

# AI IN THE NEWS MEDIA: LEGAL ISSUES

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Workshop AI in the audiovisual industry

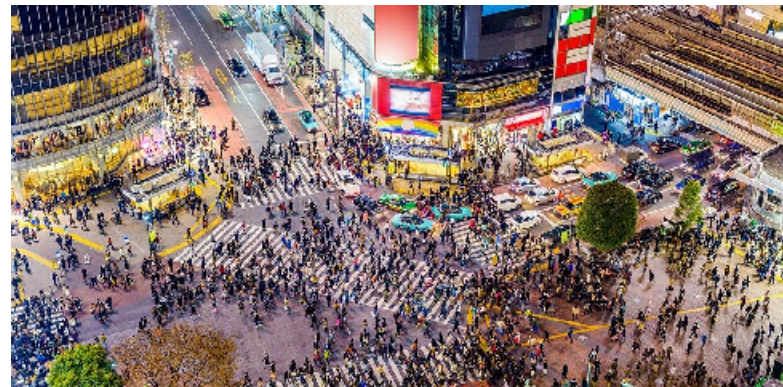
European Audiovisual Observatory, Strasbourg, 17 Dec 2019

@Sarah Eskens

## PERSONEWS PROJECT

- ERC grant N Helberger: Personalised News—Implications for the democratic role of the digital media, user rights and public information policy.

# PERSONEWS PROJECT





## News360: Personalized News

Your news, powered by AI

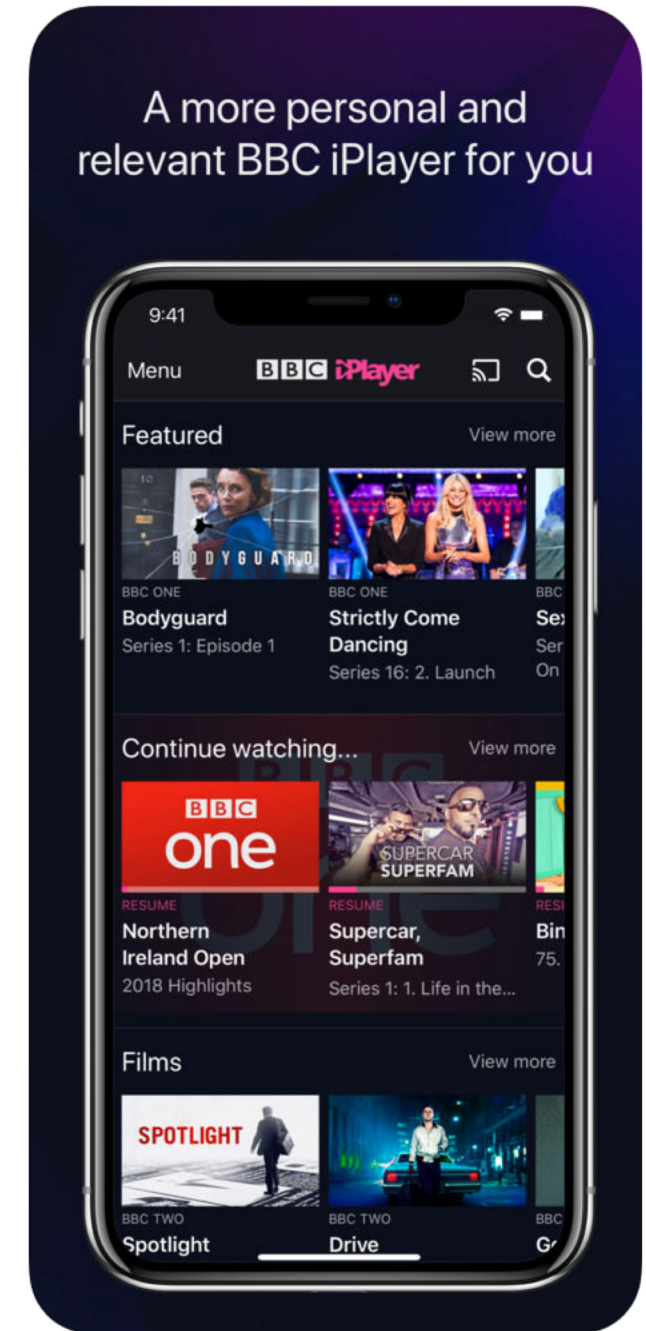
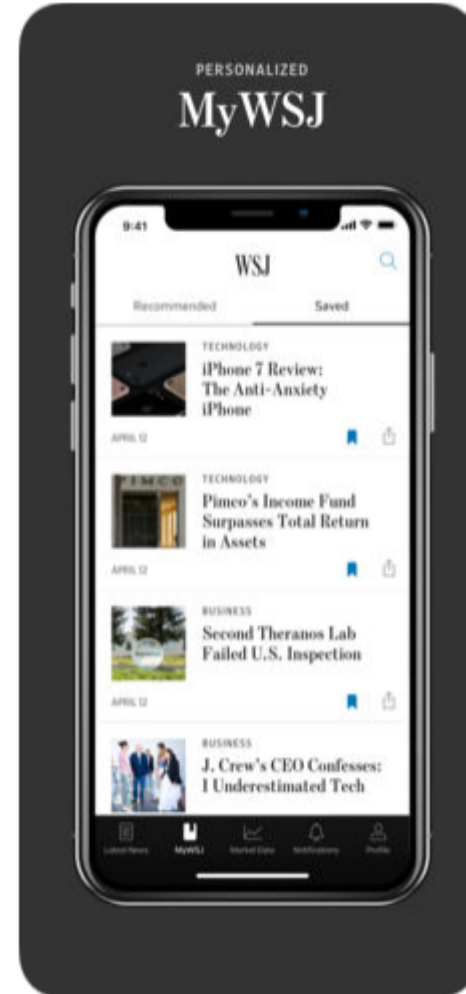
[News360 Inc.](#)

