

Recommendations towards responsible online media

In order to decrease the present deviations and abuses, it is necessary to obey the present legislation, to insure an independent financial media market and to begin with intensive digital media literacy for all the actors in the sphere of online public informing

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With the appearance of digital communications which made possible easy and simple communicating, the media industry on global level faced serious challenges from financial, legal and ethical nature.

The role of the media as main transmitters of the information from public interest has decreased, because now every individual has technical availability to massively transmit information, placing himself in the role of media.

Online media in Macedonia are (too)many. The most popular news aggregator Time.mk aggregates more than hundred, taking into account that the aggregator has relatively strict criteria. The real number is somewhere over 300 active, from which at least a half predominantly have content which is politically engaged, while the rest is specialized in entertainment, sports or else.

Not only that the quantity did not lead to quality, but quite opposite - because of the lack real of market and natural cohesion processes of integration and consolidation, we faced fragmentation and reduction of average size of the media outlets which consequently lead to strong decrease of the quality of content offered.

Internet ruined the classic business models in media and now more journalist work on insecure workplaces, media outlets no more invest in training or investigative journalism. The quality journalism is expensive because it requires resources - human as well as technical, and financial independence of the media outlet is the first condition for its integrity and independent editorial policy.

Media have crucial role in the democratic society and by that it is necessary for them to work responsibly, lawfully, professionally and based on ethical principles. Transparency of the ownership and financing is necessary also.

The part of the online advertising from the total advertising market in Macedonia is small. Sadly, there is no relevant source for the exact or at least close percentage and even more problem is the flow of money on now popular advertising through Google and Facebook. It is a fact there is not enough finances on the market, but online media which allegedly finance on commercial basis are many and even more are being created daily.

From this a conclusion can be brought, that part of them are not financed on commercial or market basis, but they are copies or compilations of others or there are “subsidized” from certain circles of power, mainly political and this is often done with public money.

These “entities” reach mass audience and offer information but do not deserve to be called media because the content is not produced by journalist and what is published is not checked by editors. In this context they can be called **paramedia**. Despite numerous paramedia there is a dozen of online media outlets in Macedonia which do publish journalistically edited content, have clear and public editorial structure, signed journalist, photo and video reporters, proofreaders... which together produce original content and by that are media with clear identity and gained integrity. Nevertheless, the audience has problem in differentiating the “important” from the “false” which creates damage for the correct media being drawn into unequal even submitted place compared to numerous paramedia.

To differentiate between professional media and entities created with aim different than public interest it is necessary to put the focus on the great responsibilities on the media. Responsible behavior in this context means lawfully, transparent market based and professional media outlet. During the process creating the Media law and the Law on audio and audiovisual media services which was done under strong pressure by the previous ruling party in power, despite the strong opposing from media professionals on the end resulted with compromised decision.

One of the key requests of the Association of Journalists of Macedonia was accepted - informative websites not to be regulated by these laws. This, sadly, created virtual legislation vacuum which for many meant that for them no law applies, which is completely false perception. As a key argument in these naive calls for state regulation of online media often the braking of copyright laws is stated i.e. copying of content from Macedonian and foreign sites and republishing without the consent of the source. This is only one of the problems and it is important because it destimulates creation of quality engaged author, but it has nothing to do with the media legislation, but with one different law - the Law on authors and other rights.

There are also problems in locating the ownership, ways of financing, hate speech is ever present, and there are discriminations, labels, insults... It appears the list has no end. Very small portion of these abuses, except from being noticed, have some kind of resolution. This happens due to misunderstandings in applying the legislation.

The noticed problems are hard to solve but there are not unsolvable. Huge part of them is consequence of wrong understanding, deceptions or very often inertia in acting of the state institutions. It is important steps to be drawn in direction of raising the quality and responsibility of the media. Methods must be affirmative not repressive.

Applying existing legislation and stimulating engagement of the state institutions

Despite the fact that the online media are neither defined, nor regulated with the Media law and the Law on audio and audio-visual services, this does not mean that they de-facto do not exist and that for them other laws do not apply. However, the print media are first time mentioned in the Media law in 2013, and there were no prior dilemmas if they are media or not.

The practice of impunity is evidential. Sometimes this happens because of lack of action of institutions, sometimes because of lack of understanding of this relatively new sphere, and sometimes because of the already mentioned harmful misunderstanding that for online sphere laws do not apply and because online media are not “regulated”.

Everything that applies offline applies online also.

