

Tackling Internet abuse in Great Britain: Towards a framework for classifying severities of ‘flame trolling’

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Abstract - While trolling has existed as a term since the 1990s and as a reality even earlier there has been an exponential increase in the prevalence of the abusive kind - ‘flame trolling’. Mistakenly the media calls these flame trolls, ‘trolls’, when in fact there are more often than not ‘Snerts’ and ‘E-Vengers’. The justice system in Great Britain has taken a sporadic approach to dealing with flame trolling, and the wide range of legislation that has existed since the 1980s has no strategic method to assign its usage on the basis of the nature of the flame trolling as its use often depends on the whim of different police forces. This paper hopes to change this. After a brief presentation of the background of Internet trolling in Great Britain and in general a new framework is presented. This allows prosecutors to easily classify flame trolling based on the facts of the case and pick the appropriate level based on the severity.

Keywords: A Maximum of 6 Keywords

1 Introduction

Despite being one of the greatest innovations of all time, the Internet is less safe than one might have expected it to be considering one is often simply sitting in front of a computer screen at one’s home. Internet abuse (IA) is rife and despite differences in how it is defined and the specific criteria used, there is general agreement that IA can be explained in terms of the negative effect of Internet use, that is, Internet use that causes disturbances in an individual’s life [1]. It has been argued that Internet abuse is a mild form of Internet addiction [2], but there is a lack of evidence to support this claim. While technological approaches have been taken to combating IA [3], it was clear for many governments at the start on the 21st century that legislation was also needed to reinforce these techniques. Recently, the term ‘trolling’ has become a catch-all term for this sort of Internet abuse [4], but this is a simple view of the situation. Technically the abusive element of trolling could be called ‘flame trolling’ and the more positive aspects could be called ‘kudos trolling’. This paper will deal mainly with the former.

It was once mistakenly forecast that the rise of Internet use would be impaired through over-regulation of cyberspace [5]. Whilst there has never been a shortage of parliamentarians wanting to legislate in any number of areas of people’s lives, this paper shows how in all but name there is enough legislation on the statute books in Great Britain to deal with the problem of flame trolling, if it was used. Such overlegislating is a price to pay for MPs failure to pay attention to the generalisability of law and its flexibility in not requiring the enacting a new law for every change and or convergence in technology [6]. If one were to look at Figure 1, it can be seen that the marginal increase in interest in trolling and cyberbullying is proportional to the increase in interest in social networking and social media. Correspondence in the Liverpool Daily Echo showed that one of the MPs calling for additional laws on flame trolling assumed that trolling only started when the term, ‘social media’ became popular [7], which was when the political classes started taking interest in non-text based social networking to “connect with voters” and ‘get their message out’, most notably by US president Barrack Obama.

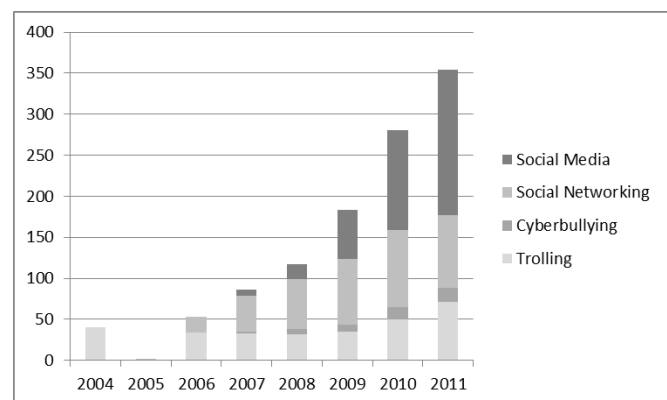


Figure 1 Trends of search terms on Google and Google News

1.1 Trolling in Great Britain

In fact, the term ‘trolling’ was probably first published in the Internet dictionary, Netlingo [8], which it was defined as an ‘act of posting a message in a newsgroup that is obviously exaggerating something on a particular topic’. The pressure in 2011 to take extra measures to tackle ‘trolling’ was as a result

