IN THE CROWN COURT AT NOTTINGHAM

REGINA

-v-

ALEX BELFIELD

LEGAL DIRECTIONS AND ROUTE TO VERDICT

I. Task of the Judge and the Jury

1. Members of the jury, as I explained to you at the beginning of this trial our functions as judge and jury have been, and remain, very different.

2. The law is my area of responsibility. You must accept the directions of law that I give you and follow them.

3. It is for you the jury, **alone**, to assess the reliability and importance of the evidence you have heard in this court room. It is for you to decide what conclusions should be drawn from that evidence. It is for you to decide which evidence you accept or reject. It is for you to decide what the true facts were in deciding your verdicts.

4. Equally, although you know that you **must** follow my directions of law, when I remind you of the prominent features of the evidence (as I will do in summing-up after AB's closing speech) you do not need to be limited by my selection or indeed adopt any view I appear to you to express. I will avoid expressing any

view but if I do you are free to ignore it. Below, I will describe some of the issues and evidence in this case in order to put my legal directions to you in context. Again, what I have selected is not intended to be any view as to which evidence you should accept or reject but is referred to just for illustrative purposes.

5. I emphasise, it is only **your** own view of the evidence that matters, and it is important for you to preserve your independence when considering the evidence. In particular, if I do not remind you of a piece of evidence you consider important you must give it the significance it deserves. I will for example not take you to every document in the jury bundles which the witnesses were shown. You will have an opportunity to review those bundles when you retire, and you will form your own views as to the importance of particular documents. You will also have access to the videos to watch them again when you retire.

6. In approaching the task before you there are certain golden rules and I turn to them. I want to make **six** short points.

7. **First**, you must decide the case on the evidence called before you not by speculating about what other evidence might have been obtained. There will be no more evidence in this case.

8. **Secondly**, use your common sense. Your experience of life and the world is the great value of our jury system. When you come to consider the evidence of the witnesses, you can accept part of what a witness says and reject or be unsure about other parts. Please treat all the witnesses fairly.

9. The evidence of witnesses consists of what was said but also the way it was said. You will want to consider matters such as whether or not the witness whose evidence you are considering was attempting to answer directly and honestly.

10. I have already explained to you that it is common these days for witnesses to give evidence from behind a screen. You should not hold that against either the

witness or AB. Similarly, there is no significance in the fact that some witnesses were cross-examined by Mr Aubrey QC and others by AB. Please just focus on the answers not who was asking the questions.

11. **Thirdly**, you are entitled to draw inferences: common sense conclusions based on evidence which you accept. You are entitled to say: "we know A and we know B and from this we can conclude or infer C".

12. **Fourthly**, do not look for difficulties where none exist. You cannot possibly unravel every thread in a criminal case, and you do not need to. You need only determine those matters which enable you to decide whether the prosecution has proved its case. Stick to the essentials, do not get bogged down in irrelevant matters. In this case, there has been evidence of day to day matters which arose at BBC Radio Leeds during the period of about 10 months (between around April 2010 and March 2011) when AB was presenting the mid-morning show. Like all work environments, issues between people arise. You cannot possibly get to the bottom of who was in the right in relation to every dispute or matters such as whether AB resigned, or his contract was terminated by the BBC. Do not allow yourselves to get diverted from your main task which is to decide whether the prosecution has made you sure of AB's guilt in relation to the specific counts he faces.

13. **Fifthly**, remember, throughout your deliberations, to be dispassionate and rational. Do not let yourselves be driven by prejudice or emotion; rather, put emotion aside and reach your conclusions using common sense and logic. Some witnesses became distressed when giving evidence, but do not let sympathy or emotion sway you from deciding this case on the evidence. Trials are not a popularity contest. You must decide this case according to the evidence you have heard and applying my legal directions.

14. **Sixthly**, please consider the 8 counts separately. The evidence relating to these charges is not the same although there are clear overlaps, particularly in relation to Counts 1-4 which concern the witnesses at the BBC who gave evidence: Rozina Breen, Liz Green, Helen Thomas and Stephanie Hirst. There are also

overlaps in relation to the evidence of Jeremy Vine, Mr Bernard (Spedding) Keith, Ben Hewis and Phil Dehany. The verdicts you reach may be the same or they may be different on each count but consider each count and the evidence in relation to it independently.

