to keep up to speed with the level of change that occurs. Change in the law is a slow process, but changes in technology happen much faster. We are always playing catch up to some extent, but at least the issues have been identified and are being examined.

**Vice Chairman:** I suppose the fact these hearings are taking place demonstrates we are playing catch up. We have articulated the role of the office fairly well. Are there other questions remaining?

**Deputy Patrick O'Donovan:** I asked about staff numbers and the annual costs.

**Ms Deirdre O'Keeffe:** There are four staff currently. The budget is absorbed within the budget of the Department of Justice and Equality and the staff overheads and associated costs are met within the normal complement of the Department. Printing costs and so forth are additional. We try to operate as efficiently as we can and do much of our design and website work in-house.

**Deputy Patrick O'Donovan:** Does the office feel it is sufficiently resourced?

**Ms Deirdre O'Keeffe:** We have not experienced any difficulty in discharging our role to date.

**Deputy Ann Phelan:** With regard to the international context, the approach in regard to child pornography was a success because it operated on an international basis. This morning, we heard the Minister say that to try to do something about social media would be quite difficult in an international context. The Internet is viewed in the western world as being very positive, but in other parts of the world it is used by governments and it is they who abuse it. On the issue of the Minister's take-down policy, we need to identify tools that automatically trigger a take-down policy. Once certain words are identified, a site should close down automatically. Would Ms O'Keeffe like to comment on that?

**Ms Deirdre O'Keeffe:** In terms of the cross-border or international aspect, it will always be difficult to ensure co-operation, because the Internet does not recognise geographical borders. How we operate is that whenever something is reported to the hotline, if the material is illegal and the site is hosted in Ireland, we report it to the Garda Síochána and they pursue it in the normal course. However, if the site is hosted outside of the jurisdiction, the Garda will deal with its colleagues in the police force in the appropriate jurisdiction to try to proceed on the issue. We also talk to the Internet service provider, with a view to having the material taken down. I suspect there may be difficulties with regard to a site closing down automatically, but I will defer to Mr. Boyle on that.

## SOCIAL MEDIA: DISCUSSION

**Mr. Hugh Boyle:** Deputy Phelan suggested that certain words might trigger closing down of sites, but that can be difficult to implement because it all depends on the context. Sometimes a word might be used in the context of academic research or in another perfectly legitimate context and we do not want to interfere with that type of issue. That is the difficulty. It is all about not interfering unnecessarily with the free exchange of information and ideas. When we receive complaints through the hotline service or when complaints are made generally, there is a procedure to deal with the complaint. We must look at the site before making a request for removal of material. If it is not illegal but merely offensive, we might request the ISP to take it down. If it is illegal, there is a stronger procedure in place and we pursue and investigate it with a view to prosecution if the offence is located in our jurisdiction. If it is not in our jurisdiction, we pass the information on to the equivalent authorities elsewhere for action.

**Deputy Ann Phelan:** I was thinking more or less along the lines of when it is to do with children and bullying. There is a school of thought that when certain words are used they should trigger the need to highlight the issue and examine it in case something untoward is happening on the site.

**Vice Chairman:** I am sure that question will arise again tomorrow morning in our discussion with the service providers.

I would like to thank Ms O’Keeffe and her team for attending. This has been a very worthwhile engagement and they have articulated their role very well for us. It is up to us now to act and make proposals based on what has emerged here. I thank them for their contribution which has been very helpful.

The joint committee adjourned at 12.20 p.m. until 9.30 a.m. on Thursday, 7 March 2013.