#177 in News

★★★★☆ 4.6, 11.4K Ratings

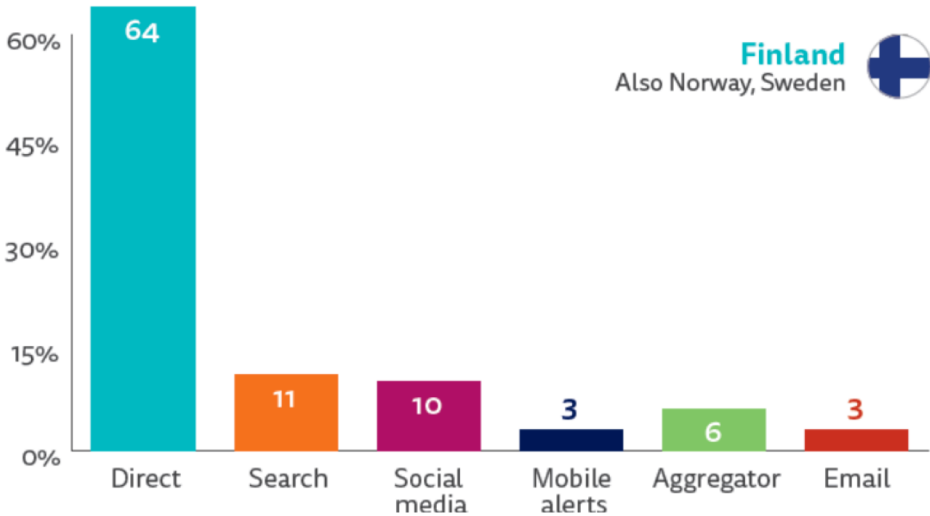
Free

# A 'Community' of One: The Times Gets Tailored

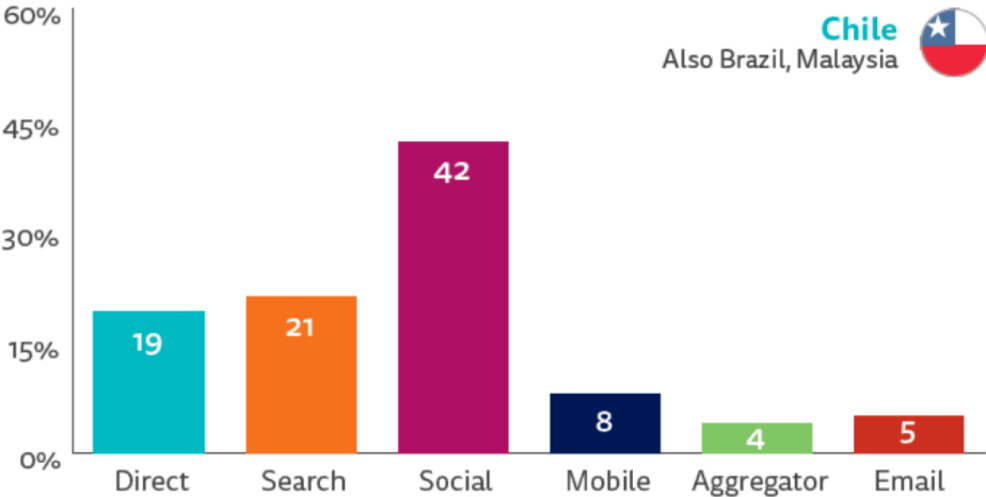


# Main gateways to news : Four models of online access

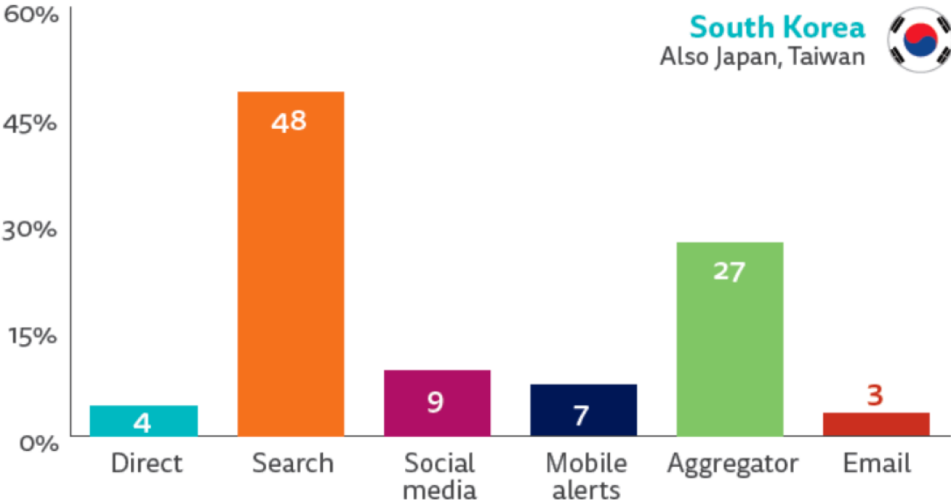
## 1. MAINLY DIRECT



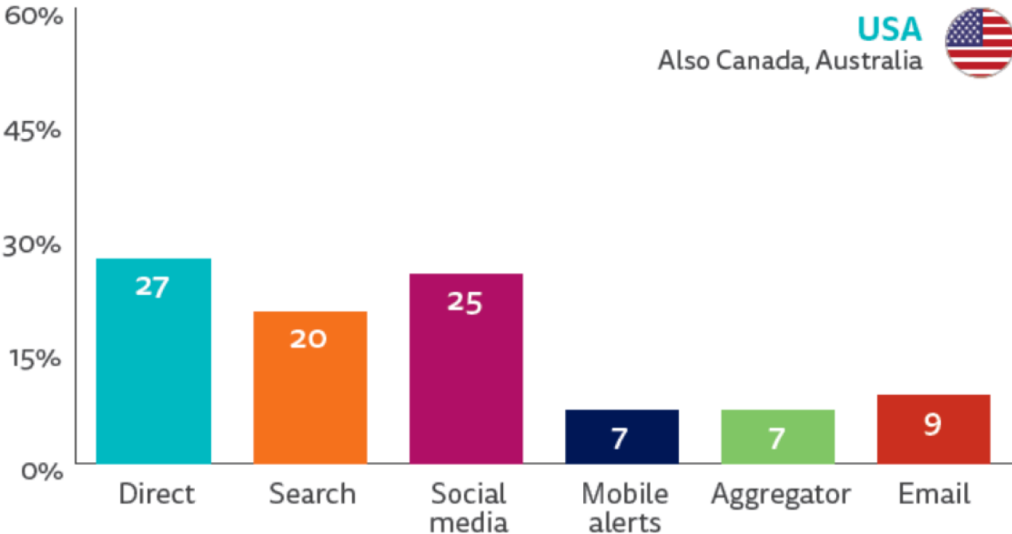
## 2. SOCIAL FIRST



## 3. DEEPLY AGGREGATED



## 4. PICK AND MIX



Q10a. Which of these was the MAIN way in which you came across news in the last week?  
 Base: All that used a news gateway in the last week: Finland = 1809, Chile = 1901, South Korea = 1927, USA = 1763.

# AI IN THE NEWS MEDIA

- Individual user data:
- Reading behavior;
- Interests, preferences;
- Biases; weaknesses; vulnerabilities.