II. Burden and Standard of Proof

15. As I told you at the start of this trial, it is for the prosecution to prove its case against a defendant. The defendant does not have to prove his innocence, or anything else. You will convict AB of stalking or the alternatives (set out below) only if you are sure that he is guilty. Nothing less than that will do.

III. The law concerning stalking causing serious alarm or distress

16. You will see from the Indictment (Tab 1 of slimmer Jury Bundle), that the offence alleged in Counts 1-8 is stalking causing serious alarm or distress. Each Count identifies the alleged victim (I will call them the "complainants" below). In order to prove these Counts, the Prosecution must make you *sure* on the evidence of each the following six matters. It is not for AB to disprove any of these matters although he denies all of them.

17. I will deal with each of the six matters in turn.

18. First, the prosecution must make you sure that AB engaged in a **course of conduct** against the complainants. For behaviour to amount to a relevant **course of conduct**, AB must have engaged in behaviour on at least two occasions within the relevant period identified in the Counts. You will see the relevant periods for each Count in the Indictment. A single act would not be a course of conduct. Here the prosecution relies on a course of behaviour such as emails/social media posts and videos over a number of years.

19. Second, the prosecution must make you sure that this course of conduct amounted to **harassment** of the complainants. Harassment is an ordinary English word and you will use your common-sense in approaching that matter.

In basic terms, harassment can be described as unreasonable and oppressive conduct which is targeted at another person. It includes actions which cause alarm or distress. But in order to amount to harassment, the conduct of AB must be shown to have been sufficiently serious to have crossed the line from merely unattractive conduct to conduct which is so unreasonable to have become oppressive. Because this is a case which concerns alleged harassment and stalking by publication (making communications), when deciding whether the alleged conduct of AB has crossed the boundary into becoming oppressive and unreasonable, you will need to balance his right to free speech against the right to private life of the complainants. I will now describe how you should approach this issue.

20. AB's case is that he did not harass the complainants. His argument is he was entitled to act in the way he did as a journalist and that in all the circumstances he acted reasonably, including by responding to trolls or those who "liked" them. AB's case in summary is that he is an established journalist, reviewer, broadcaster, and comedian, who has produced many hundreds of videos and many thousands of tweets each year, giving a satirical take on the news and journalism. He says his communications were on matters of serious public interest. I will describe those matters when I sum up the evidence but they include matters such as the role and funding of the BBC and radio show listener numbers. AB says he acted reasonably in all the circumstances and exercised his journalistic rights to hold people to account and, in some of the other cases, to respond to personal attacks.

21. Under our law, and as part of our democracy, freedom of speech is given high protection. The law protects not only the substance of ideas or information expressed, but also the tone or manner in which they are conveyed. A journalist is entitled to be provocative and controversial.

22. However, as one would expect, there are also important limits to freedom of speech. The prosecution say that what AB did went well beyond any proper exercise of free speech rights and was unreasonable and oppressive. The law recognises that all citizens have a right to private life. Like freedom of speech it is an important right in our democracy and has high protection. The

prosecution argue that rather than exercising his free speech rights as a journalist, AB conducted a harassment campaign over many years (for example, over 8-9 years in Counts 1-3) of false, abusive and offensive communications, running in on some counts into thousands of emails (using various addresses) which were distributed on a wide scale, as well as widespread tweeting and YouTube videos. The opening date of 25 November 2012 in certain counts is the date on which the relevant offence was created by statute. The prosecution have focussed in the evidence on what they say were abusive comments made by AB which were personal and not matters of public interest journalism and the fact that these comments were given a widespread distribution. They say that AB developed an obsession with the various complainants. They also say that AB conducted a campaign of making false threats of legal action and claiming to having consulted lawyers to make threats. Overall, they say he was "trolling" the complainants as opposed to acting as a form of journalist.

