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## **Online media and journalism: challenges and accountability**

### **Report<sup>1</sup>**

Committee on Culture, Science, Education and Media

Rapporteur: Ms Adele GAMBARO, Italy, ALDE

### *Summary*

Online media have enabled the global public to become aware of human rights violations and human suffering in places far away with little media attention. On the other hand, the Internet has enabled powerful commercial stakeholders and political groups to launch concerted action by huge numbers of users of online media. Facts and fair information are not necessarily the backbone of such mobilisations. Therefore, a number of measures should be taken by member States and other stakeholders.

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<sup>1</sup> Reference to committee: Doc. 13589, Reference 4082 of 3 October 2014.

## A. Draft resolution<sup>2</sup>

1. The Parliamentary Assembly acknowledges the radical changes in the media landscape resulting from the convergence of traditional media with the Internet and mobile telecommunications, as well as from new forms of media, such as user-generated Internet platforms and tools for the automatic aggregation of third-party media content. Within this new context, the reader or viewer becomes an active stakeholder in the information chain by not only selecting information but also, in many cases, producing it. While in the past, journalists and editors had a controlling position for the public dissemination of information, new online media offer everybody the possibility to disseminate information and views to the public at large. This new opportunity has allowed individuals to bypass traditional media and hereby create more media pluralism such as through investigative media blogs.

2. The new media landscape is also impacting on media financing. Whereas subscription used to be a solid source of income, free access to Internet media has reduced the willingness of users to pay subscription fees. Likewise, advertising revenue has shifted from advertising in print media or broadcasting to targeted Internet advertising which uses the profiled personal data of Internet users. In the wake of this shift in resources from media outlets to Internet service providers and social media, the Assembly is much concerned by the weakening of professional media as well as by an exponential growth in Internet media which do not adhere to professional standards of journalism.

3. Online media have enabled the global public to become aware of human rights violations and human suffering in places far away with little media attention. On the other hand, the Internet has enabled powerful commercial stakeholders and political groups to launch concerted action by huge numbers of users of online media. Facts and fair information are not necessarily the backbone of such mobilisations.

4. The line between what could be considered a legitimate attempt to express own views seeking to persuade and what is disinformation and manipulation is frequently trespassed. The Assembly notes with concern the number of online media campaigns designed to misguide sectors of the public through intentionally biased or false information, of hate campaigns against individuals and also of personal attack, often in a political context, with the objective to harm democratic political processes.

5. The Assembly welcomes that large online media have established a policy whereby users can identify factual errors or factually false posts by third parties on their websites, such as on Facebook News Feed or through Google's "webpage removal request tool". Credibility and reliability of online media require that they remove or correct false information.

6. Recalling Resolution 1843 (2011) on the protection of privacy and personal data on the Internet and online media, the Assembly notes with satisfaction that national courts in Europe have ordered Internet search engines to remove pejorative words from their auto-complete function when searching the names of individuals. This "right to be forgotten" or the right to erase personal data on online media should be strengthened throughout Europe.

7. Welcoming Law No. 12.965 of 23 April 2014 of Brazil on civil rights of the Internet (Marco Civil da Internet) as well as the Declaration of Internet Rights adopted by the Italian Parliament on 28 July 2015, the Assembly calls on parliaments to discuss online media and journalism and to promulgate general standards for the protection of fundamental freedoms and rights of Internet users, journalists and online media in accordance with this resolution.

8. Therefore, the Assembly recommends that:

8.1. member States:

8.1.1. initiate, both at the national level and within the Council of Europe, discussions on norms and mechanisms, required for preventing the risk of information distortion and manipulation of public opinion, as already suggested in Assembly Resolution 1970 (2014) on Internet and politics: the impact of new information and communication technology on democracy;

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<sup>2</sup> Draft resolution adopted unanimously by the committee on 8 December 2016.

- 8.1.2. enable public service broadcasters to make full use of the technical possibilities offered by online media, ensuring that their Internet presence comply with the same high editorial standards as offline; in particular, public service media should use highest editorial diligence with regard to user-generated or third-party content published on their Internet presence;
- 8.1.3. recognise in their law and practice a right of reply or any other equivalent remedy, which allows a rapid correction of incorrect information in online and offline media;
- 8.1.4. ensure the traceability by law-enforcement authorities of users of online media, when they violate the law; online media must not become a lawless zone through the anonymity of users;
- 8.1.5. include in their school curricula media literacy and support awareness raising projects and targeted training programmes aimed at promoting critical use of online media;
- 8.1.6. support, professional journalistic training, ranging from higher education to lifelong learning, apprenticeships offered by online media as well as “citizen journalism” education for the public at large;
- 8.2. the European Federation of Journalists and the Association of European Journalists call on their members to ensure that:
  - 8.2.1. professional journalistic media uphold their editorial standards in their Internet presence, including own media content, advertising, third-party content as well as user-generated content such as user feedback or comments and contributions by users; all third-party content posted on the Internet presence of professional media falls under the editorial responsibility of these media;
  - 8.2.2. users of online media are informed about the possibilities to address complaints to online journalists, their media outlet or their professional association;
- 8.3. the European Internet Services Providers Association call on its members which provide social media, search engines and news aggregators:
  - 8.3.1. to develop ethical quality standards regarding their own transparency and the due diligence of their media services; where commercial, political or other interests might conflict with the neutrality of these media services, the providers of such services should be transparent about such a bias; all providers should set up self-regulatory mechanisms for monitoring those standards and inform the public about their adherence to those standards;
  - 8.3.2. to empower their users to report on false information and make it thus known publicly;
  - 8.3.3. .to voluntarily correct false content or publish a reply in accordance with the right of reply or remove such false content; they are legally obliged to cooperate in combating illegal content;
  - 8.3.4. to set up alert mechanisms against persons who regularly post insulting or inflammatory text (so-called trolls), which empower users to complain about those trolls, with a view of excluding notorious trolls from their fora;
- 8.4. the European Interactive Digital Advertising Alliance develop self-regulatory standards to ensure that:
  - 8.4.1. advertisers and public relations companies identify their own Internet presence and their contributions to the Internet presence of others; they should in particular disclose to the public the person, organisation or company by whom they are commissioned;
  - 8.4.2. advertising and lobbying are barred by professional media on the Internet as well as by providers of social media under their terms of service.

## **B. Explanatory memorandum by the rapporteur, Ms Adele Gamaro**

### **1. Origin and aim of the report**

1. The present report originates from a motion for a resolution on “freedom of speech on the internet: promoting a uniform approach”<sup>3</sup>, the reference of which was given to the Committee on Culture, Science, Education and Media.

