

# 2023 Annual Report: Dynamic Coalition on the Sustainability of Journalism and News Media

Edited by Daniel O'Maley, Waqas Naeem, and Courtney C. Radsch



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# About the Authors

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**Prue Clarke** is an international journalist, nonprofit executive, and professor whose reporting and commentary from more than 20 countries have appeared in the *Washington Post*, *The Guardian*, *Foreign Policy*, and NPR, among others. Prue's reporting has won awards including the national Edward R. Murrow prize. Prue co-founded and leads [New Narratives](#), a non-profit newsroom that collaborates with Global South newsrooms on investigative journalism and news business building. She was BBC Media Action West Africa Program Manager during the 2014 Ebola crisis and created crisis programming for impacted countries. She holds an M.S. from Columbia University's Graduate School of Journalism and a M.S. in international studies from the University of Sydney where she received an undergraduate degree in economics.

**Mike Harris** is a co-founder of Exonym. He devised the "Decentralized Rulebooks" system with patents pending in both the US and EU (2020). He has over 20 years of experience in ICT and is an expert in distributed PrivacyByDesign systems. He began his career in quality and business analysis for large-scale distributed trading systems and moved over to development in 2011. He has experience in founding green-field software teams, international management, and holds a first-class bachelor's degree in mathematics and physics from the Open University (UK).

**Juliana Harsianti** is an independent journalist and researcher, who has more than a decade of experience in the media industry. After receiving her master's degree in media and communications from Orebro University, her work has focused more on the intersection of digital technology and its impact on society, including journalism. She collaborated with Internets and journalist associations to design a digital security program for journalists and people at risk. She is also a longtime contributor for Global Voices, a citizen journalism platform, which also advocates for multilingual internet. She has recently been active in internet governance fora, and currently serves as secretary of the Indonesia Internet Governance Forum.

**Waqas Naeem** is a co-coordinator of the IGF Dynamic Coalition on the Sustainability of Journalism and News Media. A media development professional and former journalist, he currently works as program officer for IMS (International Media Support) in Pakistan. His work and research interests include issues related to the impact of journalism support initiatives, media viability and sustainability, safety of journalists, and countering disinformation. He has previously worked as a researcher and journalism trainer at the non-profit Media Matters for Democracy, as an assistant professor of journalism at National University of Sciences and Technology (NUST), and as a news reporter at The Express Tribune and the Scripps Howard News Service. He has an MA in journalism from the Missouri School of Journalism.

**Juliet Nanfuka** is a digital rights researcher and advocate who has worked on various initiatives aimed at helping individuals and organizations work toward improved internet governance structures, digital accessibility, and inclusion in Africa. She is a founding

member and contributing writer of the Africa Digital Rights Network (ADRN) and has also written for the Institute for New Economic Thinking (INET), the Center for International Media Assistance (CIMA), and various publications. She is a member of the UNESCO Information for All Programme (IFAP) Working Group on Information for Development. Juliet works at the Collaboration on International ICT Policy for East and Southern Africa (CIPESA), a leading center for research and analysis aimed at enabling policy makers in Africa to understand Information and Communications Technology (ICT) policy issues.

**Daniel O'Maley** is a co-coordinator of the IGF Dynamic Coalition on the Sustainability of Journalism and News Media. He is the senior digital governance specialist at the Center for International Media Assistance at the National Endowment for Democracy. In this capacity he leads CIMA's public engagement and research at the intersection of technology, news media, and human rights. With more than a decade of experience in tech policy, internet governance, and digital democracy, Daniel analyzes the ways that new digital technologies including the internet are reshaping information ecosystems globally. Daniel is currently serving as the elected co-chair of the Dynamic Coalition for the Sustainability of Journalism and News Media, a working group under the auspices of the IGF.

**Tharin Pillay** is a writer, researcher, and public policy consultant. He holds an LLB from the University of Cape Town, an LLM in international law from University College London. He is particularly interested in unpacking the socio-political implications of various digital technologies, and firmly believes in the power of research, activism, and policy reform to drive positive social change. Tharin is currently employed as a tech rights and public law fellow at [Alt Advisory](#), where he works on issues related to civil society fundraising and strategy, media policy, and the governance of artificial intelligence. He has previously worked on a range of projects related to anti-corruption advocacy, international drug policy, and the reform of South Africa's criminal justice system.

**Courtney C. Radsch, PhD**, is director of the Center for Journalism & Liberty at the Open Markets Institute where she produces and oversees cutting-edge research into news media market structures and helps design smart policy solutions to protect and bolster journalism's financial and editorial independence. She is also a fellow at UCLA's [Technology, Law and Policy Institute](#), the Center for Democracy and Technology, and the Media Research Center, and a senior fellow with the Center for International Governance Innovation. Dr. Radsch's work focuses on internet governance and platformization; AI and information ecosystems; and the evolving socioeconomic and technopolitical effects of media and technology. She is the author of [Cyberactivism and Citizen Journalism in Egypt: Digital Dissidence and Political Change](#) and has [published](#) in top media outlets and peer-reviewed journals.

**Maureen Sieh** is a veteran journalist and international media development and communication specialist with more than 30 years' experience in international development, promoting democracy, accountable governance, women's political participation, and human rights. She is based in Liberia where she has worked with several USAID implementing partners working on democracy and governance issues.

# Introduction: Navigating the Crossroads of Data, Tech, and Media Sustainability

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**Courtney C. Radsch, Waqas Naeem, Daniel O'Maley**

**N**ews media is once again at an unprecedented crossroads after the social media decade wrought havoc on financial sustainability, radically restructured the advertising market, and reoriented journalism around platform logics. As governments and corporations worldwide grapple with an ever-expanding digital ecosystem, questions surrounding how these elements interact have grown increasingly critical to the survival of a free and independent press.

What many consider monopolistic behavior by tech giants like Google, Amazon, and Meta has further strained the sustainability of media organizations. Their overwhelming market capitalization and control over data and advertising revenue have led to an imbalance of power that impacts how media houses operate, particularly in emerging economies. This scenario has created an existential crisis for many such organizations, forcing them to adapt or perish in our digital world. And the generative AI (GenAI) era is poised to reinforce and exacerbate this imbalance even further.

These twin forces of commercial platforms and assertive digital regulation by nation-states introduce additional layers of intricacy into an already complex situation. On one hand, new technologies offer groundbreaking opportunities for news production and distribution, fueling innovations that can revolutionize journalism. However, they also raise pressing ethical dilemmas and operational challenges, from the risks of algorithmic bias to concerns over the dilution of journalistic integrity. And rapid advances in GenAI without adequate legal regulatory frameworks risk reinforcing tech monopolies and power asymmetries that have made it so difficult for the news industry to figure out financially viable models. On the other hand, assertive government policies—ranging from data privacy laws to content moderation standards—exert their own form

of influence on both platforms and the press. While such regulations aim to safeguard the public and establish a sense of digital order, they can also stifle journalistic freedom and introduce new barriers to media viability. Together, these concurrent developments necessitate a nuanced perspective on the opportunities and pitfalls of the digital age, particularly as they relate to the preservation of a free and independent media ecosystem.

As you delve into this report, we invite you to explore these multilayered issues through a global lens. From examining the monopolistic behaviors of digital platforms in South Africa to uncovering digital policy challenges in Indonesia, and evaluating media innovation constraints in Liberia, we provide a comprehensive look at the variables that impact media viability and freedom. In grappling with these challenges, we strive for insights that can guide us through this existential crossroads to a path that leads to a dynamic and independent media environment that nurtures democracy, integrity, and public service.

This annual report is the result of a collective endeavor by the Dynamic Coalition for the Sustainability of Journalism and News Media. Members of the working group were invited to submit proposals on topics relevant to our central themes—data, access, and transparency—in the context of media sustainability and Internet policies. These submissions were rigorously evaluated by a peer review committee composed of experts in the field to select the most pertinent contributions for this report. The diverse range of articles reflects the wide-ranging interests and expertise of our working group members, ensuring a multifaceted exploration of critical issues.

Courtney C. Radsch's "Weaponizing US Copyright and EU Privacy Law for Censorship Globally" delves into legislative terrain geared toward platforms that also has an impact on media freedom around the world. Starting with a lawsuit against Forbes' Hungarian edition, Radsch highlights instances where technological regimes like the EU General Data Protection Regulation and the US Digital Millennium Copyright Act (DMCA) have been exploited to stifle independent and investigative journalism around the world. The article adds a layer of complexity to our discussions about how ostensibly protective laws can sometimes serve to undermine freedom of speech and media sustainability and urges tech platforms to do more to protect their systems from being gamed to target critical journalism.

Mike Harris's contribution, "Establishing Independence and Parity in the Era of Internet Giants," tackles how internet giants like Google and Facebook are affecting traditional media's financial sustainability. Harris goes beyond diagnosis to propose an online self-regulatory framework aimed at balancing

the challenges of content moderation without concentrating power within these dominant platforms. This contribution adds economic depth to our compilation's overarching theme by addressing issues of media independence and revenue in the digital age.

After delving into the economic challenges posed by internet giants, Daniel O'Maley's "Bridging the Gap: How Data Sharing Can Transform Media Development in the Digital Age" explores another dimension—how effective and meaningful data sharing could be a catalyst for improved media development. O'Maley argues that technology companies hold vast amounts of data that could be invaluable for media development if shared with researchers and news organizations. His article discusses how responsible data sharing could strengthen media development efforts on various fronts, and what various media development stakeholders can do to better organize and streamline these efforts.

Examining the effects of these global issues in a national context, Tharin Pillay's "Competition Policies and Media Sustainability: A South African Case Study," the impact of dominant digital platforms on media sustainability comes into sharp focus. Through a South African lens, Pillay illustrates how Google, Amazon, and Meta's market capitalization dramatically outweighs the GDP of the entire African continent. This analysis sets the stage for examining how such outsized influence affects media advertising revenue and content distribution. Pillay's insights are particularly relevant in the context of emerging economies and pave the way for our compilation's broader exploration of data, access, and transparency in media.

Moving from the theoretical to the practical, Juliet Nanfuka's "Navigating the Uncertainty of GenAI in Ugandan Newsrooms" offers an on-the-ground view of media innovation in Africa. She explores how this technology offers both opportunities for strengthening media viability and the risks it can pose to public trust in news media. This article enriches our dialogue by focusing on a specific geographical context—Uganda—where the implications of emerging technologies like GenAI are both a potential asset and a liability.

Extending this geographical focus, Prue Clarke and Maureen Sieh's "Digital Innovation in Liberia's Media Sector: Challenges and Opportunities in Low-Income Democracies" delves into media development issues specific to one of the world's least economically developed countries. They discuss the lack of robust digital strategies and comprehensive training programs for journalists, as well as media organizations' dependency on large tech platforms for audience reach. Their article adds a dimension of economic and geographic diversity to our compilation, emphasizing the struggles in economically challenging environments.

Shifting focus to Southeast Asia, Juliana Harsianti’s “Digital Regulation, Media Sustainability, and Freedom of Speech” discusses the impact of Indonesia’s newly enacted Personal Data Protection (PDP) bill on digital regulation, media sustainability, and freedom of speech. Passed in 2022, the PDP bill aligns Indonesia with other ASEAN countries like Malaysia and the Philippines in adopting a data protection framework. However, the law is part of a broader national internet governance regime that was regularly misused in the past to stifle free expression and undermine media independence. The article emphasizes the importance of reforming existing cyber laws and enforcing new data-related regulations in a way that ensures both digital rights and a sustainable media environment.

In bringing together these diverse voices and perspectives, this report is both a microscope and a telescope—offering detailed examinations of specific issues while also zooming out to consider their broader implications for the sustainability of journalism and news media in the digital and AI era. Through the lens of data, access, and transparency, we encounter a complex, interwoven narrative requiring not only attention but also action. As we move through a time marked by rapid tech advancements and shifting political landscapes, these key issues transition from being trendy topics to critical building blocks that can either support or weaken the future of media.