23. The law seeks to strike a fair balance between these two rights – that is, free speech rights of AB and the rights to private life of the complainants. In this case, you will be responsible for striking that balance. So, in deciding whether the prosecution has made you sure AB's conduct was oppressive and so unreasonable as to amount to harassment, you will need to consider the entirety of the evidence including: the period of time over which the communications were sent; the form of each of the communications (email, tweet or video); the interactions between AB and the complainants and what they said, if anything, about one another; the period of time over which the communications were sent; the capacity in which AB was communicating (was this a complaint about a personal matter or a true matter of public interest); the identity, and number, of recipients or potential recipients (or viewers) of what he sent including blind copies; what was said in the communications by way of language and tone; and the extent to which what he was saying was true. On this last point (truth), this is just a factor like the other matters and not determinative because in law you can harass someone even if what is said about them is true (assuming the overall conduct is of a harassing nature).

24. Whether AB has exceeded the limits of freedom of speech such that he has crossed the boundary into unreasonable and oppressive conduct seriously affecting the private lives of the complainants, will be a matter for you as the jury to decide in accordance with these legal directions. Again, you must be sure he has crossed this boundary before you can find his conduct amounted to harassment.

25. Third, the prosecution must prove that AB **knew or ought to have known** that his conduct amounted to harassment of the complainants. This is proved if AB either actually knew that his conduct was harassment, or if he ought to have known that his conduct was harassment. The law says that if a reasonable person in possession of the same information would have thought that the course of conduct was harassment, then AB ought to have known that it would.

26. Fourth, the prosecution must prove that the harassment amounted to **stalking**. What does that mean? It is a form of harassment involving conduct associated with acts or omissions which can be called "stalking".

27. In this case the prosecution call the type of stalking they say AB committed as "trolling" by email and social media (Twitter and YouTube). Examples of acts which the law says you may, depending on the circumstances, regard as stalking include: following a person; watching or spying on a person; monitoring the use by a person of the internet; emailing, or any other form of electronic communication such as social media; contacting, or attempting to contact, a person by any means (where such contact is unwanted); publishing (which is just saying or writing things to another person) any statement about a person; interfering with any property in the possession of a person; and loitering in any place (whether public or private).

28. I stress that these are only examples of the kind of behaviour which, in particular circumstances, may amount to stalking. It is not an exhaustive list. It is for you to decide whether the acts you find proved as harassment also amount to stalking. In this case, there is no suggestion by the prosecution that AB had any personal contact with any of the complainants and the claimed stalking is concerned with acts of emailing, tweeting and making of YouTube videos.

29. Fifth, the prosecution must make you sure that the stalking caused the relevant complainants **serious alarm or distress** which had **a substantial adverse impact on his/her usual day to day activities.** Each Count names the complainant who the prosecution say was caused such serious alarm or distress with the specified impact. When considering whether this element of the offence has been proved, you should focus on the impact on that named person. You will recall that each witness gave evidence about the effects on them of the alleged stalking.

30. Sixth, and finally, the prosecution must make you sure that AB **knew or ought to have known** that his conduct would cause the relevant complainants serious alarm or distress as would have a substantial adverse impact on his/her usual day to day activities. This is proved if AB either actually knew that his conduct would cause the named person such serious alarm or distress, or he ought to have known that his conduct would cause the named person such serious alarm or distress. The law says that if a reasonable person in possession of the same information would have thought that the course of conduct would cause that person such serious alarm or distress, then AB ought to have known that it would.

31. The Route to Verdict sets out these six questions for you.

IV. Alternative offence: "simple" stalking

32. An offence which I will call "simple" stalking is an alternative to the offence of stalking involving serious alarm or distress, which I have described above. It is a less serious offence and I use the term "simple" only to distinguish it from the more serious form of stalking.

33. If, in respect of any count, you find AB 'Not Guilty' of stalking involving serious alarm or distress - but only in this event – you must go on to decide whether he is guilty or not guilty of simple stalking. This does not appear on the Indictment but is an alternative available to you. The Route to Verdict will help you in this regard.