2. A key issue raised by this motion was the difficulty to control the use and sharing of information on the Internet, namely (but not only) because of the increasing presence of fake profiles flooding the Internet, with anonymous posts and comments using the platforms of different media outlets. The motion also highlighted a problem which our committee has already had the opportunity to consider in depth: the storing of private information without specific legal rules guiding it and the threat that this practice – which represents today a significant element of internet media outlet financial schemes – entails for the protection of personal data and users’ privacy.

3. The exchange of views which took place in Paris on 3 December 2015<sup>4</sup> and the following debate pointed again, on the one hand, on multiple dangers – both for individual rights and for the functioning of our democratic systems – that fake, distorted or inaccurate information, but also profiling users, namely analysing “big data”, and then targeting information<sup>5</sup>, entail; on the other hand the issue emerged of the impact of the new media landscape, and the way of producing and disseminating information and on what we call “journalism”. Therefore, the committee agreed to change the title to “online media and journalism: challenges and accountability” and to refocus the report accordingly.

4. Indeed, the question of the relationship between the development of online media and considerable changes this is inducing in the work of journalists is also interconnected with the problem of “manipulation”. Let’s just think about the fact that today internet content is often produced by persons who are not professional journalists and work outside editorial review, or it is even co-produced, with personal opinions added to news originated by others and then relayed. And let’s think about vulnerability of internet content to technical manipulations (e.g. illegal copying of other sources, re-editing of pictures, and manipulation of user feedback). All in all, the feeling is that the proper distinction has been blurred between true factual information and individual views with exaggerations or even factual falsifications.

5. Against such background, the following sections will: sketch out the new media landscape, introducing the new patterns of and challenges for online journalism; discuss the accountability of online media and journalism, stress the key importance of ensuring transparency of online media and consider the specific remedies against online content.

### **2. The new media landscape: online media and online journalism**

6. The past media landscape comprised print media (newspapers and books) as well as broadcasting (radio and television). The advent of the Internet has led to a technological convergence of traditional media as well as the creation of new types of media. Today, we have newspapers and broadcasters which have websites with text, pictures and audio-visual files (videos and voice recordings), but also e-books, e-newspapers, Internet radio and Internet television channels.

7. Social media such as Facebook and online platforms for user-generated content such as Twitter and YouTube have emerged with market prominence as new online media. Big multinational Internet service providers such as Google and Facebook have also created tools to search and aggregate news from other online media, which are named Google News and Facebook’s Breaking News and News Feed. Through such services, these Internet service providers become the primary contact point for users seeking news and

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<sup>3</sup> The motion (Doc. 13589) was tabled by Ms Arpine Hovhannisyan (Armenia, EPP/CD) and others.

<sup>4</sup> Mr Ricardo Gutiérrez, General Secretary of the European Federation of Journalists (EFJ) and Ms Francine Cunningham, Executive Director of the European Newspaper Publishers’ Association (ENPA) participated in the exchange of views.

<sup>5</sup> Profiling of users is used by Internet operators for optimising their services, but mostly aims at a commercial and advertising purpose. See in this context, [Recommendation \(2010\) 13](#) of the Committee of Ministers on the protection of individuals with regard to automatic processing of personal data in the context of profiling.

current affairs, thus creating advertising revenue and revenue from social data which are used for profiling users.

8. Also as a consequence of the shift in advertising to the benefit of new media, the revenue of traditional ones has obviously been shrinking. In particular, many newspapers have thus become unprofitable. Some prominent online media developed, like the Huffington Post and Mediapart which do not disseminate printed copies; nevertheless, the economic basis of genuine online media, which are only available on the Internet, is still uncertain due to the change in business model away from subscription to online advertising and the sale of social data.

9. The financial hardship had – and are having – a negative impact on human resources provoking a reduction in the number of journalists and editorial staff and a degradation in job security, as well as of their financial and working conditions. The problem of a progressive deterioration of journalists' working conditions is not new and the Assembly, in its Resolution 1636 (2008) on indicators for media in a democracy, has already emphasised that journalists should have adequate working contracts with sufficient social protection, so as not to compromise their impartiality and independence.

10. There are signals, however, that within the new media landscape the risk of inadequate working conditions is increasing. Financial stress over media companies and a higher level of competition, including between journalists, result in higher managerial pressure, namely to deliver quickly, while the huge amount of information to retrieve and analyse overloads journalists. This leads to overtime work, not always remunerated, and is blurring the boundaries between journalists' professional and private life.

11. Freelance journalists are typical today, working in quasi-self-employed positions with, often, very low rates for the news they produce. The increasing number of freelancers and the wider use of outsourcing and subcontracting strategies also weaken the unions' capability to protect media workers' economic rights.

12. A recent survey by the European Federation of Journalists confirms that journalists work often in precarious conditions for online media.<sup>6</sup> All in all, journalists are exposed today to higher uncertainty of employment, stronger managers' pressure, a larger amount of work and generally poorer working conditions<sup>7</sup>.

13. The journalists' profession itself is experiencing significant changes. During our committee hearing in Strasbourg on 23 June 2016, the Director of the Burda Journalism School in Offenburg, Germany explained that modern online journalists needed to be interactive with Internet users and were responsible for reaching their own audience through Twitter and social media. Online journalists would thus also become their own promoter and distributor of their media content.

14. In addition, while journalists were traditionally the link between individuals and the public, using their information sources in order to inform the public at large, today they see themselves in competition with others, such as communications staff of companies, advertising companies, public relations consultants and political lobbyists who directly produce online media content and targeted user interactivity.

15. Online media are featured by their nearly ubiquitous accessibility through smart phones and other mobile Internet access devices, their instantaneous speed, their typical conciseness (e.g. 140-character messages on Twitter), their combination of audio-visual content and text, and their interactivity with the public being able to add own content.

16. The definition of "news" has changed from traditional media to social media and online platforms for user-generated content, where "infotainment" (i.e. the – typically commercially exploitable – mixture of information and entertainment) has become dominant.

17. This has led to new work requirements for journalists. With fewer journalistic staff, each staff member has to produce within a much shorter timeframe more media content. As online media are interactive nowadays, online journalists must seek to have their media content multiplied through cascades of social

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<sup>6</sup> <http://europeanjournalists.org/blog/2015/11/03/efj-survey-reveals-precarious-working-conditions-of-online-journalists-in-europe/>

<sup>7</sup> These issues will be dealt with in detail in the future report on the status of journalists in Europe by my colleague Ms Elvira Drobinski-Weiss.

online networks. Text, headlines and pictures have to correspond to the demands of Internet search tools and news aggregation services in order to have a market impact. These work changes require additional professional competencies and skills.

18. There are other interactions which are relevant. For example, journalists themselves need information for their work and today research has apparently become easier through Internet search tools, news aggregation services and images provided publicly on the Internet. However, a key issue here is the reliability of these new tools and the quality of information accessible using them: indeed when retrieved (by mistake) by a professional journalist the damage provoked by inaccurate information could be significantly increased. This shows that the new context may also require new ethical standards for online journalists.