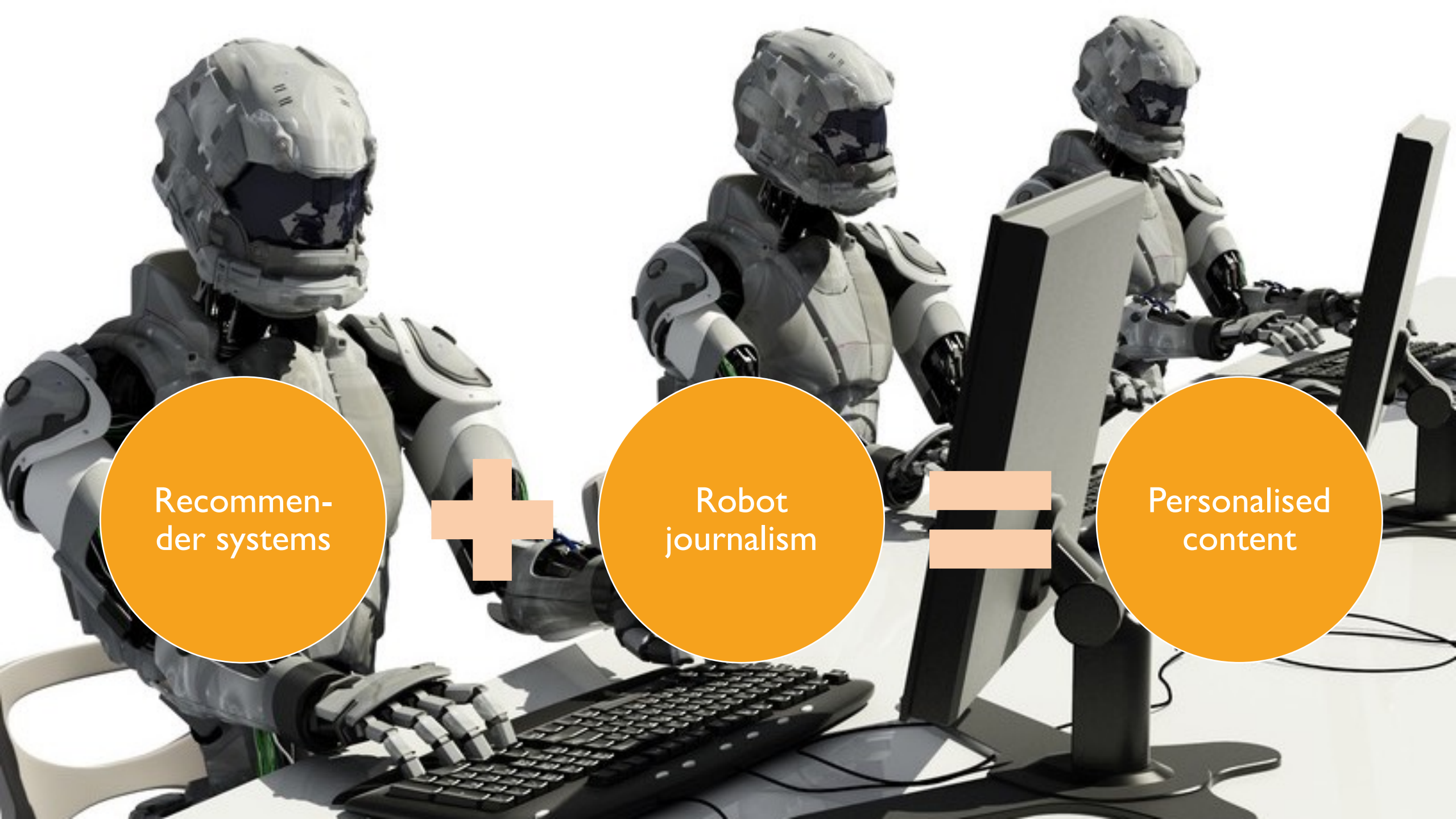
## DATA PROTECTION LAW

- Art 85 GDPR: Exemptions for processing carried out for journalistic purposes ('special purposes provision').
- Art 11(1)(b) Convention 108+: Exceptions allowed for the rights and fundamental freedoms of others, notably freedom of expression.

## DATA PROTECTION LAW

- Special purposes provision concerns personal data needed to **tell** a news story, not personal data needed to **disseminate** news stories.
- See S Eskens in *International Data Privacy Law*, vol 9, iss 3, 2019 (open access).

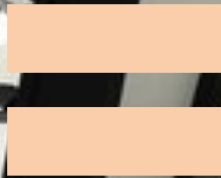




Recommen-  
der systems



Robot  
journalism



Personalised  
content

## MEDIA FREEDOM

- Art 10 ‘protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed’ (*Oberschlick v Austria*, para 57).

## MEDIA FREEDOM

- Art 10 ‘protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed’ (*Oberschlick v Austria*, para 57).
- Art 10 applies to the means of dissemination or reception of communication, ‘since any restriction imposed on the means necessarily interferes with the right to receive and impart information’ (*Autotronic AG v Switzerland*, para 47).

## MEDIA FREEDOM

- Media have the freedom to use AI for producing, recommending, and disseminating content.

# FREEDOM OF EXPRESSION

- Art 10, para 1, ECHR: right to freedom of expression.
- Art 10, para 2, ECHR: The exercise of these freedoms, since it carries with it **duties and responsibilities**, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of ...

## FREEDOM OF EXPRESSION

- ECtHR: Article 10 protects journalists' right to impart information **provided that** they are acting in good faith and provide accurate and reliable information in accordance with the **ethics of journalism**.

## MEDIA FREEDOM

- Self-regulation: journalistic codes of ethics / codes of conduct.
- Codes of ethics lack norms for personal data use and other digital issues, incl transparency, optimization metrics, accountability for automated editorial choices.
- Needed: algorithmic journalistic ethics (Helberger & Bastian, paper *forthcoming*).

# CODE of ETHICS

## PREAMBLE

Members of the Society of Professional Journalists believe that public enlightenment is the forerunner of justice and the foundation of democracy. Ethical journalism strives to ensure the free exchange of information that is accurate, fair and thorough. An ethical journalist acts with integrity.

The Society declares these four principles as the foundation of ethical journalism and encourages their use in its practice by all people in all media.

## SEEK TRUTH AND REPORT IT

Ethical journalism should be accurate and fair. Journalists should be honest and courageous in gathering, reporting and interpreting information.