As you explore the articles that follow, we encourage you to think critically about the multifaceted challenges and opportunities they present to policymakers, platforms, and the press. Each piece serves not only as an individual analysis but also contributes an empirically-grounded perspective to a larger tapestry illustrating the current state of media in our increasingly digital world. Importantly, the insights and challenges discussed transcend regional or economic boundaries, with global implications that affect us all. It is our hope that this report will ignite meaningful dialogue, inspire informed action, and contribute to the development of a more transparent, accessible, and resilient media ecosystem in years to come.

# Weaponizing US Copyright and EU Privacy Law for Censorship Globally

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Courtney C. Radsch

*This article is adapted from a peer-reviewed [report](#) based on empirical and qualitative research written for the Center for International Governance Innovation.*

Is the *Forbes* list of richest people a data privacy violation? The wealthy owners of a Hungarian energy company thought so when they sued the local publisher. But rather than throw the lawsuit out on the grounds that journalism is protected under the EU's privacy law, a Hungarian court seemed to agree with the plaintiffs and issued a preliminary injunction against *Forbes'* Hungarian edition, forcing the magazine to recall print issues from the newsstands and remove the list from its website.<sup>1</sup> The same company won another preliminary injunction against a local news outlet even before anything was published after receiving a set of questions from an investigative journalist working on a different story.

Although journalism is supposed to be exempt from the EU's General Data Protection Regulation (GDPR), in practice media outlets have been targeted by private and public entities that have turned the data protection law into a weapon to remove news, investigative journalism tools, and other protected forms of speech online.

Meanwhile, police in California and elsewhere have leveraged automated copyright filtering systems to block videos of law enforcement action from being uploaded to social media by playing popular music intended to trigger automated copyright

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<sup>1</sup> Madeline Earp, "Hungarian Court Gags Investigative Report, Citing EU Data Protection Law," Committee to Protect Journalists (blog), October 21, 2020, <https://cpj.org/2020/10/hungarian-court-gags-investigative-report-citing-eu-data-protection-law/>.

filters.<sup>2</sup> An Illinois police officer said he was “recently advised” to exercise this “copyright hacking” technique.<sup>3</sup>

A constellation of globally influential American and European technology policies aimed at enhancing individual privacy and intellectual property rights online, addressing content moderation, and mitigating online harm are being wielded as weapons to harass independent news media at home and abroad, to deter investigative reporting, and to censor public interest journalism. The US Digital Millennium Copyright Act (DMCA) and the EU Directive on Copyright in the Digital Single Market (Copyright Directive), and the GDPR are chief among these globally influential techno-legal regimes. They govern significant aspects of our digital communications ecosystem through a combination of legal and technological systems designed to regulate the use and distribution of digital content and protect personal data and IP rights. These techno-legal regimes are exported by the US in trade agreements with other countries and in the terms of service of dominant US platforms such as Meta and Google.

These national copyright and privacy laws are inscribed into global technology platforms through their artificial intelligence (AI) systems and content moderation procedures through several common features and protocols, such as notice-and-takedown (NTD) or staydown (NST) requirements, hashing, and filtering. Such mechanisms, or what Chris Riley and Susan Ness term “modules,”<sup>4</sup> from these laws are becoming a standard part of legislation aimed at addressing digital rights and obligations in the platform era, such as the Digital Services Act (DSA) in the European Union and laws prohibiting illegal and harmful content or data sharing.

News outlets and journalists around the world rely on platforms such as YouTube, X (Twitter), and Facebook that host user-generated content (UGC) to reach their audiences and, in many cases, to bypass government censorship. But the majority of the most popular platforms they use are governed by US and European law

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<sup>2</sup> Zoe Schiffer and Adi Robertson, “Watch a Police Officer Admit to Playing Taylor Swift to Keep a Video off YouTube—The Verge,” The Verge, January 7, 2021, <https://www.theverge.com/2021/7/1/22558292/police-officer-video-taylor-swift-youtube-copyright>; Morgan Sung, “Cops Are Playing Music during Filmed Encounters to Game YouTube’s Copyright Striking,” Mashable, July 1, 2021, <https://mashable.com/article/police-playing-music-copyright-youtube-recording>; Tim Cushing, “Cops Are Still Playing Copyrighted Music To Thwart Citizens Recording Their Actions,” Techdirt, April 18, 2022, <https://www.techdirt.com/2022/04/18/cops-are-still-playing-copyrighted-music-to-thwart-citizens-recording-their-actions/>.

<sup>3</sup> Matthew Gault, “Cop Was Instructed to Use Music to Disrupt Filming,” Vice (blog), September 9, 2021, <https://www.vice.com/en/article/93y77y/cop-was-instructed-to-use-music-to-disrupt-filming>.

<sup>4</sup> Chris Riley and Susan Ness, “Modularity for International Internet Governance,” Lawfare (blog), July 19, 2022, <https://www.lawfareblog.com/modularity-international-internet-governance>.

(as well as domestic laws).<sup>5</sup> One would not expect that national laws from one country could be used to censor media in another country, yet that is what is happening as powerful governments deputize platforms to enforce privacy, copyright, and content-related laws globally. US and European copyright and privacy laws *in particular* shape the visibility and viability of news media globally, from their ability to claim fair use and conduct investigative reporting in the public interest to the content moderation systems they must contend with just to do their jobs.

Amid pressure to improve their content moderation systems to enhance detection of copyright-infringing content, take down offending content more rapidly, and keep it off their sites,<sup>6</sup> platforms such as Google and Facebook created automated enforcement systems that allow for the bulk submission of notices. The DMCA amounts to a global copyright regime that laid the groundwork for algorithmic governance and features that have now become standard in other laws.

To comply with the DMCA, many US-based platforms deploy automated processing, algorithmic filtering, and blocking or removal of content worldwide when it is reported to infringe on copyright because they receive statutory civil immunity under section 512 of the DMCA.<sup>7</sup> Companies only receive safe harbor from monetary liability for copyright infringement claims if they remove or disable access to the infringing material, so tech companies instituted automated NTD/NST regimes that are deployed globally. NTD/NST systems are largely implemented algorithmically, meaning platforms apply algorithms and machine learning “to perform qualitative determinations, including the discretion-based assessments of copyright infringement and fair use.”<sup>8</sup> Although the law ostensibly imposes criminal penalties for false claims, in practice this provision has provided no recourse for targeted media, which often lack the legal, financial, and linguistic resources to respond.<sup>9</sup>

<sup>5</sup> Courtney C. Radsch, “URGENT: Understanding and Responding to Global Emerging News Threats,” *Internews*, March 2023, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4406895](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4406895).

<sup>6</sup> Daphne Keller, “Systemic Duties of Care and Intermediary Liability | Center for Internet and Society,” *Stanford Center for Internet and Society*, May 28, 2020, <https://cyberlaw.stanford.edu/blog/2020/05/systemic-duties-care-and-intermediary-liability>; OFCOM, “Online Safety Law to Be Strengthened to Stamp out Illegal Content,” *GOV.UK*, April 2, 2022, <https://www.gov.uk/government/news/online-safety-law-to-be-strengthened-to-stamp-out-illegal-content>.

<sup>7</sup> *Digital Millennium Copyright Act*, 17 USC § 512 (1998) [DMCA].

<sup>8</sup> Maayan Perel and Niva Elkin-Koren, “Accountability in Algorithmic Copyright Enforcement,” *Stanford Technology Law Review* 19, no. 473 (February 21, 2016): 61, <https://dx.doi.org/10.2139/ssrn.2607910>.

<sup>9</sup> Courtney C. Radsch, “Weaponizing Privacy and Copyright Law For Censorship,” *Center for International Governance Innovation (CIGI)*, 2023.

Unlike the DMCA, the EU Copyright Directive, which is in the process of being transposed into national law by member states, exposes for-profit platforms that host UGC to liability for allowing infringing content claimed by a rights holder to remain on their platform.<sup>10</sup> Yet the directive imposes no penalties on fraudulent or repeat bad faith claimants. This makes it likely that platforms will rely on the use of hash databases and algorithmic screening systems, including upload filters, and therefore will be more likely to err toward over-removal for both technical and legal reasons.

Criminals, corrupt officials, and a burgeoning industry devoted to influence operations, reputation management, and information manipulation are weaponizing these techno-legal regimes to censor media with impunity, as investigations by journalists and the Forbidden Stories collaborative have underscored.<sup>11</sup> A *Wall Street Journal* (WSJ) investigation found hundreds of newsworthy articles that were erroneously de-indexed by Google after receiving fraudulent DMCA notices, including more than a dozen local news items that were spoofed or whose content was cloned by faux news sites or by sites masquerading as real news sites.<sup>12</sup> A third of surveyed independent news organizations in the Global South or working from exile reported receiving DMCA takedown notices.<sup>13</sup>

An investigation by *Rest of World* based on a trove of documents from a single reputation management firm revealed 17,000 URLs, including media websites and news articles, that were apparently targeted for removal or de-indexing over a four-year period.<sup>14</sup> Leading news sites in Argentina, Germany, Israel, Mexico, and elsewhere in Africa, Latin America, and the Middle East were listed alongside names of businesspeople and the politically connected who sought to control information about themselves online by invoking GDPR or its domestic equivalent.

<sup>10</sup> Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC, PE/51/2019/REV/1, OJ L 130 [EU Copyright Directive], <https://eur-lex.europa.eu/eli/dir/2019/790/oj>.

<sup>11</sup> Phineas Rueckert, "The Gravediggers: How Eliminalia, a Spanish Reputation Management Firm, Buries the Truth," Forbidden Stories, February 17, 2023, <https://forbiddenstories.org/story-killers/the-gravediggers-eliminalia/>; "Dark Ops Undercovered: Episode I—Eliminalia—Qurium Media Foundation," Qurium, April 12, 2021, <https://www.qurium.org/forensics/dark-ops-undercovered-episode-i-eliminalia/>; Lumen Database Team, "(Ab)Use of Copyright Law as the Tool of Choice for Censorship and Reputation Management," Berkman Klein Center Collection (blog), January 19, 2022, <https://medium.com/berkman-klein-center/copyright-laws-ab-use-as-the-tool-of-choice-for-censorship-and-reputation-management-e78c9129f6f1>.

<sup>12</sup> We know they were inaccurately taken down because of the fact that Google reinstated many of them after being informed by the WSJ. Andrea Fuller, Kirsten Grind, and Andrea Palazzolo, "Google Hides News, Tricked by Fake Claims," *Wall Street Journal*, May 15, 2020, <https://www.wsj.com/articles/google-dmca-copyright-claims-takedown-online-reputation-11589557001>.

<sup>13</sup> Radsch, "URGENT: Understanding and Responding to Global Emerging News Threats."

<sup>14</sup> Peter Guest, "Exposed Documents Reveal How the Powerful Clean up Their Digital Past Using a Reputation Laundering Firm," *Rest of World*, February 3, 2022, <https://restofworld.org/2022/documents-reputation-laundering-firm-eliminalia/>.

A number of journalistic investigations in Mexico, the Western hemisphere's most deadly country for journalists,<sup>15</sup> "were suddenly deleted with no explanation" in 2018 in what appeared to be a pattern of takedowns linked to such reputation management operations.<sup>16</sup>

Authorities in several European countries, including those with poor press freedom records, have weaponized the GDPR to censor independent investigative reporting and create barriers to collaborative journalism. Data protection authorities in Hungary, Lithuania, and Romania have all sought to shut down or muzzle investigative reporting and dismantle the tools journalists use to conduct investigative reporting.<sup>17</sup> When Lithuania's data protection authority sought to take down a database used by investigative journalists to analyze public documents and statements, it did so under the guise that it violated the GDPR. Journalists created the database—hosted on the same platform as the Panama Papers and funded by the European Commission—to help analyze relationships and uncover corruption to improve democratic governance.