19. A different issue is that content produced by professional journalists could be then exploited by others and this could also be a further financial threat to their profession. Copyright should be there to protect the authors and ensure them proper remuneration if others use their work. In this respect, national legislation has required Internet service providers to comply with certain standards, for example on copyright under the Digital Millennium Copyright Act of the USA, where multinational companies like Google, Facebook and Twitter are incorporated and have their headquarters. Within the European Union, international treaties on copyright have been implemented by EU law. The failure of the international Anti-Counterfeiting Trade Agreement (ACTA) in 2012 has not changed the legal protection of copyright and neighbouring rights in the online media. The protection of copyright is a necessary condition for the economic survival of traditional media with original journalistic content.

20. Journalists registered in the professional orders have a legitimate expectation to be distinguished by other people who are feeding the web with information; they have traditionally a privileged position due to the importance of their role in informing the public about matters of public concern. Such privileges range from reserved seats in court rooms, parliaments and governmental press conferences to easier access to important sports or cultural events. In addition, journalists have the right to not disclose their information sources. For practical and legal reasons, most of those privileges cannot be extended to all "citizen journalists"<sup>8</sup>, Internet bloggers and public relations consultants. Nevertheless, the latter enjoy the same basic fundamental freedoms like journalists including freedom of expression and information.

### 3. Online disinformation and manipulation

21. During our meeting of 19-20 September 2016 in Kyiv, one of the experts, Ms Margo Smit (Ombudsman at the Dutch public broadcaster NOS and Journalism teacher at the State University of Groningen) referred to the book "The elements of journalism" by Bill Kovach and Tom Rosenstiel; in this book the authors identify the essential principles and practices of journalism<sup>9</sup>. Ms Smit rightly insisted in particular on the first principle: "*Journalism's first obligation is to the truth*".

22. However, today, the widespread feeling seems to be that disinformation prevails over objective information and manipulation and propaganda overcome fair expression of own opinions and views. The risk that media of mass communication are used to manipulate public opinion is not new; but again, the problem is how online media pervasive outreach has increased such a risk and whether we are able to provide any effective response to this threat.

23. Since the creation of the Internet, there has been public debate about the manipulative character of the Internet. While broadcast media are still the most trusted format of media, the majority of online media users distrust these online media, in Europe<sup>10</sup> as well as in the USA.<sup>11</sup>

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<sup>8</sup> The term "citizen journalist" is a popular expression for those who produce online media content without being a professional journalist. Mostly, citizen journalists contribute pictures and videos taken with mobile phones. Traditional media such as BBC ask their readers or viewers to send them pictures related to news carried on their online presence. See for example: <http://nypost.com/2016/03/09/citizen-journalists-are-about-to-take-over-newsrooms/>. This term could be misleading as "citizens" do not become journalists by sending text or pictures to the media, but they remain sources for journalists.

<sup>9</sup> A presentation of ten elements common to good journalism, drawn from the book, is available at: <https://www.americanpressinstitute.org/journalism-essentials/what-is-journalism/elements-journalism/>. I will also include in the following paragraphs quotations from this presentation (using inverted commas to identify them).

<sup>10</sup> <https://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-MIS%20-%20Trust%20in%20Media%202016.pdf>

<sup>11</sup> <https://www.americanpressinstitute.org/publications/reports/survey-research/news-trust-digital-social-media/>

24. It would be naïf and misleading to pretend that journalism could pursue an absolute truth. Even in a merely factual report, it is impossible to be exhaustive; thus, information delivered can only be partial and there will always be subjectivity in the selection of elements reported: a journalist can present a demonstration focusing on the reasons of the mobilisation or on collateral damages produced by some troublemakers (and use images accordingly), can convey more the views of people attending the demonstration or of its opponents, can use statistics of the police or of the organisers about the number of participants (usually quite different figures) and so on.

25. However, I believe that loyalty to the truth does have a meaning. It implies the willingness to provide the public with a straightforward description of the facts or the event, and with the relevant elements of the context. It does not imply listing all possible details, but calls for serious effort to provide the public with “reliable, accurate facts put in a meaningful context”.

26. Truthfulness also requires that information is professionally verified: journalists shall have “a transparent approach to evidence (...) so that personal and cultural biases would not undermine the accuracy of the work. The method is objective, not the journalist. Seeking out multiple witnesses, disclosing as much as possible about sources, or asking various sides for comment, all signal such standards. This discipline of verification is what separates journalism from other forms of communication such as propaganda, advertising, fiction, or entertainment.” This is particularly relevant for online journalism.

27. People cannot really expect that journalists remain “neutral”: they are opinion makers and (explicitly or not) seek to influence public opinion, sharing their interpretation of the facts or events they present and their views on their relevance and their impact. Influence is a legitimate goal of journalism in a democratic society, but when the factual “information” is accompanied by an analysis and the journalist is also expressing his/her views, loyalty to the truth implies that the journalist makes it clear to the readers or audiences where this analysis and own interpretation start. Journalism must encourage critical thinking and not contribute to kill it.

28. In contrast with the idea of having influence or persuading, the term manipulation has a negative connotation, suggesting a surreptitious power over a person. Manipulation could be described as the action of distorting or presenting data in order to mislead people and control unfairly and unscrupulously to own advantage their emotions and reactions. Manipulation is not only found in online media; it has a long history, especially in non-democratic regimes under fascism and communism where mass media were considered as a means to lead the masses of the population. Such state-sponsored or party-controlled manipulation was based on official propaganda as well as censorship of diverging opinions and undesired information.

29. Unfortunately, examples of politically biased disinformation are still easily found today,<sup>12</sup> such as the Facebook video posted by the Russian journalist Ivan Blagoy in January 2016, alleging falsely that a 13 year old daughter of Russian immigrants to Germany had been raped by asylum seekers in Berlin – a false allegation which had even been repeated by the Russian Minister of Foreign Affairs during an official press conference in Moscow.<sup>13</sup>

30. Without going to these extreme examples, online media have opened new means of influencing public debates and public opinion. This can be done, in particular, by adding at a large scale certain content or keywords to online discussion fora. Keywords and political debates have been launched on social online networks for political purposes. The online presence of the US President Obama has received much attention due to its success.<sup>14</sup> After the 2008 and 2012 presidential elections in the USA, also the 2015 elections in the United Kingdom former strategists for US President Barack Obama were hired as “spin-doctors” by the two biggest parties in the UK.<sup>15</sup> Similar practices have also been found in Italy<sup>16</sup> and Russia<sup>17</sup> for example. More in general, online activists or so-called “web brigades” have become notorious for trying to dominate social networks politically.<sup>18</sup> The borderline between influence and manipulation could become in such cases difficult to draw.