The already created analyses say the impunity has to stop and that the legislation must be applied unselectively, rightfully and proportionally to all actors in the public communication on internet.

Several examples of laws apply to online media follow:

One of the most important questions, braking of author`s rights and copyright laws is regulated on **Law of authors and similar rights**, as with the article 157 from the **Criminal Code** where sentences up to six years of jail are noted. Sadly, in reality it is extremely rare for media outlet or author to raise charges on unlawfully of author`s content. The reasons for this can be found in lack of information for existence of the law or in its intentional bypassing. The respecting and appliance of this law will lead to increase of the value of the created content, it will stimulate the authors independently to create better journalistic product which can be offered on the market, and in the same time will prevent existence of paramedia that publish only illegally copied content. Even though it is not part of the legislation in context of the previous aiming correct functioning of the information eco-system it is necessary to encourage the culture of quotation, also known as Fair Use Policy, where without consultation of the author in the name of the public interest a small portion of the text of the audio visual product can be republished with clear quotation and linked to the source. In Macedonia such initiative with formal principles was promoted by the Center for Media Development.

The **Criminal code** sanctions calls for violent change of the constitutional order (Article 318), hate speech and discrimination (Article 319 and Article 417), applies sentence against individual who with the help of information system publicly will deny, roughly will minimize, will approve or encourage genocide, crimes against humanity or war crimes (Article 407-a) and forbids spreading racist and xenophobic material through computer system (Article 394-g).

The **Law on citizen responsibility for insult and label** (2012) includes internet-media in means of public informing under the term electronic publications through which insult or label can be done (Article 6 and Article 8). For them the right on reaction, denial, answer and correction apply, as well as the fines specific for journalist and media (Article 18).

It is important to emphasize the court creates an unacceptable practice for claims for label and insult against online media which is not compatible with the law and the European practice.

According to analyses of AJM, the court rejects the lawsuits with an explanation that the online publications are not media and by that damages both sides - the one who sues does not have an opportunity to protect one`s honor and reputation and on the other side exposed journalist to risk of being treated as citizens for whom the claim for non-material damage for label and insult is unlimited.

It is necessary to remind on the Law for protection on discrimination (this abuse besides being frequent in online media by now does not have court processes with an epilog), the convention for computer crime, Law on protection personal data, Law on employment, Law for archiving... The list continued with various laws which regulate the functioning of various commercial legal entities.

The only Law which specifically uses the term “internet portal” is the **Election Code**. This law predicts fines for “internet portals” which do not inform balanced up to 8,000 thousand Euros, as a serious threat for functioning on the online media which applied can restrict the freedom of speech. Taking into account that monitoring of the online media is neither world practice, nor possible without use of enormous resources the **Agency for audio and audio-visual services** claimed itself as incompetent from application of these articles saying that: “The Law does not define the term internet portals, nor its scope and such definition is not present in the other laws”.

This situation, as a consequence of this ad-hoc legal solution (which is additionally problematic because it predicts linear penalty for media without taking into account their size and scope) and the interpretation of the Agency additionally contributed to the wrong understanding that laws do not apply to online media.

In this context, the analysis of the **Counsel of the ethics in media** says: “The unprofessional functioning of the internet media is partially allowed by lack of application of these existing laws and the inaction of the institutions during the handling and sanctioning some appearances as hate speech, for example”.

The analysis of the Macedonian Institute for Media points in the same direction: “Macedonia has well enough legislation, which is applicable to the internet sphere and there is no need for additional regulation of internet communication”.

However, in reality, there are other obstacles in application of laws in this relatively new sphere. Often, in case of noticed offence it is hard to locate the subject who is behind the web page. Neither the creator of the content, nor the owner is known because they are not listed. The process of location is not easy, but it is not impossible either.

The domain registry of Marnet where pages gain their .mk domain is one step of location of the hidden subjects. Unless the contact person who registered the domain does not reveal the subject who hired him, he can solely be taken responsible during eventual court procedure.

Media Market consolidation

One of the main problems in the media market is the huge fragmentation i.e. the existence of huge number of small subjects with very small capacities. In order to achieve quality content, it is increase of the capacity of the media is necessary and this can be gained through their integration and consolidation, i.e. through association or at least cooperation. Measures for stimulating smaller number of the greater media instead of numerous small are needed. This process would raise the professional level and force the capacity of the media and would concentrate the money from the advertising market. In this process a special attention should be applied to protecting the diversity of the media. This process as the previous should be affirmative, stimulative and not restrictive, because there are small media outlets which succeed working professionally, successfully and independently.