Meanwhile, content farms that traffic in plagiarized news face few repercussions.<sup>18</sup> Governments do not pursue penalties for misusing copyright laws, platforms have not put in place protective or remedial systems, and many news media lack the legal expertise and resources to fight back against spurious privacy and copyright claims. This is especially true in countries where independent media already struggle to remain viable and confront hostile press freedom conditions, as in much of the Global South.

Content farms drain the already dry coffers of media struggling for commercial viability in the digital age, undermine their brands and drown them out in a sea of low-quality content while compounding the challenges of misinformation. Facebook is a primary vector for clickbait plagiarism given its popularity and

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<sup>15</sup> Natalie Southwick and Carlos Martínez de la Serna, "In 2022, Journalist Killings Continue Unabated in Mexico amid a Climate of Impunity," Committee to Protect Journalists (blog), August 30, 2022, <https://cpj.org/2022/08/in-2022-journalist-killings-continue-unabated-in-mexico-amid-a-climate-of-impunity/>.

<sup>16</sup> Guest, "Exposed Documents Reveal How the Powerful Clean up Their Digital Past Using a Reputation Laundering Firm."

<sup>17</sup> Earp, "Hungarian Court Gags Investigative Report, Citing EU Data Protection Law;" "Lithuania: Stop Harassment of the Karštos Pėdos Journalist Platform," ARTICLE 19, <https://www.article19.org/resources/lithuania-stop-harassment-of-the-karstos-pedos-journalist-platform/>, accessed October 14, 2022; Attila Mong, "In Romania, EU Data Protection Law Used to Try to Muzzle Rise Project," Committee to Protect Journalists (blog), January 16, 2019, <https://cpj.org/2019/01/in-romania-eu-data-protection-law-used-to-try-to-m/>.

<sup>18</sup> Mark Shores, "The Rise of Content Farms," June 12, 2019, <http://sc.lib.miamioh.edu/handle/2374.MIA/6433>; Samantha Bradshaw, Hannah Bailey, and Philip N. Howard, "2020 Industrialized Disinformation: Global Inventory of Organized Social Media Manipulation," Working Paper, Oxford Internet Institute, 2021, <https://demotech.oxi.ac.uk/wp-content/uploads/sites/127/2021/01/CyberTroop-Report-2020-v.2.pdf>.

availability—it has nearly three billion users<sup>19</sup> and widespread availability—with as much as 60 percent of engagement with Instant Articles taking place on scraped content.<sup>20</sup> In Burma, for example, six of the top 10 websites with the most Facebook engagement in 2015 were from legitimate media, but by 2018 this number had dropped to zero.<sup>21</sup> And although the companies have been pressured to remove monetization from sites linked to information operations like these when researchers bring it to their attention, no journalists the author spoke with had filed DMCA counterclaims, and it is not clear whether the pages were acted upon for copyright violations or if they faced any enduring repercussions for their plagiarism. Meanwhile, news outlets struggle for eyeballs and scraps of digital revenue while doing the costly work of reporting, editing, and producing video that goes into journalism, with many independent outlets in the Global South lacking the legal support to pursue copyright claims against the real abusers.

When tech platforms are pushed by powerful governments such as the United States and European Union to remove or prevent certain types of content on their services, they have responded by adjusting their algorithms to help reduce the visibility and virality of problematic content or even prevent its upload in the first place.<sup>22</sup> Platforms adjust their terms of service or community guidelines to allow or disallow categories of content or accounts, imposing various penalties for violating them, thus affecting the visibility and viability of news media on their platforms.

The censorial impact of the misuse of legal frameworks developed in the Global North on public interest news media in the Global South underscores not only the deep structural inequalities in the global information ecosystem but also undermines efforts to combat disinformation and propaganda, hold those in power to account, and improve media sustainability. Fixing this exploitation to better protect public interest news outlets from the deliberate and systematic suppression of information by powerful actors should be a priority. This means closing legal loopholes and framing the use of these techno-legal regimes as

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<sup>19</sup> “Meta Reports Second Quarter 2022 Results,” Meta, July 27, 2022, [https://s21.q4cdn.com/399680738/files/doc\\_financials/2022/q2/Meta-06.30.2022-Exhibit-99.1-Final.pdf](https://s21.q4cdn.com/399680738/files/doc_financials/2022/q2/Meta-06.30.2022-Exhibit-99.1-Final.pdf).

<sup>20</sup> Jeff Allen, “How Communities Are Exploited On Our Platforms: A Final Look At The ‘Troll Farm’ Pages,” Document Cloud, April 10, 2019, <https://s3.documentcloud.org/documents/21063547/oct-2019-facebook-troll-farms-report.pdf>.

<sup>21</sup> Karen Hao, “How Facebook and Google Fund Global Misinformation | MIT Technology Review,” MIT Technology Review, November 20, 2021, <https://www.technologyreview.com/2021/11/20/1039076/facebook-google-disinformation-clickbait/>.

<sup>22</sup> Gabriel Nicholas, “Shedding Light on Shadowbanning,” Preprint, Open Science Framework, May 19, 2022, <https://doi.org/10.31219/osf.io/xcz2t>; Courtney C. Radsch, “On the Frontlines of the Information Wars: How Algorithmic Gatekeepers and National Security Impact Journalism,” in *National Security and Journalism*, edited by Marc Ambinder, Jennifer Henrichson, and Connie Rosati (CERL. Oxford University Press, 2023).

censorial efforts to reduce public participation in the public sphere. The challenge of protecting news outlets from being maliciously targeted also rests on the need to distinguish these outlets from other content producers amid the scale of content produced online and reported through complaint mechanisms while also providing a meaningful remedy that accounts for the temporal dimension of news and the limited resources at news outlets' disposal.

Ensuring the sustainability of journalism and news media should be a central concern of policy makers seeking to shape the information ecosystem, protect their citizens' privacy, and uphold IP rights in the digital age. Poorly designed and implemented techno-legal regimes that empower wealthy and powerful individuals to intimidate and coerce the media into removing coverage are detrimental to press freedom and the fight against disinformation and corruption. Countries with relatively strong press freedom records and independent, financially viable media are also those that have the greatest influence over transnational technology policies, and thus it is incumbent that they assess the risk their policies pose in countries with poor press freedom records or where media sustainability is limited and seek to mitigate them.

# Establishing Independence and Parity in the Era of Internet Giants

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**Mike Harris**

Exonym

## Introduction

In our journey into the Information Age, internet giants have risen as potent wielders of information, operating in concert with, yet distinct from, traditional news media.<sup>1</sup> Propelled by the force of the network effect,<sup>2</sup> they have constructed a pervasive layer around news media, commanding not only the diffusion of content but also its revenue streams. Consumer attention, once monopolized by publishers, is now dispersed across the web, revealing a significant shift in the locus of power.<sup>3</sup>

This discourse hinges on acknowledging the internet's inherent propensity toward centralization.<sup>4</sup> In the absence of evidence to the contrary, we should assume that for any given utility, centralization is an inevitable outcome and can only be corrected to the detriment of our total internet capabilities. While centralization increases the utility of the internet to our benefit, it is also hard coupled to governance, which undermines and threatens societies.

Despite this seismic shift in the information landscape, the need for high-quality, relevant, and trustworthy content persists. The reordering of power has not eroded the worth of content; it has merely transformed the mechanisms of its distribution and control. The erosion of revenues and industry bankruptcies are

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<sup>1</sup> Tim Wu, *The Master Switch: The Rise and Fall of Information Empires* (New York, NY: Vintage, 2011).

<sup>2</sup> Carl Shapiro and Hal R. Varian, *Information Rules: A Strategic Guide to the Network Economy* (Boston, MA: Harvard Business Review Press, 1998).

<sup>3</sup> Jesse Holcomb, Jeffrey Gottfried, and Amy Mitchell, News Use Across Social Media Platforms (Washington, DC: Pew Research Center, 2013), <https://www.pewresearch.org/journalism/2013/11/14/news-use-across-social-media-platforms/>.

<sup>4</sup> Shapiro and Varian, *Information Rules: A Strategic Guide to the Network Economy*.

pressing issues,<sup>5</sup> yet they are merely symptoms of a deeper problem: the declining independence of global news media, due to the increasing control exerted by the network utilities to which they are tethered.

Addressing the problem demands also recognizing that breaking utilities apart will not change things. Consumers derive significant value from platforms, which tend towards centralization because, as utilities, they are just servers that users point to.<sup>6</sup> History demonstrates that antitrust interventions typically result in the emergence of another dominant entity.<sup>7</sup> The value gap is simply refilled by yet another browser application pulling content from a server—just with a new name. Thus, we must calibrate our approach in the light of this reality.

The critical task at hand is to reconsider the modalities of dissemination—the so-called “wrappers” around content—to better align with broader societal needs.<sup>8</sup> This does not entail revolutionizing the content itself, but reimagining content governance, steering toward an information environment that reflects reality rather than one distorted by algorithms that favor outrageous content.<sup>9</sup>

Computer programmers codify rules into systems that constrain our possibilities. This is in stark contrast to law that simply communicates the limits of acceptable activity and then requires incentives and disincentives to ensure those laws are carried out.<sup>10</sup> Many of the challenges to the internet governance of our epoch stem from the fact that the digital world now commands vast aspects of our lives.<sup>11</sup> To regain focus on news media, it stands to reason that code, rather than law, dominates the flow of information. An obvious outcome is that propagandists and powerful actors want to influence the space. They do so either by leveraging the properties of algorithms designed to make money for the platforms' owners, or by designing the algorithms to make more money. The welfare of our social systems figures last.<sup>12</sup>

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<sup>5</sup> Penny Abernathy, *News Deserts and Ghost Newspapers: Will Local News Survive?* (Chapel Hill, NC: University of North Carolina at Chapel Hill: The Center For Innovation And Sustainability in Local Media, 2020).

<sup>6</sup> Pablo J. Boczkowski and Eugenia Mitchelstein, *The News Gap: When the Information Preferences of the Media and the Public Diverge* (Cambridge, MA: MIT Press, 2015).

<sup>7</sup> Wu, *The Master Switch: The Rise and Fall of Information Empires*.

<sup>8</sup> Jie Ren, Hang Dong, Ales Popovic, Gaurav Sabnis, and Jeffrey Nickerson, “Digital platforms in the news industry: how social media platforms impact traditional media news viewership,” *European Journal of Information Systems*, 2022, <https://doi.org/10.1080/0960085X.2022.2103046>.

<sup>9</sup> Tobias Rose-Stockwell, *Outrage Machine: How Tech Amplifies Discontent, Disrupts Democracy—And What We Can Do About It* (New York, NY and Boston, MA: Legacy Lit, 2023.)

<sup>10</sup> Lawrence Lessig, *Code: And Other Laws Of Cyberspace* (New York, NY: Basic Books, 1999).

<sup>11</sup> Wu, *The Master Switch: The Rise and Fall of Information Empires*.

<sup>12</sup> Carole Cadwalladr and Emma Graham-Harrison, “Revealed: 50 million Facebook profiles harvested for Cambridge Analytica in major data breach,” *The Guardian*, March 17, 2018, <https://www.theguardian.com/news/2018/mar/17/cambridge-analytica-facebook-influence-us-election>.

In a domain where legislation is rightly resisted to maintain the freedom of the press, it is incumbent on us to organize and secure our own information ecosystem.<sup>13</sup> It is simply the historic lack of capability, due to dozens of factors—ranging from existential threats, to technical feasibility, to the news media industry’s non-interactive nature—which has kept us from solving our contemporary crisis.

Let’s consider a promising, novel pathway forward. If news media organized to provide a strong signal of trustworthy content as a utility, governments might find it more difficult to enact “fake news” laws that threaten press freedoms because of pressure from society. Additionally, the most dominant platforms would be financially incentivized to provide advertisers with the safest advertising space possible and to do so at a negligible cost.<sup>14</sup> More importantly, it would be difficult for platforms to refuse to use the signal due to their ineffective content governance and the fact that the industry would be organized to protect consumers in a way that is safe, liberal, and democratic.