<sup>12</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0441+0+DOC+XML+V0//EN&language=EN>

<sup>13</sup> <http://www.bbc.com/news/blogs-eu-35413134>

<sup>14</sup> [https://en.wikipedia.org/wiki/Barack\\_Obama\\_on\\_social\\_media](https://en.wikipedia.org/wiki/Barack_Obama_on_social_media)

<sup>15</sup> <http://www.dailymail.co.uk/wires/afp/article-3017809/Obama-spin-doctors-hired-shake-deadlocked-UK-vote.html>

<sup>16</sup> <http://temi.repubblica.it/micromega-online/grillo-e-il-suo-spin-doctor-la-casaleggio-associati/>

<sup>17</sup> <http://europe.newsweek.com/how-defeat-putins-internet-trolls-328408?rm=eu>

<sup>18</sup> [https://en.wikipedia.org/wiki/Web\\_brigades](https://en.wikipedia.org/wiki/Web_brigades)

31. Biased access to online information is another very concrete risk. Given that Google's search algorithm reacts to user behaviour such as the quantity of combined words searched for, it would be possible for manipulative user groups to influence the autocomplete function by searching massively for a given combination of related words. Courts in Germany as well as China and Japan have ordered Google to change its autocomplete function in cases where the names of persons were automatically associated with terms that had a negative connotation.<sup>19</sup> In the United Kingdom in February 2016, Google's autocorrect function was even accused of being politically biased.<sup>20</sup>

32. In 2015 there were similar allegations that Google had favoured Hilary Clinton on its autocomplete feature; Google explained<sup>21</sup> that "the autocomplete algorithm is designed to avoid completing a search for a person's name with terms that are offensive or disparaging. (...) This filter operates according to the same rules no matter who the person is."

33. Facebook was criticised in 2014 for having pursued secretly a study on whether exposure of users to emotions led them change their own posting behaviours.<sup>22</sup> Former Facebook employees allegedly admitted in an online media outlet in May 2016 having manipulated their content politically, but the Vice President of Search at Facebook responded in a post to this online story that they had found no evidence that the anonymous allegations were true.<sup>23</sup>

34. Other examples of how online data can be used in order to manipulate the public are the feedback entries of users, such as "likes" or "followers" on Facebook or user ratings on commercial websites, many of which seem to be inflated by bought or partisan feedback.

35. Malicious use of information has become today a powerful tool to destroy the reputation of opponents or competitors. This happens widely within social networks, and the shocking examples of cyberbullying<sup>24</sup> which from time to time are brought to the attention of the public (also for their dramatic outcomes) are just the top of the iceberg in this field. This happens in business, e.g. with orchestrated campaigns against concurrent products. This happens in politics too with targeted attacks against political rivals. Of course, the question of credibility of information and "character assassination" is there since ever, but with online media such practices take a different scale, because of speed in dissemination and the consequent exponential effect, aggravated furthermore by the objective difficulty to delete or correct wrong information.<sup>25</sup>

#### 4. Accountability for own and third-party content

36. As stated in paragraph 12 of Resolution 1970 (2014) on Internet and politics: the impact of new information and communication technology on democracy, "the Internet increases the risks of abuses and aberrations liable to jeopardise human rights, the rule of law and democracy: it accommodates the expression of intolerance, hatred and violence against children and women; it fuels organised crime, international terrorism and dictatorships; it also intensifies the risk of biased information and manipulation of opinion, and facilitates insidious monitoring of our private lives." In addition, in paragraph 13 of Resolution 1970, the Assembly was concerned "that personal data have been reduced to tradable goods and are

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<sup>19</sup> German courts ordered Google to delete the derogatory terms "red-light", "prostitute" and "swindle" but also terms related to the private life of a person such as "Scientology": <http://www.spiegel.de/international/business/court-orders-google-to-delete-search-suggestions-that-violate-privacy-a-899741.html>

The decision by the Tokyo District Court in 2012 concerned a case where a man had lost his job because his name was automatically associated with criminal activities:

<http://www.japantimes.co.jp/news/2012/03/26/news/google-ordered-to-delete-terms-from-autocomplete/#.V8VWT2df2fA>

The same reasoning was applied by a court in Hong Kong in 2014, when a person's name was automatically associated with organised crime: <http://www.chinapost.com.tw/asia/other/2014/08/07/414291/HK-court.htm>

<sup>20</sup> <http://www.dailymail.co.uk/news/article-3426779/Labour-finished-Lib-Dems-left-wing-SNP-joke-Conservatives-BLANK-Google-search-mystery-prompts-questions-tax-conspiracy.html>

<sup>21</sup> <http://www.usatoday.com/story/tech/news/2016/06/10/google-says-search-isnt-biased-toward-hillary-clinton/85725014/>

<sup>22</sup> <http://www.bbc.com/news/technology-29475019>

<sup>23</sup> <http://gizmodo.com/former-facebook-workers-we-routinely-suppressed-conser-1775461006>

<sup>24</sup> The term "cyberbullying" has been used to describe psychological harassment and attacks through email, SMS and web trolling against individuals, mostly adolescents. While this phenomenon is most likely to happen between individual persons, web sites could also target a larger number of people or groups of individuals.

<sup>25</sup> These issues will be dealt with in detail in the future report on ending cyber discrimination and online hate by my colleague Ms Marit Maj.

misused for commercial or political purposes, posing a serious threat to the protection of private lives. In addition, the increased use of new semantic polling techniques can lead to the manipulation of public opinion and distort political processes.”

37. Following from such risks, the Assembly declared in paragraph 14 of Resolution 1970 that “the Internet must not be allowed to become a gigantic prying mechanism, operating beyond all democratic control. We must prevent the web from becoming a de facto no-go area, a sphere dominated by hidden powers in which no responsibility can be clearly assigned to anyone.”

38. More than two years later, we have to note that the accountability of online media is more than ever an unresolved societal challenge. Outside cyberspace, there are remedies against factually false information and information which invades the private life of others. On the Internet, however, private pictures can circulate without much control and personal data are collected and processed massively.

39. At the European Dialogue on Internet Governance (EuroDIG) 2016 in Brussels, the Council of Europe co-organised a plenary session on “The rules of the digital world – economy versus human rights”, which showed that human rights and other important standards for traditional media are challenged by often powerful economic and other interests in cyberspace.<sup>26</sup> This dichotomy requires greater public awareness and more active political responses, in order to ensure that human rights such as privacy are not sacrificed for economic gain.

40. Referring to the Grand Chamber judgment of the European Court of Human Rights in the case of *Delfi AS v. Estonia* (Application no. 64569/09), it has to be welcomed that the scope of Article 10 of the European Convention on Human Rights has hereby been clarified regarding the duties and responsibilities of Internet news portals, under Article 10 § 2 of this Convention, when they provide for economic purposes a platform for user-generated comments on previously published content and some users – whether identified or anonymous – engage in clearly unlawful speech, which infringes the personality rights of others and amounts to hate speech and incitement to violence against them.