of some high profile episodes of Internet abuse and cyberbullying. A few high profile cases brought attention to trolling as a term to reflect all cyberbullying. Celebrity Jade Goody's vandalised memorial page was the first case to be prosecuted under the MCA, with He was also banned from using online public communications services for five years. The second high profile case was that of Georgia Varley, a Liverpool teenager whose family was subject to RIP Trolling after a memorial page was set up to remember her. The local MP representing Gerogia, Steve Rotheram, vowed to introduce legislation to "see a greater conviction rate for those guilty of this vile practice" leading to her mother, Paula Varley saying in support, "We are hopeful that Steve Rotherham can push the legislation through. If something comes out of this then it could save another family the heartache we have had to go through". This shows the problem of lack pf awareness of the available legislation in relation to trolling, as even though the term has doubled in use since 2006, the connection between the 'new term' and 'old crime' has not been easily made. Something that will be addressed by this paper.

For instance, the Telecommunications Act 1984 can be widely applied beyond its original scope and in fact the Malicious Communications Act 1988 has seen a surge in use since the introduction of Facebook, being used to penalise many people for 18 weeks in prison for defacing memorial pages to people who had died, known as 'RIP Trolling'. It may be the case that the Internet was not high on the radar of British central government for decades after its potential was envisaged around this time. Indeed, even as the Worldwide Web was being launched on 6 May 1994 Hansard reports Welsh Secretary John Redwood apparently downplaying the role of the Internet, as follows: 'My Department is considering the use of the Internet and other electronic services initially for the transmission to non-media outlets of press notices. The possibility of including other departmental information would be considered after this first stage.' Even though it was apparent there was a lack of understanding of the Internet by the British Government in the 1990s, that didn't stop pressure being put on them by MPs. For instance, Hansard on 15 October shows future Home Secretary David Blunkett asking the then Home Office Minister what action the British Government was taking to 'outlaw the downloading and publication of obscene material from the Internet which would be illegal if produced in printed form.' This pressure was eventually realised with the passing of the Criminal Justice and Police Act 2001 and Communications Act 2003 (CA2003) by Mr Blunkett's New Labour Government.

2 Towards a framework for classifying flame trolling

Please Great Britain has an extensive array of laws that can be used to tackle flame trolling. At the moment it is quite sporadic. In March 2012 the CA2003 had only been used twice to successfully prosecute flame trolling, whereas the older Acts such as the Telecommunications Act 1984 (TA)

and Malicious Communications Act 1988 (MCA) had been used more frequently.

Table 1. A Framework for identifying severities of trolling

Trolling type	Severity	Flow / Involvement	Appropriate legal provision
Playtime	Minor	High Flow / Low Involvement	Fixed penalty notice £75
	Major	Med Flow / Low Involvement	Fixed Penalty Notice £150
Tactical	Minor	Med Flow / High Involvement	Common law detention for breach of the peace
	Major	High Flow / High Involvement	ASBO under s.1 the Crime and Disorder Act 1998.
Strategic	Minor	High Flow, Med involvement	Fine under s.43 of the Telecommunications Act 1984
	Major	High Flow, Med Involvement	18 weeks for each guilty act under s.1 of the Malicious Communications Act 1988
Dominati on	Minor	Low Flow, Med Involvement	Restraining Order under s.5 of the Protection from Harassment Act 1997
	Major	Low Flow, High Involvement	6 months for each guilty act under s.127 of the Communications Act 2003

There is a strong case therefore for using these and other Acts more strategically so that those with less severe sentences are used for Minor flame trolling and then Major flame trolling is subject to harsher sentencing on an equivalent basis.

In this context Minor refers to a guilty act where there is a less serious guilty injury (malum reus), such as a standard flame.