After much research, we at Exonym, a civil tech company developing technological solutions to rapidly evolving internet governance challenges, have created a transactional governance framework called Decentralized Rulebooks. This framework enables adaptive, bottom-up, self-organization of governance, invoking leadership primarily to resolve disputes.<sup>15</sup>

The Decentralized Rulebooks system is a collection of protocols that rely on an open-source, distributed identity system provided by Exonym®. One of its core design principles is a distinct separation between protocol and policy, where the protocol cannot interfere or override any policy. This crucial distinction enables news media to democratically establish conditions to produce a trust signal that is interpretable anywhere on the internet.

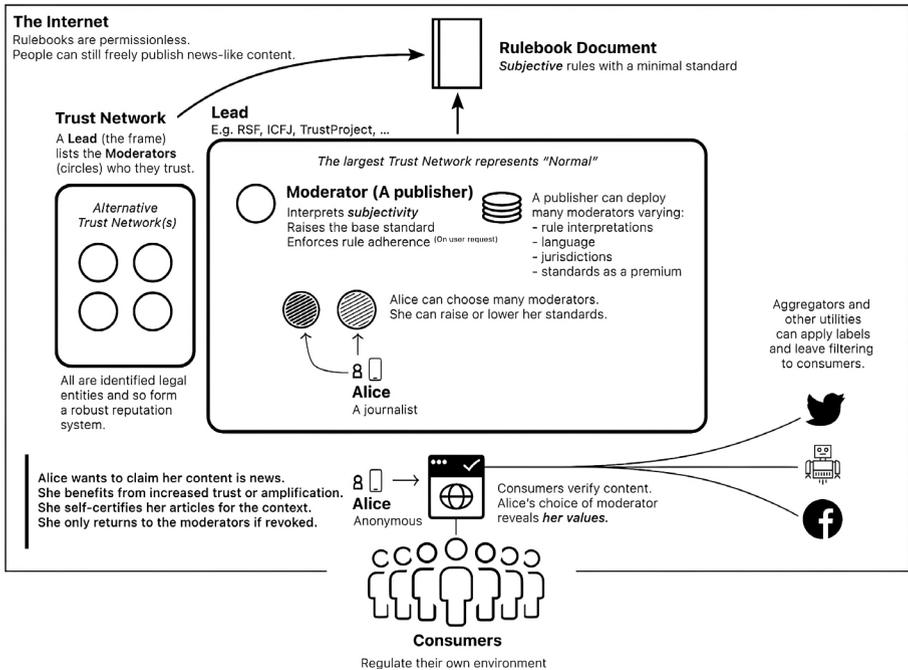
The framework empowers the deployment of diverse news media standards, each tailored to specific languages, all anchored in the concept of non-interactive cooperation. Most notably, it challenges the prevailing “code is law” concept, facilitating top-down communication with bottom-up governance that results in an actionable and verifiable information environment.

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<sup>13</sup> Joel Simon, *The New Censorship: Inside the Global Battle for Media Freedom* (New York, NY: Columbia University Press, 2015).

<sup>14</sup> Emma Hall, “Brand Safety Issues Go Way Beyond YouTube, Says Advertising Week Europe Panel,” *AdAge*, March 23, 2017, <https://adage.com/article/special-report-advertising-week/ad-safety-issue-youtube/308404>.

<sup>15</sup> Laura DeNardis, *The Global War for Internet Governance*, (New Haven, CT and London, UK: Yale University Press, 2015).



*Informational governance under Decentralized Rulebooks allows the news media industry to self-regulate to produce a reliable signal of trustworthy news media content. The closest comparison is to certification authorities that secure a browser's connection to a server. Usage is not a complex, tech-heavy process; instead, it's designed for simplicity. Users interact with the system using either a browser or a smartphone application.*

Rulebooks provide the opportunity for publishers to advocate for global news media standards under a single federated control in a way that is safe, respects plurality and interpretation, and is compatible with monolithic aggregators such as Facebook and X (Twitter).

The integration of Rulebooks into the digital ecosystem creates a powerful mechanism for news media to regain influence. They facilitate accountable yet anonymous transactions, fostering an environment conducive to both the spread of trustworthy content and the protection of journalists. By offering this utility, the news media are not just reacting to power dynamics but actively shaping them, laying a path towards a more balanced and resilient media landscape.

The act of detaching governance from utility cannot be taken lightly, and we acknowledge that this transition presents its challenges. This article scrutinizes the risks of news media centralization and suggests how Rulebooks can foster distributed control, protecting journalistic independence while bolstering accountability, integrity, and transparency. We investigate the systemic consequences and shifts in power dynamics within the media landscape. The goal is a future where journalism competes with content aggregators through tools of equal potency. Our exploration delves into the creation of a global cooperative within the media industry, anchored by Rulebooks, that establishes minimum acceptable standards and fosters a cooperative spirit.

We discuss confronting the challenges of misinformation, proposing a democratic method for its mitigation, and promoting a digitally interconnected ecosystem which champions sovereignty and the safety of journalists. The culmination of these strategies will lead to a significant shift in influence, paving the way for parity between the aggregator and the governance network.

## The Unitary Internet

An institution controlling global news media standards presents serious issues.<sup>16</sup> It's contrary to the internet's decentralized design, poses security threats, and could disrupt balanced information flow. Centralizing control makes the internet vulnerable to misuse and attacks, undermining security and its open ethos.<sup>17</sup> It could also raise artificial entry barriers, favoring certain content providers,<sup>18</sup> potentially leading to censorship and challenging web neutrality. Biases might influence content moderation, potentially distorting public discourse.<sup>19</sup>

Considering these risks, a centralized standards body should be avoided. Internet governance should honor its democratic, decentralized roots, promoting free and balanced information exchange.

Rulebooks resolve the dichotomy of utilities' tendencies to centralize by introducing incentives to decentralize around a *central fixed idea* of the lowest possible acceptable standard. Institutions gain massive efficiencies by leveraging the network effect to redistribute governance of that policy. The Rulebooks

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<sup>16</sup> Wu, *The Master Switch: The Rise and Fall of Information Empires*.

<sup>17</sup> Jack Goldsmith and Tim Wu, *Who Controls the Internet? Illusions of a Borderless World* (New York, NY: Oxford University Press, 2008).

<sup>18</sup> Jonathan Zittrain, *The Future of the Internet—And How to Stop It* (New Haven, CT and London, UK: Yale University Press, 2008).

<sup>19</sup> Tarleton Gillespie, *Custodians of the Internet: Platforms, Content Moderation, and the Hidden Decisions That Shape Social Media* (New Haven, CT and London, UK: Yale University Press, 2018).

document defines the baseline for a narrow and specific context. This not only makes regulations more accessible to the public but also simplifies their formulation as we must only consider a specific activity.

By setting a minimal threshold, Rulebooks counteract the risk of being branded as exclusive or mainstream, and in doing so, strengthens consumer confidence. Understanding that switching Rulebooks off does not serve their interests, consumers start perceiving it as a valuable shield. In essence, any filters that Rulebooks present are only meant to sift out undesired elements, enhancing overall user experience and providing a sense of security and protection. This encourages adherence to the rules because consumers use them.

The use of subjective language in Rulebooks, such as “do not publish misinformation without timely, proportionate corrective action,” is intentionally ambiguous. Far from being a disadvantage, this characteristic of Rulebooks serves as a tool to enhance inclusivity. How? It’s in the inherent flexibility in words like “misinformation,” “timely,” “proportionate,” and “corrective action.” These terms can be interpreted differently based on one’s perspective and context. Word selection should be inclusive, enabling all honest journalists to identify with it, while also providing ample scope for interpretation by Leads and Moderators downstream who enforce Rulebooks.

It’s notable that the standard may be deemed lenient by a seasoned journalist, but consumers must perceive the rules as genuinely minimal. This is because, within a voluntary governance system, satisfying the consumer’s need for protection is critical. A Rulebook that falls short in this respect runs the risk of being ignored.

The collective impact of these aspects transforms the network into an entity akin to a global cooperative for self-regulation.<sup>20</sup> Every autonomous member operates within the boundaries set by the subjective Rulebook, fostering an environment of cooperation and shared standards. The flexibility offered by both the subjectivity and extensibility not only encourages participation but also ensures the adaptability and relevance of the Rulebook.

The liberty of a network is inextricably linked to the freedom of utilities, an axiom that Western democracies aim to protect.<sup>21</sup> Users still retain the power to publish content on the web, nothing can be taken away from the essential principles of the internet, including the crucial allowance for radical dissent.

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<sup>20</sup> Yochai Benkler, *The Penguin and the Leviathan: How Cooperation Triumphs over Self-Interest* (New York, NY: Crown Business, 2011).

<sup>21</sup> Zittrain, *The Future of the Internet—And How to Stop It*.

The danger of utilities gaining dominance is neutralized by necessitating them to disclose any Leads and Moderators—Rulebook administrators—whom they reject. This requirement fosters transparency, unlike today’s often opaque practices of censorship and suppression.<sup>22</sup> Nonetheless, the possibility of utilities selecting Moderators and Leads that favor their agenda reflects the current landscape where powerful entities control the information flow.

Striking a balance is key to ensuring that Rulebooks serve their intended role of establishing broadly acceptable standards and not becoming tools for network domination. The recommended Rulebook strategy thus forms a dynamic polycentric governance, dispersing power across the network through “thin distribution.” Enforcement is delegated by the Lead to autonomous publishers with common goals, accommodating the digital community’s evolving norms and values.

This model’s permissionless nature supports flexibility, counters centralization threats, and empowers groups to communicate their standards, fostering an environment where honesty is rewarded and upheld.

## Rulebook for Countering Misinformation in News-like Content

The Rulebook communicates the boundaries for permissible behavior for the target context. Subscribers to rules can “prove current honesty,” risking privilege loss if they contravene the Rulebook, with penalties imposed upon rejoining.

The Rulebook outlines the baseline standard of acceptability, vesting enforcement power in the hands of Moderators who are accredited by Leads. This forms a robust reputation system composed of identifiable legal entities. These Moderators and Leads have self-organized into “trust networks,” revealing their broad political inclinations. They possess the capacity to bind users to distinct jurisdictions or, particularly within the realm of news media, introduce a variety of interpretations and superior standards.<sup>23</sup> Moderators raise the standards of the Rulebook for the benefit of journalists and consumers. Journalists choose a Rulebook interpretation that aligns with their values. Consumers can see standards upheld and verify a journalist’s proof by inspection.

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<sup>22</sup> Simon, *The New Censorship: Inside the Global Battle for Media Freedom*.

<sup>23</sup> European Committee for Standardization, *CWA NO. 17493*, Reporters Without Borders, December 2019, [https://rsf.org/sites/default/files/cwa17493\\_0.pdf](https://rsf.org/sites/default/files/cwa17493_0.pdf).

The framework for news media ought to prioritize openness, starting with the presumption of a journalist's trustworthiness. Independent writers would have the freedom to affiliate themselves with multiple news publishers, paving the way for both free access and governance-as-a-service accreditation. Moderators would maintain discretion over appeal rights and the management of membership volume.

We cannot prevent news-like article publication, but platforms and users can verify active proofs. Moderators address content that infringes on the Rulebook through revocation.

This model provides consumers value by eliminating falsified news across platforms both in amplified and static settings. It employs a comprehensive strategy to preserve information integrity, boost diverse voices, and allow user autonomy in content choices.

Rulebooks, openly accessible machine-readable documents, are the core of this model. Instead of being a central authority, they set standards, especially for news content. Due to content diversity online, Rulebook interpretations will differ. Moderators interpret rules based on the original ambiguous Rulebook enacted by the Lead, encouraging plurality and supporting all languages. Marginalized groups can establish their own "trust networks," enhancing system resilience. This inclusivity encourages open-minded Leads, isolating more extreme views. The model supports openness, tolerating even fringe networks. Rather than denying a trust network, labeling it is more effective, allowing groups to self-identify and place their members within specific contexts.