#### *Responsibilities of online media and intermediaries*

41. Legislation had developed over decades, which emphasised the importance of media freedom for democracy and every individual, while placing this freedom into the context of other fundamental rights such as the right to private life or the protection of the reputation of others. The European Court of Human Rights has developed a solid jurisprudence in this respect on the basis of Article 10 of the European Convention on Human Rights.<sup>27</sup> It is clear that freedom of expression and freedom of information do not cover calls for terrorism, hate speech, incitement to racism, child pornography or serious attacks to the human dignity through cyber-bullying or cyber-stalking.

42. Traditional print media and broadcasters are editorially responsible for their content. As long as internet presence is provided by traditional media, it seems reasonable to expect that they should apply their usual standards also to their online content. This however raises some questions, such as whether these standards are applied properly, whether they should be adjusted to some extent and how they could be enforced also with regards to other online stakeholders. Indeed, many online media consider themselves as merely technical intermediaries between users, similar to traditional telephone companies. Those analogies generally do not reflect the actual position and powers of most online media.

43. Google, Facebook and other Internet service providers are private entities dealing with private users under national contract law. Social media have typically established their own rules for their users in the form of contractual terms of use or codes of conduct. Such contractual regulations can be self-regulatory, aiming at upholding the reputation of brand names like Google or Facebook. In this context, one can mention the voluntary action against hate-speech by Facebook.

44. Contractual restrictions imposed by social media on the content published by users, and on their conduct more generally, are part of this contractual freedom. Users cannot invoke the right to freedom of

<sup>26</sup> [http://eurodigwiki.org/wiki/PL\\_3:\\_The\\_rules\\_of\\_the\\_digital\\_world\\_%E2%80%93\\_economy\\_vs\\_human\\_rights](http://eurodigwiki.org/wiki/PL_3:_The_rules_of_the_digital_world_%E2%80%93_economy_vs_human_rights)

<sup>27</sup> See, for example, the publication “Freedom of expression in Europe: Case-law concerning Article 10 of the European Convention on Human Rights by the European Court of Human Rights” (Strasbourg, 2007) [http://www.echr.coe.int/LibraryDocs/DG2/HRFILES/DG2-EN-HRFILES-18\(2007\).pdf](http://www.echr.coe.int/LibraryDocs/DG2/HRFILES/DG2-EN-HRFILES-18(2007).pdf)

expression under Article 10 of the European Convention on Human Rights to these contractual relations, unless the concerned Internet service provider has a quasi-monopolistic market position which requires public service obligations of that company.

45. The strongest form of accountability is created by legal responsibility. Prominent jurisprudence has been set, for example, by the Tribunal de Grande Instance of Paris in 2000 in the case of LICRA v. Yahoo!, where the French court obliged Yahoo! France to bar access in France to the sale offers of illegal material from abroad.<sup>28</sup>

46. The European Court of Human Rights decided in 2013 in a case concerning the owners of “Pirate Bay” in Sweden, that their punishment by Swedish courts for offering a platform to violate copyright laws was in accordance with the European Convention on Human Rights.<sup>29</sup> In the case of Delfi AS v. Estonia, the European Court of Human Rights found on 16 June 2015 that Article 10 of the European Convention on Human Rights was not violated by the penalty imposed on the applicant company running a professionally managed news portal on a commercial basis, because of the insufficiency of the measures taken by the applicant company to remove without delay after publication comments amounting to hate speech and speech inciting violence and to ensure a realistic prospect of the authors of such comments being held liable.<sup>30</sup> To tell it in a different way, the Court’s judgement implies that media outlets can be liable if the (technical or manual) mechanisms of filtering they provide are insufficient to prevent injurious or defamatory statements from being made public.

47. The Council of Europe has also set soft standards through Recommendation CM/Rec(2014)6 by the Committee of Ministers on a Guide to human rights for Internet users.<sup>31</sup> In this Recommendation, the Committee of Ministers expressly stated, for instance: “Human rights, which are universal and indivisible, and related standards, prevail over the general terms and conditions imposed on Internet users by any private sector actor. (...) Users should receive support to understand and effectively exercise their human rights online when their rights and freedoms have been restricted or interfered with. This support should include guidance on access to effective remedies.”

48. Therefore, Recommendation CM/Rec(2014)6 concludes in particular: “To ensure that existing human rights and fundamental freedoms apply equally offline and online, the Committee of Ministers recommends under the terms of Article 15.b of the Statute of the Council of Europe that member States (...) ensure that Internet users have access to effective remedies when their rights and freedoms have been restricted or when they believe that their rights have been violated. This requires enhancing co-ordination and co-operation among relevant institutions, entities and communities. It also necessitates the engagement of and effective co-operation with private sector actors and civil society organisations. Depending on the national context, this may include redress mechanisms such as those provided by data protection authorities, national human rights institutions (such as ombudspersons), court procedures and hotlines”.

## 5. Transparency of online media

### *Transparency of authors of online content*

49. Online media are often less transparent, in particular about their editorially responsible persons, their ownership and their legal seat. Therefore, individuals might face difficulties in seeking remedy against false or illegal information and defamatory opinions disseminated on online media.

50. Authors of text or pictures in online media often cannot be identified publicly, especially as regards user-generated content such as comments or feedback. However, their accountability requires logically their transparency. In addition, the value and credibility of information requires knowledge of its author and the context in which it is produced.

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<sup>28</sup> [https://en.wikipedia.org/wiki/LICRA\\_v.\\_Yahoo!](https://en.wikipedia.org/wiki/LICRA_v._Yahoo!)

<sup>29</sup> Neij and Sunde Kolmisoppi v. Sweden (Application no. 40397/12), <http://hudoc.echr.coe.int/fre?i=001-117513>

<sup>30</sup> (Application no. 64569/09) <http://hudoc.echr.coe.int/eng?i=001-155105>

<sup>31</sup> CM/Rec(2014)6 is reproduced at [http://www.bka.gv.at/Docs/2014/11/24/Leitfaden\\_EN.pdf](http://www.bka.gv.at/Docs/2014/11/24/Leitfaden_EN.pdf)

51. The Declaration of Internet Rights by the Italian Parliament<sup>32</sup> comprises the protection of anonymity. However, this protection is made subject to a number of restrictions: “Art. 10 (Protection of anonymity): 1. Every person may access the Internet and communicate electronically using instruments, including technical systems, which protect their anonymity and prevent the collection of personal data, in particular with a view to exercising civil and political freedoms without being subject to discrimination or censorship. 2. Restrictions may be imposed only when they are based on the need to safeguard a major public interest and are necessary, proportional and grounded in law and in accordance with the basic features of a democratic society. 3. In the event of violations of the dignity and fundamental rights of any person, as well as in other cases provided for by the law, the courts may require the identification of the author of a communication with a reasoned order.”