### Journalists should:

- ▶ Take responsibility for the accuracy of their work. Verify information before releasing it. Use original sources whenever possible.
- ▶ Remember that neither speed nor format excuses inaccuracy.
- ▶ Provide context. Take special care not to misrepresent or oversimplify in promoting, previewing or summarizing a story.
- ▶ Gather, update and correct information throughout the life of a news story.
- ▶ Be cautious when making promises, but keep the promises they make.
- ▶ Identify sources clearly. The public is entitled to as much information as possible to judge the reliability and motivations of sources.
- ▶ Consider sources' motives before promising anonymity. Reserve anonymity for sources who may face danger, retribution or other harm, and have information that cannot be obtained elsewhere. Explain why anonymity was granted.
- ▶ Diligently seek subjects of news coverage to allow them to respond to criticism or allegations of wrongdoing.
- ▶ Avoid undercover or other surreptitious methods of gathering information unless traditional, open methods will not yield information vital to the public.
- ▶ Be vigilant and courageous about holding those with power accountable. Give voice to the voiceless.
- ▶ Support the open and civil exchange of views, even views they find repugnant.
- ▶ Recognize a special obligation to serve as watchdogs over public affairs and government. Seek to ensure that the public's business is conducted in the open, and that public records are open to all.
- ▶ Provide access to source material when it is relevant and appropriate.
- ▶ Boldly tell the story of the diversity and magnitude of the human experience. Seek sources whose voices we seldom hear.
- ▶ Avoid stereotyping. Journalists should examine the ways their values and experiences may shape their reporting.
- ▶ Label advocacy and commentary.
- ▶ Never deliberately distort facts or context, including visual information. Clearly label illustrations and re-enactments.
- ▶ Never plagiarize. Always attribute.

## MINIMIZE HARM

Ethical journalism treats sources, subjects, colleagues and members of the public as human beings deserving of respect.

### Journalists should:

- ▶ Balance the public's need for information against potential harm or discomfort. Pursuit of the news is not a license for arrogance or undue intrusiveness.

- ▶ Show compassion for those who may be affected by news coverage. Use heightened sensitivity when dealing with juveniles, victims of sex crimes, and sources or subjects who are inexperienced or unable to give consent. Consider cultural differences in approach and treatment.
- ▶ Recognize that legal access to information differs from an ethical justification to publish or broadcast.
- ▶ Realize that private people have a greater right to control information about themselves than public figures and others who seek power, influence or attention. Weigh the consequences of publishing or broadcasting personal information.
- ▶ Avoid pandering to lurid curiosity, even if others do.
- ▶ Balance a suspect's right to a fair trial with the public's right to know. Consider the implications of identifying criminal suspects before they face legal charges.
- ▶ Consider the long-term implications of the extended reach and permanence of publication. Provide updated and more complete information as appropriate.

## ACT INDEPENDENTLY

The highest and primary obligation of ethical journalism is to serve the public.

### Journalists should:

- ▶ Avoid conflicts of interest, real or perceived. Disclose unavoidable conflicts.
- ▶ Refuse gifts, favors, fees, free travel and special treatment, and avoid political and other outside activities that may compromise integrity or impartiality, or may damage credibility.
- ▶ Be wary of sources offering information for favors or money; do not pay for access to news. Identify content provided by outside sources, whether paid or not.
- ▶ Deny favored treatment to advertisers, donors or any other special interests, and resist internal and external pressure to influence coverage.
- ▶ Distinguish news from advertising and shun hybrids that blur the lines between the two. Prominently label sponsored content.

## BE ACCOUNTABLE AND TRANSPARENT

Ethical journalism means taking responsibility for one's work and explaining one's decisions to the public.

### Journalists should:

- ▶ Explain ethical choices and processes to audiences. Encourage a civil dialogue with the public about journalistic practices, coverage and news content.
- ▶ Respond quickly to questions about accuracy, clarity and fairness.
- ▶ Acknowledge mistakes and correct them promptly and prominently. Explain corrections and clarifications carefully and clearly.
- ▶ Expose unethical conduct in journalism, including within their organizations.
- ▶ Abide by the same high standards they expect of others.