The proposed model is a systematic, democratic method for mitigating misinformation. It sets a clear yet flexible standard, invites Moderators to interpret and enforce this standard, assures content producer compliance, and enables users to intentionally control their content consumption choices. The model enforces consequences for Rulebook deviations, largely placing accountability with the content publisher. Mitigating misuse of the Rulebook's subjective standards involves limiting phrase interpretations with rules providing interpretative guidelines. Use of rule and phrase modifiers allows adaptability and prevents misuse.

Decentralized Rulebooks propose a hybrid governance model, incorporating both top-down communication of boundaries and responsive, bottom-up governance that controls for context. This blend prevents concentration of power and manages to bridge democratic, multistakeholder decision-making into our digital landscape. What differentiates this model isn't solely its capability to ensure user

honesty but, more importantly, the active response of various networks and platforms to events. This methodology directly speaks to a fundamental goal of our thesis: moving beyond the restrictive “code is law” mindset to foster a more responsive and accountable digital ecosystem.

## Championing Sovereignty and Journalist Safety

While this model honors local legislation, it also addresses situations where Moderators protecting content creators from oppressive laws could face repercussions.<sup>24</sup> To mitigate this, we propose a concept of “digital asylum,” a cyberspace sanctuary where countries upholding international law can offer a multitude of Moderators among whom journalists can hide. This is enabled by our support of anonymous yet accountable transactions. As a result, oppressed voices can seamlessly blend into the crowd. These asylum seekers continue to operate within the Rulebook, shielding them from persecution while empowering them to verifiably meet journalistic standards yet publish anonymously.

Understanding that journalists often face significant, even lethal threats<sup>25</sup> in regions under oppressive governments, our model employs an unorthodox yet balanced approach. It harmonizes the respect for national jurisdiction with the unwavering commitment to uphold digital human rights, providing an ethically sound solution to the dire realities that some journalists face.

## Echo Chambers

Digital echo chambers, a common by-product of online communication, are often driven by profit-focused algorithms rather than a commitment to transparency, diversity, or truth.<sup>26</sup> Our model recognizes echo chambers but also offers a unique transparency, which allows active risk management.

Unlike algorithmic echo chambers that can amplify misinformation and polarization, those within our model become visible and manageable. This transparency ensures that echo chambers are properly defined and so creates opportunities for strategic interventions, such as leveraging other channels and leadership to inject balanced, accurate information.

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<sup>24</sup> “1,668 journalists killed in past 20 years (2003-2022), average of 80 per year,” Reporters Without Borders, December 30, 2022, <https://rsf.org/en/1668-journalists-killed-past-20-years-2003-2022-average-80-year>.

<sup>25</sup> “16 Journalists and Media Workers Killed,” Committee to Protect Journalists, n.d., [https://cpj.org/data/killed/2023/?status=Killed&motiveConfirmed%5B%5D=Confirmed&motiveUnconfirmed%5B%5D=Unconfirmed&type%5B%5D=Journalist&type%5B%5D=Media%20Worker&start\\_year=2023&end\\_year=2023&group\\_by=location](https://cpj.org/data/killed/2023/?status=Killed&motiveConfirmed%5B%5D=Confirmed&motiveUnconfirmed%5B%5D=Unconfirmed&type%5B%5D=Journalist&type%5B%5D=Media%20Worker&start_year=2023&end_year=2023&group_by=location), accessed August 30, 2023.

<sup>26</sup> Eli Pariser, *The Filter Bubble: What the Internet Is Hiding from You* (London, UK: Penguin Press, 2011).

Rather than ignoring echo chambers, the framework anticipates them, offering proactive strategies to address bias and polarization, ensuring a more transparent and balanced information sphere.

## Realignment of Influence

Adopting Rulebooks presents a powerful strategy for recalibrating the current power dynamics in the digital journalism landscape, dynamics that are often skewed by the unchecked spread of misinformation. Today, the lack of effective controls over misinformation not only erodes trust in journalism but also disproportionately shifts power to entities that manipulate platforms for their advantage.<sup>27</sup> This scenario precipitates sustainability challenges, as trust and financial viability wane, innovation is stifled, democratic discourse is impaired, and the critical role of a free press in society is weakened.

Rulebooks can serve as a transformative tool, by empowering journalistic entities to form trust networks and voluntarily adhere to rules. Rulebooks provide a robust mechanism for countering misinformation. They create an ecosystem where journalists, publishers, and independent writers can align their work with an array of verifiable standards, effectively boosting credibility and consumer trust.

This would lead to an intriguing shift in the power dynamics. The focus tilts towards accuracy, transparency, and accountability, edging out the spread of false narratives. This transition proves beneficial for the free press, as it provides an effective control mechanism for misinformation and results in a more informed audience. The ability to discern and question the authenticity of content becomes an integral part of citizen participation in a democratic society.

Moreover, the adoption of Rulebooks brings to light an important element: the parity between the aggregator and the governance network. Given the existence of a utility where all journalists can produce verifiable certificates, and all aggregators can authenticate these certificates, the utility naturally ascends to the level of dominant aggregators and other network utilities. The wrapper is still present and pervasive, but there may be industry cooperation and political will to direct aggregators with must-carry legislation.<sup>28</sup>

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<sup>27</sup> David M. J. Lazer, Matthew A. Baum, Yochai Benkler, Adam J. Berinsky, et al., "The science of fake news," *Science* 359, no. 6380 (March 2018): 1094-1096.

<sup>28</sup> Michael G. Vita, "Must Carry Regulations for Cable Television Systems: An Empirical Analysis," *Journal of Regulatory Economics* 12 (September 1997): 159-172.

## Conclusion

The landscape of global news media has undergone a seismic shift due to the influence of internet giants, necessitating a proportionate response.

The implementation of Decentralized Rulebooks respects the inherent plurality of the media environment, addresses the challenges of misinformation, and places human agency at the forefront of digital governance. By creating an inclusive and adaptable system, Rulebooks empower a globally cooperative media industry to maintain its autonomy while adhering to shared standards of conduct.

The adoption of Rulebooks will allow the press to regain its influence in the Information Age, shaping a more balanced media landscape characterized by journalistic integrity, transparency, and accountability.

The challenges posed by this transition cannot be underestimated, and we must navigate the complex power dynamics with care. Nonetheless, our exploration suggests that the integration of Decentralized Rulebooks into our digital ecosystem offers a promising path forward, fostering a media landscape where journalism can flourish freely and truthfully, serving its vital role as a beacon of reliable news content in an increasingly interconnected world.

# Bridging the Gap: How Data Sharing Can Transform Media Development in the Digital Age

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**Daniel O'Maley**

In the digital era, where insights hold the power to reshape industries, data has emerged as the new oil, fueling the engines of innovation and profit. With every click, page view, and interaction, large technology companies and social media companies collect previously unimaginable amounts of data about users. Although wielded for their own commercial interests, some of this data holds immense promise as a valuable resource for [media support and media development communities](#).<sup>1</sup>

This wealth of information holds the key to unraveling insights about such issues as media consumption patterns, audience demographics, virality and amplification, sentiment analysis, and even illuminating the emerging cybersecurity threats confronting journalists and news organizations, not to mention the basic relationship between traffic and revenue. Harnessing this knowledge holds the potential to elevate the caliber of news products, foster revenue generation via advertising, and bolster the resilience of news organizations in the digital age.<sup>2</sup>

The conversation surrounding the sharing of data from tech companies to bolster media development is not an entirely novel one. For well over a decade, researchers and the media development community have sought access with [varying degrees of success](#). At one point in time, Twitter (now X) was hailed as a [beacon of accessibility](#) for external parties, a status it [abdicated](#) in 2023 when it concluded its open research functionality to profit from access. Meta has often been perceived as allowing access in a way that heavily [limits researchers' abilities](#) and faced heavy criticism when reports emerged that it was considering [shutting down](#)

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<sup>1</sup> "What Kind of Data Transparency Could Be Useful for Media Viability?," UNESCO, <https://www.unesco.org/en/articles/what-kind-data-transparency-could-be-useful-media-viability>, accessed August 4, 2023.

<sup>2</sup> Courtney C. Radsch, *URGENT: Understanding and Responding to Global News Threats* (Internews, April 2023), <https://internews.org/wp-content/uploads/2023/03/19Apr2023-URGENT-Report-Final.pdf>.

CrowdTangle, its tool that tracked social media posts. Google's YouTube also has a data research tool, but many in the media development space still lament that social media platforms don't provide nearly enough useful data for their purposes. These companies' reluctance to share information is rooted in their business models, with targeted advertising being crucial to their financial stability, and the increasing competition for dominance in the AI space. Sharing what they regard as proprietary data—the cornerstone of their current operations and foundation of power in AI—remains a challenging issue, limiting collaboration and innovation within the media landscape.

Gaining access to data from tech giants is a complex issue, intertwined with concerns about privacy, control, and knowledge sharing. Within the media development community, there are a wide set of data needs, ranging from specific audience metrics to broader content analysis. This diversity, though a sign of the sector's vibrant interests, often results in overlapping requests, causing more confusion than clarity. Therefore, a streamlined approach to these data requests becomes vital. By doing so, the media community can engage more efficiently with tech companies, aligning different goals to encourage cooperation, mutual understanding, and trust.

## The Data Conundrum: Defining the Buckets

Throughout the year, at significant gatherings such as UNESCO's World Press Freedom Day, the Summit for Democracy, RightsCon, and international conferences hosted by media researchers like IAMCR, a shared theme has emerged: an increased understanding of the multifaceted nature of data and how it can be leveraged by both media and media support organizations. This data, which offers valuable insights and opportunities for these groups, can be broadly classified into three main categories. These three distinct categories of data are pivotal for various media development stakeholders, whether they are focused on financial sustainability, news engagement, or digital security.

**1. Audience Engagement and Monetization:** Understanding audience behavior is essential for any media organization seeking to create content that resonates. Data on traffic and engagement—including page views, unique visitors, time spent on site, and referral sources—can provide valuable insights into what attracts and retains readership. By dissecting this data, media professionals can identify popular topics and optimize content strategies to better align with audience interests. Additionally, data on monetization strategies, such as advertising revenue, subscription models, and user behavior related to payment options, can offer vital intelligence on the financial sustainability of content. By examining this

information, organizations can refine their business models, harnessing financial insights to develop innovative methods to effectively monetize their content and ensure long-term viability.

**2. Content Narratives, User Behavior, and Coordinated Behavior:** In the complex landscape of digital media, understanding the nuances of content narratives, user behavior, and coordinated actions is crucial. This second category encompasses various facets of the online ecosystem. Analyzing the way narratives unfold and ideas spread online allows for a clearer picture of public reaction, and by tracking shares, likes, and comments, organizations can gauge the impact and resonance of different pieces of content. Investigating how users engage with content reveals patterns of behavior, including online harassment, [particularly against female journalists](#). Understanding these dynamics is essential in developing protective measures and supporting a safe online environment for all media professionals. This aspect also involves identifying and understanding how [false information and inauthentic campaigns](#) propagate on digital platforms. Insights into these patterns can lead to more effective strategies to combat misinformation and uphold integrity. Comprehending how platforms moderate content is vital for ensuring responsible and ethical information distribution. Transparency in these processes supports adherence to journalistic standards and democratic principles. By integrating this multifaceted approach to content, media organizations and support groups can work towards a more resilient media landscape. This inclusive perspective fosters an environment that actively works against disinformation, harassment, and unethical practices, reinforcing the core values of democracy and journalistic integrity.