52. We often hear that anonymity could help to protect authors in repressive and undemocratic countries, which may be true. Nevertheless, this exception for non-democratic countries does not invalidate the justification of transparency about the authors of online content in democratic countries. Unfortunately, it is questionable that non-democratic countries could be effectively barred from identifying authors of politically critical online content because of their online anonymity, because non-democratic regimes have often developed other forceful means of revealing information sources.

53. In public debates, anonymity of Internet users is sometimes described as a legitimate objective or even as a right including a pretended right to use encryption technology.<sup>33</sup> Such pretensions are in contrast to other means of communication. For traditional print media and film, national laws typically require the public identification of a person who is legally responsible for their content. Telephone users may hide their number electronically or hide their name and address in telephone directories, but they remain identifiable by their telephone operator and law enforcement authorities.

54. In fact, Internet service providers generally register and process all movements and actions of their users on the Internet as well as the production of online content by their users. Those “big data” are used in order to improve the service delivered to a given user, but they are also used as a valuable commercial commodity which is sold to online advertisers or others. The legitimate protection of persona data is thus opposed by powerful commercial interests of the online advertising industry.

55. In addition, the Internet offers technical possibilities for hiding the identity and actions of its users, for instance through so-called “dark nets”. A widely used tool to operate in the dark net is The Onion Router or Tor, which directs Internet traffic through a free volunteer network consisting of several thousand relays to conceal a user's location and usage. Tor offers also a hidden service, which allows creating a virtually untraceable server hosted within the Tor network. Daniel Moore and Thomas Rid from King's College, London, presented in February 2016 a study which indicates that the Tor dark net was mostly used for drugs, illegal financial transactions, extremism, illegal pornography and other illicit uses.<sup>34</sup> Such anonymity does not seem to have a place in a state governed by the rule of law and the Internet must not be a lawless zone.

56. While users of online media can de facto hide their identity vis-à-vis others, their traceability must be ensured, as far as possible, when they violate the law. The internet protocol (IP) number makes it possible to trace users back in most cases; however, this is neither always easy, nor (de facto) always possible<sup>35</sup>. The use of proxy servers and of “onion routing”, coupled with legal problems which arise from the presence of multiple jurisdictions, pose, to date, a significant challenge to law enforcers. In this respect, enhanced co-operation between national authorities and internet stakeholders is key..

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<sup>32</sup> [http://www.camera.it/application/xmanager/projects/leg17/commissione\\_internet/testo\\_definitivo\\_inglese.pdf](http://www.camera.it/application/xmanager/projects/leg17/commissione_internet/testo_definitivo_inglese.pdf)

<sup>33</sup> <https://www.article19.org/resources.php/resource/38006/en/report:-the-right-to-online-anonymity>

<sup>34</sup> <http://www.tandfonline.com/doi/full/10.1080/00396338.2016.1142085>

<sup>35</sup> Not every IP address can be accurately traced back to individual users. Accuracy of traceability tends to reduce depending on the number of hops from the backbone. One of the reasons is that the number of devices on the internet requesting an IP address exceeds the number of possible addresses; thus when a user asks an internet service provider (ISP) to connect him/her, the IP address is only leased to the user and assigned randomly. In addition, not all the service providers, in all countries, keep records of who had a particular lease, and when those records are kept, they are not kept for ever.

### *Transparency of ownership of online media*

57. Resolution 2065 (2015) on increasing transparency of media ownership proposed inter alia that information to be disclosed about media outlets should include:

- their legal names, legal seats and contact details, as well as the profit or non-profit purpose or State ownership;
- the names of the persons holding editorial responsibility or the authors of the editorial content;
- the names of the authors of third-party content, unless the protection of journalistic sources requires that it be kept secret or the right to freedom of expression of the author is likely to be threatened beyond the limits of Article 10 of the European Convention on Human Rights.

58. Most professional media outlets generally adhere to such transparency, although some seek to keep their ownership secret, mostly in order to hide political affiliations. Private web sites, blogs and web entries in social media seem to be more inclined to have less transparency. It is therefore the latter category which requires particular attention, for example by calling on those web presences as well as on the corresponding content host or Internet service provider.

### **6. Internet users' rights and specific remedies against online content**

59. On 25 March 2014, the Brazilian National Congress adopted a bill of rights for Internet users which became the Law No. 12.965 of 23 April 2014 of Brazil on civil rights of the Internet (Marco Civil da Internet).<sup>36</sup> Prompted by the revelations of Edward Snowden on surveillance of Brazilian telecommunications networks by national security services of the USA, the then President of Brazil, Ms Dilma Rousseff, had proposed strengthening the right to privacy in cyberspace in her address to the 68<sup>th</sup> Session of the United Nations General Assembly on 24 September 2013. Law No. 12.965 stipulates eight principles: freedom of expression, protection of privacy, protection of personal data, network neutrality, stability and security of the network, liability, the participative nature of the network, and freedom of business models.

60. The Italian Chamber of Deputies adopted on 3 August 2015 its declaration of Internet rights.<sup>37</sup> This declaration includes such matters as the right to Internet access and net neutrality, but also the protection of personal data and the right to informational self-determination as well as the innovative right to one's identity on the Internet ("The use of algorithms and probabilistic techniques shall be disclosed to the data subject who, in any case, has the right to oppose the construction and dissemination of profiles regarding him or her."), the protection of anonymity (see chapter 5 above) and the "right to be forgotten" (see below).

61. Both, the Brazilian and the Italian parliamentary acts are political declarations, which generally recall rights and freedoms established under existing national laws and European or international norms. They respond to public demands for more clarity of the rights and responsibilities on the Internet and online media. Therefore, they can be taken as a reference when interpreting national legislation as well as a political guidance for all stakeholders of Internet governance in general.

62. The political importance of such standards is made public by the Italian and Brazilian initiatives. Those initiatives should serve as a benchmark for other parliaments in this regard. Recommendations CM/Rec(2016)5 on Internet freedom and CM/Rec(2016)3 on human rights and business are the most recent standards set by the Committee of Ministers regarding online media.

63. For our report's focus on online media and journalism, those two political declarations are relevant in as far as they recall the right to the protection of privacy and personal data, which is legally protected under Article 8 of the European Convention on Human Rights, the [Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data](#) (ETS No. 108) and the new General Data Protection Regulation 2016/679 of the European Union. We will discuss below in more detail the new "right to be forgotten" which in fact is a right to have links with personal information removed from search engines.