34. Simple stalking is a less serious offence than stalking involving serious alarm or stress. That is because it does not require **serious alarm or distress** to the person targeted by the stalking to be proved. This lesser alternative to each Count is proved if the Prosecution have made you sure that:

    (a) AB engaged in a **course of conduct** that amounted to **harassmen**t and **stalking**; and

    (b) he **knew or ought to have known** that the course of conduct amounted to harassment of the relevant complainant.

35. As to what these terms mean in law and the approach you must take, I refer back to the legal directions above. They mean the same things.

VII. Silence at Trial

36. AB chose not to give evidence during the trial. It was and remains his right to remain silent. That decision not to give evidence is not, however, without consequences because:

    (a) He has not given any evidence during the trial to contradict, dispute or undermine the prosecution case against him. AB did give a detailed account to the police in his interviews which he relies upon. Those interviews are part of the evidence, but they were not given on oath and tested in cross-examination; and

    (b) You may be entitled to draw certain inferences or conclusions from the failure to give evidence at trial as I explain below.

37. You will recall that when the court was told that AB was not going to give evidence, I asked him this question:

> "Mr Belfield now is your chance to give evidence if you choose to do so. If you do give evidence it will be on oath or affirmation, and you will be cross-examined like any other witness. If you do not give evidence the jury may draw such inferences as appear proper; that means they may hold it against you. If you do give evidence but refuse without good

reason to answer the questions the jury may, as I have just explained, hold that against you.

Do you now intend to give evidence?"

38. He said "no". It follows that you can be satisfied that AB was aware that (subject to the following directions) you may be entitled to conclude that he did not think that he had an answer to the prosecution case that would stand up to cross-examination in court. It is for you to decide whether AB's failure to give evidence should count against him in this way and to make this decision you should consider the following questions:

    (a) Are we sure that the prosecution case against him is so strong that it calls for an explanation? If the answer is "Yes", you should proceed to the next question. But if the answer is "No", you should not draw any adverse conclusion from his decision not to give evidence.
    (b) Are we sure that the true reason why AB did not give evidence is that he did not have a response to the prosecution case that would stand up to questioning in court? If the answer is "Yes", then you are entitled to regard his failure to give evidence as providing some support for the prosecution case.

40. You must remember, however, that it remains the prosecution's task to make you sure of a defendant's guilt. Thus, while AB's failure to give evidence may support the prosecution's case, you must not convict him wholly or even mainly because he failed to give evidence

VII. AB's good character

39. AB has no previous convictions. Good character is not a defence to the charges, but it is relevant for the following reason. The fact that AB has not offended in the past may make it less likely that AB acted as the prosecution alleges in this case. What importance you attach to AB's good character and the extent to

which it assists on the facts of this particular case are for you to decide. In making that assessment you may take account of everything you have heard about AB.

VII. The Jury's Task: Route to Verdict

40. In order to reach your verdicts please work through the questions in the attached Route to Verdict document. You will use one of these documents for each count. Please refer back to the relevant detailed directions above where appropriate. It is a matter for you in which order you consider Counts 1-8.

VIII. Unanimity

41. The only verdicts that I can accept from you will be those on which you all agree – what are called *unanimous verdicts*. You may have heard about majority verdicts. Let me tell you now - you should put that out of your minds. If the time comes when I can accept a majority verdict, I will invite you back into court and give you further directions. At this time, you should concentrate on reaching a unanimous verdict.

IX. Discussions

42. When you retire to consider your verdicts after my summing-up, how you organise your discussions is a matter for you. You may find it helpful to select one of your number to chair your discussions and ensure that everyone has a chance to give their views. It is important that everyone feels able to contribute and it is the duty of the chair to ensure that everyone has an equal voice. You all have a duty to participate in discussions because that is a very important part of the oath or affirmation that you took at the start of this case. It is your collective wisdom and experience that is the strength of the jury system. When the time comes to return your verdicts in court, it is the chair who will read those verdicts out in response to questions from the court clerk. Once the jury bailiffs are sworn, discussions must only take place with all your number present.

Finally, you will be under no pressure to reach verdicts. Take the time that you need.

Mr Justice Saini **28 July 2022**