**3. Cybersecurity: Protecting Digital Assets:** The final category underscores the pressing need to protect digital information and the digital accounts of journalists and news outlets. Data on attacks and breaches of journalist and news organization accounts, as well as IT infrastructure, is essential for assessing and mitigating cybersecurity risks. By shedding light on the frequency, nature, and sources of cyber threats, media entities can unravel complex security challenges. For example, if tech companies see that specific news outlets are being targeted with digital attacks, they could alert those entities of their heightened risk and encourage them to take steps to protect their assets. Tech companies have a privileged view of the latest digital threats, but this information is often not shared in a way that could help news organizations bolster their defenses, implement effective security protocols, and collaborate with relevant stakeholders such as governmental agencies, tech companies, or security firms. The collaborative and informed approach enables news outlets to implement a cohesive strategy

to mitigate risks, thus ensuring the safety of their digital assets, personnel, and ultimately, the integrity of journalistic practices.

While these categories of data could provide important insights for media development stakeholders, tech companies may be reluctant to share such granular data for a variety of reasons, ranging from competitive advantages to concerns about user privacy. Regulations around data privacy are becoming increasingly stringent globally at the same time that new laws are requiring certain forms of data transparency. The challenge lies in striking a delicate balance between transparency and privacy. Platforms must navigate these competing demands—providing enough information to support journalistic endeavors and promote accountability, while also respecting individual privacy rights and complying with emerging legislation. This complex landscape sets the stage for a discussion on how to harmonize the needs for transparency, accountability, and privacy in an ever-evolving digital age.

## Emerging Trends in Data Sharing and Transparency

As this conversation between media organizations and tech companies unfolds, the landscape of data sharing itself has been transformed in striking ways. In the past, tech companies were notorious for their cavalier attitude toward personal information. A new era of regulation has dawned, symbolized most powerfully by the advent of the General Data Protection Regulation (GDPR) in the European Union in 2018. This comprehensive legislation recasts personal data not merely as a resource to be mined, but as a territory deserving of robust protection. It imbues individuals with strong rights over their data and places significant obligations on those who hold and process this information to protect it. Though initially a European regulation, GDPR has had a ripple effect on the global stage, inspiring similar data protection laws and policies in various countries and effectively resetting the global conversation on data privacy.

The importance of data privacy has been further highlighted by events that have thrust the issue into the public eye, such as the [Cambridge Analytica scandal](#) involving Facebook.<sup>3</sup> This incident served as a wake-up call for many, leading to increased scrutiny and concern over data sharing practices. Consequently, there has been a shift towards more strict data protection measures by tech companies, even in jurisdictions where it isn't explicitly required by new data

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<sup>3</sup> "Facebook and Cambridge Analytica: What You Need to Know about 'The Great Hack,'" Amnesty International, July 23, 2019, <https://www.amnesty.org/en/latest/news/2019/07/the-great-hack-facebook-cambridge-analytica/>.

protection regulations. This change reflects not only legal obligations, but also evolving societal norms and expectations. In this new context, data sharing is no longer a straightforward transaction; it's a delicate balance where tech companies must navigate the interests of various stakeholders while rigorously protecting individual privacy rights. This change in perspective has significant implications for the role of data in media development, requiring a more thoughtful approach.

The landscape is shifting, and current legislative proposals signal a change in approach towards data access. In Europe, the introduction of the Digital Services Act (DSA) marks a significant milestone in the ongoing effort to regulate the online ecosystem. This landmark legislation includes provisions to mandate transparency for Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLSEs). Civil society organizations, including media support organizations like the Global Forum for Media Development (GFMD) and the European Centre for Press and Media Freedom (ECPMF), have [actively advocated](#) for the DSA to be implemented in a way that acknowledges data transparency is essential for democratic accountability, media freedom, and the safety of journalists and other media actors.<sup>4</sup>

The ripple effects of these changes extend beyond Europe. In Australia, the News Media Bargaining Code attempted to balance the scales between tech giants and media outlets, but it received backlash for its opaque approach to data sharing.<sup>5</sup> Other countries, acknowledging this shortcoming, have sought to learn from Australia's experiences in order to refine their own legislative approaches. In Canada, the approved news media bargaining code explicitly includes provisions on data sharing, reflecting a clear response to previous criticism and an effort to foster greater transparency and collaboration between tech platforms and news publishers.<sup>6</sup> The Canadian approach shows how lessons from Australia's news bill are informing global regulatory efforts.<sup>7</sup> In a parallel move, the United States is currently considering an updated version of the Platform Accountability and Transparency Act in Congress. This legislation would require social media

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<sup>4</sup> "The DSA must ensure public data for public interest research," European Centre for Press and Media Freedom (ECPMF), Jul 6, 2023, <https://www.ecpmf.eu/the-dsa-must-ensure-public-data-for-public-interest-research/>.

<sup>5</sup> Anya Schiffrin, "Saving Journalism Worldwide," Columbia Journalism Review (CJR), January 20, 2022, [https://www.cjr.org/business\\_of\\_news/saving-journalism-worldwide-interventions.php](https://www.cjr.org/business_of_news/saving-journalism-worldwide-interventions.php).

<sup>6</sup> Mathew Ingram, "Meta and Google's Threats against News Publishers," CJR, June 8, 2023, [https://www.cjr.org/the\\_media\\_today/meta\\_google\\_threats\\_news\\_canada\\_california.php](https://www.cjr.org/the_media_today/meta_google_threats_news_canada_california.php).

<sup>7</sup> Taylor Owen and Supriya Dwivedi, "Canada's Online News Act Shows How Other Countries Are Learning from Australia's News Bill," Nieman Lab, August 9, 2022, <https://www.niemanlab.org/2022/08/canadas-online-news-act-shows-how-other-countries-are-learning-from-australias-news-bill/>.

companies to share data with researchers or face legal consequences.<sup>8</sup> This global trend toward incorporating data sharing components in news media bargaining codes underscores a growing recognition of the need for increased transparency and cooperation in the ever-evolving digital media landscape.

In Brazil, a groundbreaking regulation known as the ‘Fake News Law’ has emerged, aimed at holding big tech companies accountable for their expansive control over personal data, the digital marketplace, and information integrity.<sup>9</sup> The proposed legislation seeks to directly counter the proliferation of fake news by placing specific restrictions on social media and messaging service providers. For instance, it mandates the prohibition of fake accounts and automated accounts that are not clearly identified as bots. One of the most striking features of the law is its stringent data sharing and data transparency requirements.<sup>10</sup> Service providers are obligated to store records of messages that are forwarded en masse for a period of three months. These records could serve as crucial evidence in identifying the spread and originators of disinformation. The law also aims to protect freedom of expression online, creating a complex equilibrium between individual liberties and the broader public good. This positions Brazil as a forerunner in the ongoing global debate over the ethical and legal frameworks that should govern tech giants. Given its potential to set a precedent, not just domestically but also for other Latin American countries, Brazil’s regulatory approach is being closely watched by other governments, tech companies, and media organizations.

As the global policy landscape undergoes significant shifts in tech and data regulation, the window of opportunity is widening for the media development sector to make substantial strides in data sharing and transparency. From India and South Africa to Indonesia and Brazil, conversations around new tech regulations are gaining momentum. This evolving regulatory environment offers a double-edged sword—posing challenges but also providing unique opportunities. Therefore, it is imperative for media organizations to seize this moment, taking a proactive stance to influence and adapt to these emerging frameworks, rather than adopting a reactive posture.

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<sup>8</sup> Cristiano Lima, “Tech Companies May Have to Cough up Research Data under This Bill,” *The Washington Post*, December 21, 2022, <https://www.washingtonpost.com/politics/2022/12/21/tech-companies-may-have-cough-up-research-data-under-this-bill/>.

<sup>9</sup> Vittoria Elliott, “Brazil Takes the Lead on Big Tech Regulation,” *Wired*, May 9, 2023, <https://www.wired.com/story/brazil-regulation-big-tech/>.

<sup>10</sup> Crislem Freitas, “PL das fake news: a lei de combate à desinformação divide opiniões de especialistas” (Fake news bill: the law to combat disinformation divides expert opinions), *Observatório DH*, n.d., <https://observatoriodh.com.br/?p=2849>, accessed September 7, 2023.

## Insights for the Path Forward

The challenges and opportunities that data presents are complex. Harnessing the full potential of data requires coordinated efforts across multiple sectors, from media organizations and tech companies to governments and civil society. The following recommendations outline pathways that could streamline the data sharing process, improve data use through partnerships, and develop scalable solutions to global problems.

### *Standardization of Data Requests*

The multifaceted nature of data, coupled with the varied and often conflicting demands of different stakeholders, underscores the necessity for standardizing data requests. A coherent and uniform approach to data collection and sharing ensures that requests are precise, comprehensible, and more likely to be fulfilled by tech companies. Standardization also paves the way for cross-platform analysis and industry-wide insights. Creating a unified set of metrics and methodologies allows researchers to compare data from various sources, yielding more robust and actionable intelligence. This, in turn, elevates the quality of data-driven research and decision-making processes. To achieve this, media development stakeholders must work closely with tech companies to define shared guidelines and protocols that honor both the specific needs of media organizations and the broader principles of data protection.

### *Cross-sectoral Alliances for Equitable Data Utilization*

The complex web of data sharing in the modern world extends beyond just tech companies and media organizations. The broader ecosystem encompasses governments, regulatory bodies, civil society organizations, academia, and more.<sup>11</sup> Cross-sector partnerships offer a comprehensive approach, recognizing that data transparency, accessibility, and utilization is a responsibility shared by various stakeholders across different sectors. Such alliances enable the leveraging of diverse perspectives, resources, and expertise, ensuring the creation of more equitable and effective data practices.

Governments have a pivotal role in shaping regulatory frameworks, while academia and research institutions enrich the conversation with methodological rigor and unbiased analysis. Civil society organizations, on the other hand, are the watchdogs ensuring data practices adhere to democratic principles.

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<sup>11</sup> Courtney C. Radsch, "From Our Fellows: Envisioning a Healthy Information Ecosystem," Center for Democracy and Technology, June 2, 2023, <https://cdt.org/insights/from-our-fellows-envisioning-a-healthy-information-ecosystem/>.

A [prime example](#) of this in action is the recently-launched [Media Viability Accelerator](#) coordinated by Internews. Funded in collaboration with USAID and supported by Microsoft, this initiative brings together different stakeholders to address challenges faced by the media sector, particularly around data. By facilitating dialogues, providing tools, and fostering collaboration, the Media Viability Accelerator embodies the potential of cross-sector partnerships in paving the way for a digital ecosystem that is transparent, accountable, and aligned with the collective interests of all involved.

### *A Global Approach to Data Transparency and Media Support*

The challenge of leveraging data from tech giants to support media development is indeed a global concern, transcending any single region or country. Policy innovation in this space is currently being pioneered primarily in Europe and a handful of other countries. Connecting with these processes is vital to understanding how they could impact other regions, setting a precedent that can be emulated worldwide. For instance, a transparency law in Europe could be leveraged to assist stakeholders in other areas. However, if these laws solely cater to local needs, they will not have scalable effects across different regions.

This underscores the importance of forging a global alliance that unites media organizations, tech companies, governments, and other relevant stakeholders across borders. Such a coalition can harmonize efforts, create scalable solutions, and acknowledge that the digital era's challenges are universal, demanding a collective response. By sharing best practices, aligning regulatory efforts, and fostering international collaboration, a global alliance can ensure that the quest for data transparency and utilization is a shared journey with a mutually beneficial final destination.

Examples of this collective approach are already emerging. The launch of the [“Big Tech and Journalism: Principles for Fair Compensation”](#) following a convening by experts in the field in South Africa has offered a globally-informed perspective on fair compensation, including data transparency, with insights primarily from the Global South. Additionally, the UN IGF's [Dynamic Coalition for the Sustainability of Journalism and News Media](#) serves as a cross-regional and multistakeholder venue for setting agendas and expanding knowledge. These examples demonstrate the practical possibilities of collaboration and shared vision towards a more resilient media landscape.