Major on the other hand refers to a guilty act where there is a more serious guilty act, such as inciting racial hatred as in the case of *R v Stacey* (2012) who was a student at Swansea University, or otherwise where the actions are persistent (i.e. *metu pertinax reus*), or both. Table 1 above provides a possible strategic framework for determining when to use particular statutes for trolling.

2.1 Applying the framework to British cases

The Applying Table 1 to actual cases of flame trolling, one can see how better judgments could have been made had this framework been in place and accepted by the public prosecutor (CPS) in Great Britain.

In the case of minor Playtime Trolling, a clear case would be that of Jamie Counsel who posted and then removed a page on Facebook calling for riots. He was jailed for his Twitter post, yet would only be fined £75 if Table 1 was implemented, as he took it down straight after realising his in-the-moment mistake for which no one was harmed.

Tactical Trolling is where someone may be caught up in the situation, but they could choose to avoid posting if they want to, as it requires more effort than in Playtime Trolling. An example of Major Tactical trolling would be that of Liam Stacey, who in 2012 was sentenced to jail for racist abuse. He deleted the posts after realising the consequences of his actions, which he didn't mean, making the abusive comments only following reprisals to an earlier post from other users.

Strategic Trolling is where someone goes out of their way to troll others, yet without acquiring any new equipment or substantially creating any new content in order to carry out the act. One of the earliest common forms of Strategic Trolling was the concept of 'happy slapping'. This was where people would video themselves attacking others on public transport, or pulling people off their bicycles for instance, and then posting this video to the Internet. Strategic trolling can be as mild as someone intentionally going on to a social networking service to cause mischief, to organising formally or informally with others to abuse people. This can include setting up 'flame-wars' where they subject people to a tirade of abuse.

Domination Trolling on the other hand is where someone goes out of their way and puts in a huge amount of effort to troll another person. A recent UK example of this was that of British broadcaster Richard Bacon. Mr Bacon was tormented by a flame troller who was obsessed with doing all they could to attack him. They sought out many avenues for using the Internet to abuse him, including creating a dedicated website called, "Richard Bacon is a [expletive]". Another example, that of Sean Duffy was not confined to one person, but going to massive efforts to seek out and abuse people who had died for their families to see. Duffy, from Reading, trolled the 'R.I.P. pages' of Natasha MacBryde and Sophie Taylor, both teenagers. In both cases he was charged under the Malicious Communications Act 1988, which is best used for Strategic trolling, which is often a one off yet severe incident. As he was harassing many individuals the Protection from harassment Act 1997 may not be appropriate meaning the

Communications Act 2003 would be most effective with its ability to impose long jail terms to keep the public safe. It was used for this in the case of *R v Counsel* (2011) where the defendant was sentenced to 4 years for trying to incite riots on Facebook.

3 Conclusions

While trolling has existed as a term since the 1990s and as a reality even earlier there has been an exponential increase in the prevalence of the abusive kind - 'flame trolling'. Mistakenly the media calls these flame trollers, 'trolls', when in fact there are more often than not 'Snerts' and 'E-Vengers'. Despite being one of the greatest innovations of all time, the Internet is less safe than one might have expected it to be considering one is often simply sitting in front of a computer screen at one's home. Internet abuse is rife and despite differences in how it is defined and the specific criteria used, there is general agreement that IA can be explained in terms of the negative effect of Internet use, that is, Internet use that causes disturbances in an individual's life. The justice system in Great Britain has taken a sporadic approach to dealing with flame trolling, and the wide range of legislation that has existed since the 1980s has no strategic method to assign its usage on the basis of the nature of the flame trolling as its use often depends on the whim of different police forces.

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From this it is clear to see that there is not enough known about the laws that exist to deal with trolling, what to use them for and when to use them. By providing a framework to assess the severities of flame trolling this paper has gone some way to providing solid guidance to law enforcement authorities so that the appropriate action is taken, and so that the Great British justice system is not used to 'set examples', but to deal with the problem fairly as one would expect in a true democracy.

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