In order to come to cooperation and enlargement of the media except stimulations responsible application of the existing legislation is needed. Therefore, the approach should be cautious and gradual. For example a controversial situation would be: if there is a total application of the copyright law, it is very probable that 99% of online media in Macedonia will have to pay huge fines often to domestic and foreign news agencies but to other media and authors also, which would destroy them.

In order to work by the law huge number of the media will have to joint together in order to share the expenses, primarily towards the news agencies and other content creators which finally should gain their key position into this ecosystem. Those which neither produce, nor legally buy content will stop taking the place of those which professionally and responsibly do it. Of course, these measures should be applied gradually and in any case, they should never endanger the freedom of speech.

Towards advertising on internet also education is needed and this is also aiming to raise the quality of news content.

At the present the main measure of “success” of the online media in Macedonia is the number of visits as a quantitative measure. Sadly, this leads to tabloidization of the media i.e. their deviation towards cheap sensationalism as clickbait. As a consequence, the process of public informing is damaged by a flood of fake, twisted and uncrucial information which seriously harms the democratic process in the country. There is the solution of a kind, but the problem is its impossibility of fast implementation. The process has started but compared to more developed environments, here it develops extremely slowly.

Namely, there are two basic principles of advertising on web:

- Advertising by buying a web banner by time and -
Advertising by buying web banner by visit.

The first principle, probably because of its simple implementation is the one that has mass use in Macedonia. It implies buying a certain physical space on the website for a quantum of time - often for a week or a month. For this principal the number of people in front of which the advertisement is shown depends solely on the number of the visits on the website. This stimulates the media to change the balance from professional to tabloid.

In the other case, the advertiser buys a certain number of appearances of its advertisement (Cost per Mile-CPM model), and has additional option to buy an amount of clicks on its advertisement (Cost per Click - CPC). In these cases, it is not important how many people visit the page, but which and do they value the media. There are also advanced options, where certain target audience can be selected or time and location.

Globally, the second model is far more spread, and here the situation is reverse, therefore the Macedonian webpages have unusual number of banners which “fight” for attention. In this context, the most positive role can be played by the association for development of digital advertising **IAB Macedonia** (International Advertising Bureau) which should connect to other actors and to various trainings and publications to improve the free functioning of the media market in Macedonia.

The route of the many of the problems comes from the fast development of the technology and the communications and form the lack of their understanding from the main actors. Therefore, an intense process of digital media literacy is needed, which among else is explained in the analysis “**Recommendations toward increased integrity and professional standards of online media**” which is complementary with this analysis.

Conclusion

The debate on additional regulation of online media is absolutely necessary because the legal framework for their functioning is already present. Despite the fact that the online media are not specifically mentioned in Media Laws, which in its essence, regulate broadcasting media, those who have journalistically produced and edited content, impressum, compliance with the ethical codes and transparent ownership, de-facto are media and should enjoy the privileges that come from this public function such as protection of the source of the information or the scalable penalties from the Law on citizen responsibility, label and insult.

An increased engagement from the responsible institutions is needed, not only towards the harmful content but towards the financial and legal functioning of the legal entities behind the online media. An increased digital literacy and debate between media, owners, judiciary, marketing agencies and business community is needed.

Online media especially those that have primarily financial aim must have equal access to the advertising market. Nevertheless, a differentiation should be made in terms do this media function professionally, ethically and legally, do they produce content or they just illegally copy from those who do. This is especially important when they apply for public money. The previous bad practice of Government advertising which completely distorted the media market is stopped, but an attention should be paid to the advertising from state institutions, public companies and local communities. The citizen's money mustn't be used in financing fake news and paramedia.

It is necessary the legal entities behind the media to work lawfully and professionally and to emphasize that for them all the laws apply, as to all legal entities.

The anonymity to all the entities that present themselves as online media must not be an obstacle in dealing with the missuses and the illegal activities. The real causers of the missuses are harder to locate in online media sphere, but they are not inaccessible, especially because in order to act commercially - meaning to finance according to law, they must have legal entity behind them.

Healing of the market and legal functioning of the media will naturally lead to processes of associations and enlargement of the media from which financially stable and independent media with greater integrity should emerge. The same processes will influence the increase of the need of legal original content and this is where the news agencies should fulfill their role. The increased use of agency content would lead to lowering the costs of their services for the media as their clients.

The main condition for this is the appliance of the copyright law for which, the authors themselves should put the pressure first. This applies both for textual and photo and video content where breaking of authors rights can be easily proved.

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