

## Computer and Cybercrimes Bill 2017 Memorandum

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Date: 12<sup>th</sup> February 2018

Clause	Current clause	Proposal and comment
6(3)(a)	results in a significant financial loss to any person;	Delete the word ' <b>significant</b> '  the word significant is ambiguous
7(2)(a)	results in a significant financial loss;	Delete the word ' <b>significant</b> '  The word is ambiguous
12	A person who intentionally publishes false, False publications. misleading or fictitious data or misinforms with intent that the data shall be considered or acted upon as authentic, with or without any financial gain, commits an offence and shall, on conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years, or to both.	<b>Delete Clause 12 in its entirety</b> <ul style="list-style-type: none"><li>- This is an attempt to reign on fake news. However, there are constitutional and legislative provisions that deal with this. For example laws on defamation</li><li>- Secondly, this will arbitrarily limit the right to freedom of expression, freedom of the press and access to information as guaranteed by Articles 33,34 and 35 of the Constitution respectively</li><li>- Third, fake news may be countered by nurturing existing credible sources of data and information or publishing the correct data and information.</li><li>- Fourth, this is a Cybercrimes Bill, will it also affect publication that's not in a computer system or programme such as print media? This provision is misplaced</li></ul>
16	(1) A person who, individually or with other persons, wilfully and repeatedly communicates, either directly or indirectly, with another person or anyone known to that person, commits an offence, if they know or ought to know that their conduct— is likely to cause those persons apprehension or fear of violence to them or damage or loss on that	<b>Have a definition of cyber-bullying under clause 2</b> <b>"cyberbullying" refers to the use of computer programmes, the internet or mobile technology to harass, intimidate, humiliate, torment, threaten or cause harm to another person'</b>

	persons' property; or detrimentally affects that person.	
	<b>Revenge Pornography</b>	<p>Have a new clause on <b>revenge pornography</b> –</p> <p><b>A person who, individually or with others intentionally discloses, communicates or distributes the image of an identifiable person in a state of nudity or engaged in sexual activity, when the person has an expectation of privacy, with the intent to harm, harass, intimidate, threaten, or coerce the depicted person commits an offence and is liable, on conviction, to a fine not exceeding seven million shillings or to imprisonment for a term not exceeding four years, or to both.</b></p>