# FREEDOM OF EXPRESSION & MEDIA LAW

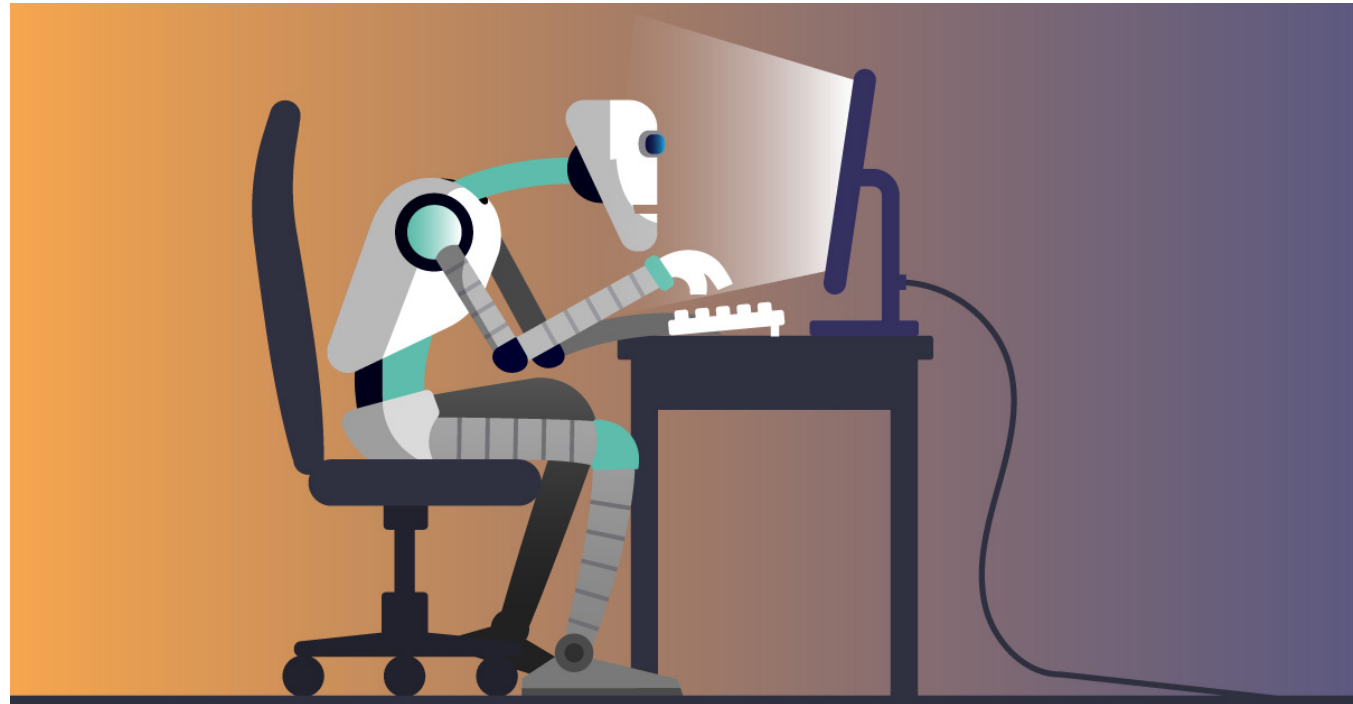
- Core values: media pluralism and diversity.
- State is the ultimate guarantor for pluralism  
(*Informationsverein Lentia and Others v Austria*, para 38).
- Codes of ethics: for which metrics/news values do we optimize AI?

# FREEDOM OF EXPRESSION & MEDIA LAW

- Core values: media pluralism and diversity.
- Ensure that AI in the media does not decrease diversity.
- Traditionally focus on source diversity.
- Digitalization enables measurement of exposure diversity.

# ROBOT JOURNALISM

- Freedom of expression for robot journalists?
- Freedom of information (FOIA) rights for robot journalists?
- Robots do not have legal personhood.



THANK YOU

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