In an increasingly digital world, the quest for transparent and responsible data practices is essential for bolstering democratic values, media freedom, and journalistic integrity. From standardizing data requests to fostering collaboration

across sectors and forming global alliances, this requires a cohesive and collective response. With innovative regulatory frameworks emerging and the notable efforts of cross-regional alliances and multistakeholder groups, the path towards a more resilient and transparent media landscape is being paved. Embracing these evolving trends and working together will empower media organizations, governments, and civil society to navigate the challenges of the digital era, ensuring a media ecosystem that serves the interests of all.

# Competition Policies and Media Sustainability: A South African Case Study

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Tharin Pillay

## 1. Introduction—A Global Problem

Digital platforms are online portals that act as intermediaries among individuals, businesses, and other actors, allowing them to interact, transact, and share information with one another.<sup>1</sup> In recent years, the companies that operate the most popular digital platforms—such as Alphabet (Google), Amazon, and Meta—have accrued immense wealth and power, such that their combined market cap greatly exceeds the gross domestic product of the entire African continent.<sup>2</sup>

While these platforms have brought people considerable benefits—enabling people to stay in touch across great distances, easily access information about the world, and peruse an exhaustive set of goods and services<sup>3</sup>—their rise and subsequent market dominance have severely impacted the sustainability of media organizations. This is principally for two reasons: because digital platforms, by enabling anyone to access news from any jurisdiction, often for free, have decreased the scarcity of news and conditioned consumers to expect free access to news, thus reducing its perceived value;<sup>4</sup> and because advertisers—who previously served as the key revenue source for most media organizations—now

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<sup>1</sup> Bruno Jullien and Wilfried Sand-Zantman, “The Economics of Platforms: A Theory Guide for Competition Policy,” *Information Economics and Policy* 54 (2021): 100880.

<sup>2</sup> This conclusion is drawn from current figures available on Statista—see [here](#) and [here](#).

<sup>3</sup> Sarah Cardell, “Ensuring digital market outcomes that benefit people, businesses and the wider UK economy” (keynote speech delivered at the British Institute of International & Comparative Law (BIICL) and Linklaters Tech Antitrust Roundtable, November 28, 2022), <https://www.gov.uk/government/speeches/sarah-cardell-ensuring-digital-market-outcomes-that-benefit-people-businesses-and-the-wider-uk-economy>.

<sup>4</sup> Terry Flew, “Australia’s News Media Bargaining Code: A New Institutional Perspective,” *American Affairs Journal*, April 2023, <https://americanaffairsjournal.org/2023/03/australias-news-media-bargaining-code-a-new-institutional-perspective/>.

find it a better use of money to advertise directly on digital platforms. Even when media organizations are able to profit from digital advertising, a large share is taken by digital platforms.

This problem is exacerbated by the fact that, historically, digital platforms have been under-regulated. The legal infrastructure required to contain them simply did not exist when these platforms experienced the exponential growth that cemented their dominance. And the fact that the digital space is constantly evolving only adds to the complexity of regulating this space.

Although all media organizations have suffered as a result, from a public interest perspective the decline of media organizations that produce public interest journalism is particularly salient;<sup>5</sup> as journalism that holds power to account and provides citizens with accurate and incisive social information is critical for the health of any democracy.<sup>6</sup>

The decline of public interest journalism has been felt globally. Thus, setting aside the question of whether these platforms are morally responsible for this decline, the effects of their market dominance are now a fact that regulators across the world must grapple with. Regulatory responses thus far have been piecemeal and primarily grounded in either copyright law (as in Europe) or competition law (as in Australia).<sup>7</sup> A single “best solution” has yet to emerge and indeed likely does not exist for all contexts.

While this problem is global, its precise contours vary by country, as do the appropriate solutions. As most existing efforts to address it have been led by the developed world, there is relatively little scholarship on what might be done in developing countries, which wield comparatively little power against digital platforms.

Accordingly, this case study homes in on South Africa, whose Competition Commission has recently turned its attention to exactly this problem. South Africa’s status as a developing country makes it an interesting test case for how competition policies (particularly news bargaining codes) may foster

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<sup>5</sup> By “public interest journalism” I mean “*journalism that is independent of political, commercial, or factional interest, producing verified and verifiable information for an intended audience and which is transparent in its methods of pursuing the truth for the sake of the common good, while being careful to do no harm.*” This definition comes from: *Position Paper: The Sustainability of Journalism And Competition In The Digital Economy* (South African National Editors Forum, September 19, 2022), <https://sanef.org.za/download/the-sustainability-of-journalism-and-competition-in-the-digital-economy/>.

<sup>6</sup> Ibid.

<sup>7</sup> Diana Bossio, Terry Flew, James Meese, Tama Leaver, and Belinda Barnet, “Australia’s News Media Bargaining Code and the Global Turn Towards Platform Regulation,” *Policy & Internet* 14 (2022): 143, <https://onlinelibrary.wiley.com/doi/pdf/10.1002/poi3.284>.

media sustainability. As such, this case study seeks to sketch a path to media sustainability in South Africa.

Section 2 provides an overview of the state of the South African media and relevant developments in the competition space. Section 3 provides a brief overview of global responses in competition law to this issue, with a particular focus on the Australian bargaining code model. Finally, Section 4 explores how the Australian model can be adapted to suit the South African context and what else needs to be done to secure media sustainability.

## 2. The State of South African Media and Competition

### 2.1 *The South African Media Landscape*

As noted in a recent report from an expert panel on media ethics and credibility, “the current financial predicament and possible fate of the media industry cannot be viewed independently from the general South African environment.”<sup>8</sup> South Africa is the most unequal country in the world.<sup>9</sup> Around one in three people lives in extreme poverty,<sup>10</sup> and the unemployment rate (32.9 percent at the time of this writing) is one of the highest globally.<sup>11</sup> This “triple challenge” of poverty, inequality, and unemployment has been exacerbated by over a decade of systematic extractive political corruption, known as state capture, wherein political elites and businesspeople colluded in an attempt to seize control of several key institutions, including the public broadcaster.<sup>12</sup> South Africa is also an extraordinarily diverse country, with more than 11 official languages and many distinct cultures.

The birth of modern South African media can be traced back to 1994, which marked the end of apartheid and the dawn of democracy. At this time, it was recognized that a robust and diverse media sector was crucial for the health of South African democracy, and thus the newly elected government took steps to

<sup>8</sup> Kathleen Satchwell, Nikiwe Bikitsha, and Rich Mkhondo, *Independent Panel Report Inquiry into Media Ethics and Credibility* (South African National Editors' Forum, February 2021), <https://sanef.org.za/wp-content/uploads/2021/02/Satchwell-Report.pdf>.

<sup>9</sup> *Inequality in Southern Africa: An Assessment of the Southern African Customs Union* (World Bank, 2022), <https://elibrary.worldbank.org/doi/abs/10.1596/37283>.

<sup>10</sup> See: Natalie Cowling, “Number of people living in extreme poverty in South Africa from 2016 to 2025,” Statista, April 26, 2023, <https://www.statista.com/statistics/1263290/number-of-people-living-in-extreme-poverty-in-south-africa/>.

<sup>11</sup> “Beyond Unemployment—Time-related Underemployment in the SA labour market,” Stats SA, May 16, 2023, <https://www.statssa.gov.za/?p=16312>.

<sup>12</sup> See for example Michael Markovitz, “Governance twilight zone at SABC—a clear and present danger of political capture,” *Daily Maverick*, March 26, 2023, <https://www.dailymaverick.co.za/article/2023-03-26-governance-twilight-zone-at-sabc-a-clear-and-present-danger-of-political-capture/>.

foster media diversity.<sup>13</sup> This sector can be broken down into four (occasionally overlapping) tiers: public media, commercial media, community media, and independent media—each of which plays an important role in public life.<sup>14</sup>

Public media refers to the South African Broadcasting Corporation (SABC). Under apartheid, the SABC was effectively a mouthpiece for the state. It has since been restructured and now, somewhat uniquely, relies heavily on commercial advertising for revenue and reports directly to parliament. It has suffered from several years of corruption, mismanagement, and political interference.<sup>15</sup> Even so, the SABC provides 18 radio stations (which, among them, broadcast in all 11 official languages) and five free-to-air TV channels, making it an important player in this space. Recent estimates suggest that SABC radio and TV reach 28.9 million and 26.6 million adults respectively, which is just under half of the South African population.<sup>16</sup>

Commercial media are “highly concentrated in the hands of a handful of big conglomerates,” such as Naspers (which owns Media24 and News24, the most popular online publication in the country), Multichoice, Independent Media, and Caxton Publishers.<sup>17</sup> In the apartheid era, most commercial media were either supportive of the state or only shallowly critical of them, as a lot of funding came from the mining sector which was propped up by apartheid labor policies, so there were incentives to not dig too deep.<sup>18</sup> Today, commercial media are frequently accused of primarily serving socio-economic “elites,” as this group has the most purchasing power, and is most attractive to advertisers.

Community media—media developed by and for local communities—play a vital role in serving sections of the public not served by commercial or public media. Efforts have been made by the state to support community media, for example as through the Media Development and Diversity Agency (MDDA), which is a statutory body funded by both the government and commercial media and tasked with supporting community media across the country (although it has been mired in accusations of corruption and maladministration, undermining its

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<sup>13</sup> Herman Wasserman, “The state of South African media: a space to contest democracy,” *Publizistik* 65 (2020): 451.

<sup>14</sup> *Ibid.*

<sup>15</sup> See the State Capture Commission Report Part 5 Volume 2, <https://www.statecapture.org.za/site/information/reports>.

<sup>16</sup> *SABC Corporate Plan FY 2022/23 to FY 2023/24* (South African Broadcasting Corporation, 2022), <https://www.statecapture.org.za/site/information/reports>, 34.

<sup>17</sup> Wasserman, “The state of South African media: a space to contest democracy,” 454.

<sup>18</sup> *Ibid.*, 456.

ability to execute its mandate).<sup>19</sup> At present, there are more than 280 community radio stations<sup>20</sup> and over 200 community-driven print and online publications.<sup>21</sup>

The final category of relevance here is independent media—that is, organizations that strive to maintain a high level of editorial independence. These are often (although not always) structured as non-profits, relying on donor funding to sustain themselves. Many of these organizations—such as AmaBhungane and GroundUp—punch well above their weight, using investigative journalism and strategic litigation to reshape national discourse.<sup>22</sup> However, it's worth noting that the line between independent and commercial media is often blurred, with some commercial entities (like the *Mail & Guardian*) priding themselves on their high level of editorial independence despite their commercial structure, and as with other organizations (such as the *Daily Maverick*), relying on a mix of donor funding, membership fees, and advertising revenue to sustain themselves.

As in other parts of the world in recent years, there have been “staggering losses” in newspaper circulation.<sup>23</sup> While TV and radio remain the most popular forms of media in South Africa, and consumption numbers remained relatively robust during the COVID-19 pandemic,<sup>24</sup> revenue for media organizations is dropping across the board. Organizations that have moved online have found greater reach (for example, News24 had a 12.2 million unique browser count in 2022),<sup>25</sup> but the online space is far less profitable—a significant portion of ad revenue is sent offshore to the digital platforms.

In sum, while the modern South African media have substantially transformed since the end of apartheid, they have been severely impacted by both national socioeconomic trends and global technological trends, and “oligopoly and lack of diversity persist.”<sup>26</sup>

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<sup>19</sup> Ibid, 454.

<sup>20</sup> Reginald Rummy, *The State of the News Media: An update to SANEF's 2020 Covid-19 interim report and some cross-cutting issues* (South African National Editors Forum, 2022), <https://sanef.org.za/wp-content/uploads/2022/08/State-of-the-Media-June-2022-SANEF.pdf>, 7.