### *Protection of privacy*

64. While there is internal transparency of online users vis-à-vis their Internet service providers, those users are often unaware of data collected on them. In Resolution 1843 (2011) on "the protection of privacy

<sup>36</sup> <https://www.publicknowledge.org/assets/uploads/documents/APPROVED-MARCO-CIVIL-MAY-2014.pdf>

<sup>37</sup> [http://www.camera.it/application/xmanager/projects/leg17/commissione\\_internet/testo\\_definitivo\\_inglese.pdf](http://www.camera.it/application/xmanager/projects/leg17/commissione_internet/testo_definitivo_inglese.pdf)

and personal data on the Internet and online media”, the Assembly noted with concern that the digitalisation of information has caused unprecedented possibilities for the identification of individuals through their data. The Assembly endorsed that, with the exception of the technically necessary or lawful retention of ICT traffic data and localisation data, everyone must be able to control the use of their personal data by others, including any accessing, collection, storage, disclosure, manipulation, exploitation or other processing of personal data. Such control of the use of personal data shall include the right to know and rectify one’s personal data and to have erased from ICT systems and networks all data which were provided without legal obligation.

65. For the member States of the Council of Europe, Article 8 of the European Convention on Human Rights as well as the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS N° 108) set standards for online privacy. At the level of the European Union, the new General Data Protection Regulation shall achieve at least the same standards of data privacy protection.

66. In accordance with such norms, online media could be held to respect the private life or privacy of persons by removing online content which violates privacy rights.

#### *Right of reply*

67. Besides regulation by law, self-regulatory standards have been set by print media and broadcasting media as well as their journalists. The right of reply is for example recognised by many traditional media and in journalistic codes of ethics.

68. For traditional media, the right of reply and correction is recognised widely for many years also at European level, such as by Resolution (74) 26 of the Committee of Ministers on the right of reply<sup>38</sup> and Article 8 of the European Convention on Transfrontier Television (ETS No. 132). In 2004, the Committee of Ministers adopted Recommendation CM/Rec (204)16 on the right of reply in the new media environment.<sup>39</sup> According to the definition given by this recommendation, the term “medium” refers to “any means of communication for the periodic dissemination to the public of edited information, whether on-line or off-line, such as newspapers, periodicals, radio, television and web-based news services”.

69. CM/Rec (2004)16 specifies that: “Any natural or legal person, irrespective of nationality or residence, should be given a right of reply or an equivalent remedy offering a possibility to react to any information in the media presenting inaccurate facts about him or her and which affect his/her personal rights.” In order to safeguard an effective exercise of the right of reply, “the media should make public the name and contact details of the person to whom requests for a reply can be addressed. For the same purpose, national law or practice should determine to what extent the media are obliged to conserve, for a reasonable length of time, a copy of information or programmes made publicly available or, at least, while a request for inserting a reply can be made, or while a dispute is pending before a tribunal or other competent body.” In addition, the reply “should be made public free of charge for the person concerned” and “should be given, as far as possible, the same prominence as was given to the contested information in order for it to reach the same public and with the same impact.”

70. The right of reply is easily applicable in a periodical print media and periodical programmes in broadcast media, where readers or viewers can be informed in the next issue or programme that a factual error had occurred. The effective implementation of this right faces more difficulties when online media are concerned, as many of them are less transparent and websites are hosted and cached or copied in foreign countries. However adherence to these standards should be a requirement for online professional media.

71. On websites, a correction or reply can be added, but most websites tend to change their content, which would require a new posting on that website referring to a past news item which may have been removed already. Regarding news applications on mobile phones or Internet access devices, a correction could be made in the form of a subsequent news posting. For Internet search engines, the removal of factually wrong information or data could be a technically easier solution than the addition of a reply or correction to subsequent search results. Google offers its users to remove content in accordance with the law.<sup>40</sup>

<sup>38</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805048e1>

<sup>39</sup> [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016805db3b6](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805db3b6)

<sup>40</sup> <https://support.google.com/legal/troubleshooter/1114905?hl=en>

72. Of course, many online media allow their users to post comments anyway. Such comments can correct false information and comment on views. Therefore, more formal replies will inevitably compete with those user comments. As users of online media seem to be less likely to demand formal replies, the prominence of such replies appears to be less important.

73. The removal of incorrect information on online media is a far-reaching measure, which can only be ordered by courts of law if such information is declared illegal, or which can be done voluntarily by online media in accordance with their editorial policies or their terms of use when it comes to content posted by third-parties or users (see chapter 4 above and the sub-chapter on removal of online content below).

#### *Right to have links with personal information removed from search engines*

74. The so-called “right to be forgotten” has been recognised within the EU under the Directive 95/46/EC on data protection.<sup>41</sup> Under this right, “individuals have the right - under certain conditions - to ask search engines to *remove links with personal information about them. This applies where the information is inaccurate, inadequate, irrelevant or excessive for the purposes of the data processing*”.<sup>42</sup> The EU Court of Justice expressly referred to this right in its 2014 judgment (Case C-131/12: Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González)<sup>43</sup> and the EU’s Article 29 Data Protection Working Party issued guidelines on how to implement this judgment.<sup>44</sup>

75. Within the EU, its new General Data Protection Regulation 2016/679 entered into force on 24 May 2016 and shall apply from 25 May 2018, repealing Directive 95/46/EC. The right to be forgotten is included in Article 17 of that Regulation.<sup>45</sup>

76. While Internet search algorithms can be adjusted to remove links with personal information or pejorative words of autocomplete functions, this right to be forgotten should not be confused with the right of reply regarding online content. As described above, a reply or correction applies to online content, but does not typically apply to search engines. Adding a reply to an Internet search result would require more space than the usual line available for searched words as well as a major readjustment of a search algorithm.

#### *Removal of online content*

77. Upon the initiative of the Secretary General of the Council of Europe, a study has been commissioned by the Swiss Institute of Comparative Law, Geneva, which analyses national laws on blocking, filtering and take-down of Internet content.<sup>46</sup> The study shows that national law and practice differ among States. While it must be possible to remove illegal online content, the take-down or blocking of other content by public authorities might infringe the right to freedom of information.

78. An earlier study on this subject was produced for the OSCE Representative on Freedom of the Media by Professor Yaman Akdeniz in 2011, which analysed the legal requirements for blocking and filtering and the possible shortcomings in this context.<sup>47</sup> Professor Douwe Korff prepared in 2014 the Issue Paper “The rule of law on the Internet and in the wider digital world” for the Council of Europe Commissioner for Human Rights, which also looks at this issue in a wider context.<sup>48</sup>

79. Private Internet service providers are free to regulate their services and thus the standards and terms of usage regarding online content, including the removal of content, such as by Google under its terms of service.<sup>49</sup> However, States cannot simply delegate law enforcement to the private sector or pressure this sector to remove politically unwanted Internet content, as recalled by the UN Special Rapporteur on the

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<sup>41</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31995L0046&from=EN>

<sup>42</sup> [http://ec.europa.eu/justice/data-protection/files/factsheets/factsheet\\_data\\_protection\\_en.pdf](http://ec.europa.eu/justice/data-protection/files/factsheets/factsheet_data_protection_en.pdf)

<sup>43</sup> <http://curia.europa.eu/jcms/upload/docs/application/pdf/2014-05/cp140070en.pdf>

