

By email only:

abuse@NearlyFreeSpeech.NET
support@NearlyFreeSpeech.NET
issue_59597@support.nearlyfreespeech.net

NFSN, Inc.
PO BOX 441
COCOA FL 32923-0441
United States of America

PRIVATE & CONFIDENTIAL

5 October 2012

Dear Sirs,

www.badger-killers.com

Background

We act for the UK Government Department of the Environment, Food and Rural Affairs ("Defra") and write to you regarding the above website. As you may be aware, Defra is considering a number of proposals relating to combating the spread of bovine tuberculosis amongst livestock in the UK. One such proposal is the culling of badgers, to be tested by way of two pilot culls. This is a controversial proposal and has provoked debate and protest by a number of opposition groups.

One such protest group has voiced its opposition through the website www.badger-killers.com. This website, as you may be aware, is currently hosted by you.

Free speech

We support and respect the right to legitimate protest in the UK and we do not oppose the right of any protest group, including this website, to lawfully express its views. We note from your mission statement, that you wish to facilitate free speech and we support this aim.

However, as has been brought to your attention, www.badger-killers.com contains some material which does not form part of its legitimate protest but instead involves the illegal publication of personal contact information by the authors of the website who know (or ought to know) that such publication may lead to harassment of named individuals. This is made clear by the website when it states that users should 'contact all the people involved as frequently as you can'. Although the website states that their aim is to 'beat [the UK government] with a sense of humor (sic)' the harassment that has ensued has gone far beyond this, and has even included a death threat. The information includes names, home

addresses and personal telephone numbers of individuals who have not consented to this information being publicised.

In light of the very serious nature of the harassment, and the continued breach of the UK injunction granted by Mr Justice Eder on 13 September 2012 (sent to you previously but reattached for convenience), we are seeking to have the personal contact information that is available on the website removed and we ask for your help in achieving this.

We reiterate that we do not wish to stifle the lawful and legitimate protest of this website, or any other similar website. We respect the right of free speech for all individuals. However, in the UK, as in the USA, free speech is a right which must operate within legal parameters and www.badger-killers.com is now operating outside of those parameters, with serious and potentially dangerous consequences. We note that your site is called "**NearlyFreeSpeech**"- even the name of your organisation suggests you recognise there at least some limits to free speech.

Terms and Conditions

Clearly, the publication of personal contact information in the knowledge (or constructive knowledge) that such publication may lead to harassment of others, is illegal. We do not wish, however, to cite the relevant law in these circumstances. Instead, we make reference to your terms of use. Notably, the "Content" section which states:

"You may not upload, publish, or otherwise use the Services to make available any Content that

- violates the laws of the United States of America; or*
- you are contractually prohibited from distributing; or*
- is tortious under the laws of the United States of America; or*
- your distribution of which infringes upon the intellectual property rights of others; or*
- you otherwise do not have the legal right to distribute."*

From this, we understand that you wish to prevent the abuse of your hosting facility and enable any persons affected by such abuse to report to you. In its current form, www.badger-killers.com is in breach of your terms of use. The purpose of this letter is to report this breach and bring to your attention the abuse of your services, which threatens to undermine your legitimate objectives. We therefore ask that, in line with your terms of use, the personal data be removed from the website.

Further action

We restate that our request does not and is not intended to attack free speech. However, we ask that you consider the position of those individuals, named on the website, who are the subject of this harassment. If you could imagine having your own personal contact information, including personal phone numbers, details and photographs of your family address, on a website which seeks to encourage individuals to harass you, we suggest that you would not support such publication. Further, we submit that such publication or behaviour has no relevance to the protection of legitimate free speech.

We note that to ensure that you are able to effectively run your organisation, you have not chosen to publish the personal phone numbers or home addresses of individuals that work for or run your organisation. Whilst it is a matter for any organisation in consultation with the other individuals concerned whether they wish to post such information on their website, you

would not normally expect to find such information on a web site. We simply suggest the same right should be afforded to others.

As set out above, the type of harassment suffered by the individuals involved continues to escalate. The purpose of our letter is to ask for your assistance in removing the offending information and we trust that, in light of the above, you will co-operate. We primarily ask that you consider matters in accordance with your own terms and conditions or by adopting a common sense approach.

However, should you choose not to assist us in this matter, we reserve the right to seek an enforcement order. This may result in significant costs, which Defra would seek to recover from you. We note from other correspondence which we have seen that you have 'limited resources' and we do not favour this action, given that it may put the very future of your organisation at risk.

Additionally, if you choose not to co-operate, this may become a criminal matter and we will contact the relevant authorities within your jurisdiction. As stated, this is not our preferred action, but without your co-operation and in light of the seriousness of the matter, we may have no other option.

Due to the harassment of those involved in this matter, it has been necessary to set up a special email account BK@tsol.gsi.gov.uk to which any replies should be sent.

We look forward to hearing from you by return.

Yours faithfully

For the Treasury Solicitor

Enc.