<sup>44</sup> [http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2014/wp225\\_en.pdf](http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2014/wp225_en.pdf)

<sup>45</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>

<sup>46</sup> <http://www.osce.int/web/freedom-expression/study-filtering-blocking-and-take-down-of-illegal-content-on-the-internet>

<sup>47</sup> <http://www.osce.org/fom/80723?download=true>

<sup>48</sup> [https://wcd.coe.int/ViewDoc.jsp?p=&Ref=CommDH/IssuePaper\(2014\)1&Language=lanAll&direct=true](https://wcd.coe.int/ViewDoc.jsp?p=&Ref=CommDH/IssuePaper(2014)1&Language=lanAll&direct=true)

<sup>49</sup> <https://support.google.com/legal/troubleshooter/1114905?hl=en>

promotion and protection of the right to freedom of opinion and expression in June 2016.<sup>50</sup> This raises the more general question of Internet governance which is the subject of another report under preparation by our Committee.<sup>51</sup>

### *Self-regulatory content rules*

80. Social platforms have generally set-up content standards for their users. Responding to public opinion, Facebook prohibits for example hate-speech, which is defined as “content that attacks people based on their actual or perceived race, ethnicity, national origin, religion, sex, gender, sexual orientation, disability or disease is not allowed. We do, however, allow clear attempts at humour or satire that might otherwise be considered a possible threat or attack. This includes content that many people may find to be in bad taste (ex: jokes, stand-up comedy, popular song lyrics, etc.)”.<sup>52</sup> The Assembly currently prepares a report on “ending cyber discrimination and online hate” (Doc. 13828) which deals more specifically with this problem.

81. On 31 May 2016, the EU Commission and major Internet companies have agreed, for instance, on a code of conduct countering illegal hate speech online.<sup>53</sup> Such efforts have to be welcomed and should be echoed by parallel action by Council of Europe member States, notwithstanding the necessary care and the legal limitations which have to be applied for such private self-regulatory measures.<sup>54</sup>

## **7. Conclusion**

82. While the global information and communication society triggers huge opportunities including for more freedom and more democratic participation, the analysis above points to risks that should not be overlooked. Already in its Resolution 1970 (2014) on “Internet and politics: the impact of new information and communication technology on democracy”, the Assembly recommended in paragraph 19 to “initiate, both at the national level and within the Council of Europe, discussions on norms and mechanisms, keeping pace with the development of the technologies, required for (...) preventing the risk of information distortion and manipulation of public opinion, and consider, for instance:

- devising coherent regulations and/or incentives for self-regulation concerning the accountability of the major Internet operators;
- establishing an independent institution with sufficient powers, technical competences and resources to give expert opinions on the algorithms of the search engines which filter and regulate access to information and knowledge on the web, while averting the risk that such an institution could undermine the very nature of freedom of expression;
- developing principles and general standards for regulating the new semantic polling practices;
- devising regulations that must be applied by companies offering Internet communication systems to prevent the abuse of individuals’ personal or family life by trolling activities, while maintaining a balance with freedom of expression”.

83. I note that these proposals remain relevant. Seeking to build on this basis, I have included my detailed proposals into the preliminary draft resolution. In general terms, they focus on mainly four axes:

84. (i) Awareness should be raised of the existing laws, regulations and self-regulatory standards, as well as a long list of relevant Assembly Resolutions and Recommendations.<sup>55</sup>

85. (ii) Professional online journalists and editorial online media should maintain the professional standards which apply to offline media. New challenges posed by online media need to be addressed adequately in such self-regulation.

86. (iii) Internet service providers and online media should define standards under corporate governance, user protection and editorial policies, in order to ensure the reliability and trustworthiness of online media.

<sup>50</sup> [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/32/38](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/38)

<sup>51</sup> These issues will be dealt with in detail in the future report on co-ordination for efficient Internet governance by my colleague Mr Andres Herkel.

<sup>52</sup> <https://www.facebook.com/help/135402139904490>

<sup>53</sup> [http://ec.europa.eu/justice/fundamental-rights/files/hate\\_speech\\_code\\_of\\_conduct\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/hate_speech_code_of_conduct_en.pdf)

<sup>54</sup> <https://edri.org/guide-code-conduct-hate-speech/>

<sup>55</sup> <http://www.coe.int/en/web/freedom-expression/parliamentary-assembly-adopted-texts>

87. (iv) Users of online media should be empowered to have removed or corrected any false information or defamatory views about them.

88. The strongest safeguard against manipulative media content is a critical and informed audience. Media pluralism will help to counter media manipulation, by offering users additional information and alternative views. As online media are necessarily diverse due to their sheer number, users of online media need to build up media competency in distinguishing trustworthy online media from unreliable ones. Given the relatively low trust in online media compared to broadcast media,<sup>56</sup> users of online media seem to be sufficiently “educated” regarding the potentially manipulative character of online media. However I believe that further efforts should be made in the field of media literacy and of training of online journalists.

89. Media literacy has been on the agenda of various international fora for many years, including the UNESCO<sup>57</sup>, the OECD<sup>58</sup>, the OSCE<sup>59</sup>, the Council of Europe<sup>60</sup>, the European Union<sup>61</sup> as well as the European Platform of Regulatory Authorities<sup>62</sup>, the European Broadcasting Union<sup>63</sup> and public-private initiatives.<sup>64</sup> An in-depth analysis of these initiatives would require more time and space than available for the purposes of this report and its focus; therefore I would suggest to consider media literacy of users of online media, training of online journalists as well as ethical standards for “citizen journalists” in a future report that our committee could initiate.

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<sup>56</sup> <https://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-MIS%20-%20Trust%20in%20Media%202016.pdf>

<sup>57</sup> [http://www.unesco.org/education/pdf/MEDIA\\_E.PDF](http://www.unesco.org/education/pdf/MEDIA_E.PDF) ,  
[http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/news/paris\\_mil\\_declaration.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/news/paris_mil_declaration.pdf) and  
<http://unesdoc.unesco.org/images/0019/001929/192971e.pdf>

<sup>58</sup> <http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=EDU/WKP%282009%2920&doclanguage=en>  
<sup>59</sup> <http://www.osce.org/fom/222046>

<sup>60</sup> <https://www.coe.int/en/web/internet-users-rights/education-and-literacy>

<sup>61</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009H0625&from=EN>

<sup>62</sup> [http://www.epra.org/news\\_items/media-literacy-an-increasingly-important-duty-for-regulators-update](http://www.epra.org/news_items/media-literacy-an-increasingly-important-duty-for-regulators-update)

<sup>63</sup> [http://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Viewpoint-Media-Lit\\_EN.pdf](http://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Viewpoint-Media-Lit_EN.pdf)

<sup>64</sup> <http://www.euromedialiteracy.eu/index.php>