<sup>21</sup> Alan Finlay, ed., *State of the Newsroom 2021* (Wits Centre for Journalism, November 2022), [https://journalism.co.za/wp-content/uploads/2022/11/SON\\_Final\\_for-circulation\\_November\\_2022.pdf](https://journalism.co.za/wp-content/uploads/2022/11/SON_Final_for-circulation_November_2022.pdf), 21.

<sup>22</sup> Ibid, 34.

<sup>23</sup> Ibid, 8.

<sup>24</sup> Ibid, 8.

<sup>25</sup> Ibid, 19.

<sup>26</sup> Satchwell, Bikitsha, and Mkhondo, *Independent Panel Report Inquiry into Media Ethics and Credibility*, 2.

## 2.1 Competition Commission Inquiries

South Africa's Competition Commission—which has largely managed to retain its independence and the trust of the public throughout the era of state capture and to date—is alive to these challenges and so far has initiated two “market inquiries,” based on its belief that there may be features of digital platforms that “impede, restrict, or distort competition.”<sup>27</sup> These are the Online Intermediation Platforms Market Inquiry (OIPMI) and the Media and Digital Platforms Market Inquiry (MDPMI).<sup>28</sup>

The OIPMI produced its final report in July 2023, while the MDPMI is still in its early stages. These processes are notable as they offer a glimpse into how South Africa is addressing this issue and because their outcomes may set precedents across the continent. The MDPMI in particular is noteworthy as it is clearly inspired by the process followed by the Australian Competition and Consumer Commission that led to the creation of the Australian News Media and Digital Platforms Mandatory Bargaining Code (discussed below).<sup>29</sup> South African civil society and media regulatory organizations, such as the South African National Editors' Forum (SANEF) and Publisher Support Services (PSS), have been actively engaging with the commission throughout these processes.

Before discussing the suitability of this approach to securing media sustainability in South Africa, it will be useful to take stock of how other countries are approaching this issue.

## 3. Global Responses in Competition Law

Competition authorities around the world have been investigating the impact of digital platforms on media sustainability. The United Kingdom recently created a dedicated Digital Markets Unit within its Competition and Markets Authority;<sup>30</sup> the US Senate voted in June 2023 to advance the Journalism Competition and Preservation Act, which would create a bargaining process similar to the one in Australia, albeit differently structured;<sup>31</sup> and in India, the Standing Committee on

<sup>27</sup> *Media and Digital Platforms Market Inquiry: Terms of Reference* (Competition Commission of South Africa, March 17, 2023), <https://www.compcom.co.za/wp-content/uploads/2023/03/Media-and-Digital-Platforms-Market-Inquiry-Draft-Terms-of-Reference-17-March-2023.docx>.

<sup>28</sup> For the latest on these processes, see the Competition Commission website [here](#) (for MDPMI) and [here](#) (for OIPMI).

<sup>29</sup> Satchwell, Bikitsha, and Mkhondo, *Independent Panel Report Inquiry into Media Ethics and Credibility*.

<sup>30</sup> Cardell, “Ensuring digital market outcomes that benefit people, businesses and the wider UK economy.”

<sup>31</sup> Timothy Karr, “Senate Judiciary Committee Passes a Bad Journalism Bill, Ignoring Better Options for Saving Local News,” *Free Press*, June 15, 2023, <https://www.freepress.net/news/press-releases/senate-judiciary-committee-passes-jcpa-bad-journalism-bill>.

Public Finances in December 2022 produced a report (*Anti-Competitive Practices by Big Tech Companies*), which was adopted by the Parliament.<sup>32</sup> Meanwhile, in June 2023, Canada—led by the Canadian Radio-television Telecommunications Commission—enacted its Online News Act,<sup>33</sup> which contains a host of relevant policy tools, including a bargaining code, leading both Google and Meta to block Canadian news sources on their platforms.<sup>34</sup>

Clearly, regulation is rapidly advancing in this area. For our purposes, it will be useful to look more closely at the Australian model, as this provides the closest analogue for the future that South Africa’s Competition Commission appears to be envisioning. In 2021, the Australian government passed the News Media and Digital Platforms Mandatory Bargaining Code, as a proactive response to the Australian Competition and Consumer Commission’s Digital Platforms Inquiry.

The code compels designated digital platforms to negotiate with media organizations and agree, through an arbitration process, on the amount of compensation that media organizations are entitled to in exchange for allowing digital platforms to host and excerpt their content. This is intended to reduce power asymmetries between digital platforms and media organizations.<sup>35</sup> Compensation is intended to go toward securing the future of public interest journalism. After a year in operation, more than 30 commercial agreements between Google and Meta and various news businesses have been struck, to the total estimated value of about \$132 million (200 million in Australian dollars) annually.<sup>36</sup>

However, the code has attracted significant criticism because important details of the above agreements remain opaque. It’s not clear with whom deals have been struck, how much media organizations are each receiving, and whether the additional funding is actually being spent to further the public interest.<sup>37</sup> Further, the role of larger media company executives working together to court regulators “in what can only be described as a lobbying process” reveals a bigger weakness with this approach—without active measures to include all segments of the media, bargaining processes will favor the biggest media organizations,

<sup>32</sup> Geeta Gouri and Swarnim Shrivastava, “Indian Parliament Pushes for Ex Ante Rules on Digital Competition,” *CPI Columns South Asia*, February 2023, <https://www.competitionpolicyinternational.com/wp-content/uploads/2023/02/South-Asia-Column-February-2023-Full.pdf>.

<sup>33</sup> Accessible here: <https://www.canada.ca/en/canadian-heritage/services/online-news.html>.

<sup>34</sup> See Google’s statement here: <https://blog.google/intl/en-ca/company-news/outreach-initiatives/an-update-on-canadas-bill-c-18-and-our-search-and-news-products/>. Note that the situation in Canada is rapidly changing, so news may no longer be blocked at the time of publication.

<sup>35</sup> Flew, “Australia’s News Media Bargaining Code: A New Institutional Perspective.”

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

those that are relatively well-resourced and politically connected, and who are least in need of help.<sup>38</sup>

Although Google and Meta agreed to negotiate on the basis of the Australian code, they are at present not formally “designated” by it and so are not subject to all of its requirements (such as the requirements relating to algorithmic transparency, which would require digital platforms to give advanced notice to media organizations before making material changes to their algorithms).<sup>39</sup> It was the threat of being regulated, rather than the regulation itself, that compelled them to negotiate. The behavior of these platforms in the lead-up to negotiations—including Meta’s decision to briefly remove all news-related content from its site in Australia, and Google’s threat to remove Google Search from Australia, both of which were only reversed after public backlash—underscores the challenge of getting powerful entities to accept regulation.<sup>40</sup>

Finally, it is worth noting that while the code benefits those organizations that reach agreements in the short term by providing “breathing space” for them to transition to more innovative or sustainable business models, it is not in itself a sustainable strategy, as it fails to address the “structural disadvantages” these organizations face, such as a lack of competitiveness in digital advertising markets.<sup>41</sup> Without access to the data held by digital platforms, and without transparency on how this data is used, this structural disadvantage is difficult to remedy.

## 4. The Path to Media Sustainability in South Africa

Given the limitations discussed above, it should be clear that a bargaining code alone is insufficient to create media sustainability, especially in a country with a media landscape as fragmented and diverse as South Africa’s. Indeed, if it is not carefully designed and implemented, a bargaining code may do more harm than good. SANEF, an active participant in Competition Commission proceedings, made this point in its 2022 position paper on the “Sustainability of Journalism and Competition in the Digital Economy.”<sup>42</sup>

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<sup>38</sup> Bossio et al., “Australia’s News Media Bargaining Code and the Global Turn Towards Platform Regulation,” 145.

<sup>39</sup> *Position Paper: The Sustainability of Journalism And Competition In The Digital Economy*, 35.

<sup>40</sup> Bossio et al., “Australia’s News Media Bargaining Code and the Global Turn Towards Platform Regulation.”

<sup>41</sup> *Position Paper: The Sustainability of Journalism And Competition In The Digital Economy*, 17. Note that these platforms appear to be deploying similar tactics in Canada as at July 2023, although the result of these tactics remains to be seen.

<sup>42</sup> *Ibid.*

In that paper, SANEF notes several tenets to be followed in designing an effective code in the South African context. These include the need for “transparent, widely accepted, and industry-developed standards to measure the credibility and public interest value of news publishers” in order to decide who can participate in negotiations and to ensure that community and independent media organizations are meaningfully included in bargaining processes; for decisions around participation and compensation to be made fairly and transparently (which necessitates the disclosure of with whom deals are reached, and on what terms); and for digital platforms to disclose the “volume and value of digital advertising transactions in South Africa” so that media organizations can better understand how revenue is divided.<sup>43</sup>

SANEF also notes that we should be cautious not to use the threat of regulation to incentivize digital platforms to participate in voluntary processes, but rather to ensure that an overarching framework under which transparency, fairness, and inclusivity apply even to voluntary negotiations. Meanwhile, the PSS—an association of legacy media players that collectively produces more than 250 titles—has authored its own draft legislation to regulate the relationship between digital platforms and the media, in parallel to the Competition Commission process.<sup>44</sup> This legislation is not currently publicly available, leading some to question the inclusivity and transparency of the process.

Securing media sustainability will require more than just a bargaining code. Complementary approaches, such as the taxation of digital platforms, training and funding for media, and subsidies or tax breaks for media organizations are all necessary to create further breathing room.<sup>45</sup> Further, it appears likely that due to SANEF’s efforts in this space, a national fund for journalism sustainability will soon be established, looking to the government and other institutions and corporations to support public interest journalism. Given that almost half of South Africans receive news from public media, how the SABC will fit into these interventions remains a vital question.

Even these measures, though, will not fully address the structural disadvantages mentioned above. For this, digital platforms need to be transparent about how they are operating and dividing advertising revenue.

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<sup>43</sup> Ibid, 45.

<sup>44</sup> *Conference Report: Big Tech and Journalism: Building a Sustainable Future in the Global South* (Gordon Institute of Business Science, 2023), <https://www.gibs.co.za/news-events/news/documents/big%20tech%20and%20journalism%20-%20conference%20report.pdf>.

<sup>45</sup> Ibid, 27.

To address the immense power asymmetry between digital platforms and developing countries, South Africa should look to its neighbors. As a continent, Africa has significantly more power and influence than any one of its individual states, particularly given that the region constitutes one of the fastest-growing digital markets. If competition authorities across the continent can band together and present a united front in negotiations, denying platforms access to this regional market unless they act fairly and transparently, then structural change may be possible.

## 5. Conclusion

Digital platforms play a dual role—they simultaneously act as “benign infrastructure” and as “content publishers” with responsibilities to their users.<sup>46</sup> This creates novel regulatory challenges, which are currently being navigated by regulators across the world. As urgent action is required, states must act even before there is time to consolidate what can be learned from comparative processes.

Given South Africa’s unique media environment—shaped by its struggles with inequality, unemployment, and poverty; politically fraught history; and incredibly diverse population—a news bargaining code, as is being contemplated by the country’s Competition Commission, will only advance media sustainability if its design and implementation involve all sectors of the media. It is particularly important that independent and community media organizations, which play a vital role in safeguarding democracy, be included. South Africa has the opportunity to act as a beacon for the rest of the continent, leading efforts to collectively counterbalance the power of digital platforms. It remains to be seen whether this opportunity will be seized.

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<sup>46</sup> Bossio et al., “Australia’s News Media Bargaining Code and the Global Turn Towards Platform Regulation,” 139.

# Navigating the Uncertainty of GenAI in Ugandan Newsrooms

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**Juliet Nanfuka**

The recent surge in generative artificial intelligence (GenAI) popularity has ushered in a new era for the global digital landscape. While assessing the full extent of GenAI's impact on various sectors remains a work in progress, the media industry has proactively begun implementing safeguards to ensure its secure integration. However, the implementation of safeguards around GenAI appears to be uneven across countries, potentially amplifying existing disparities in its use by the media, particularly among countries in the Global South such as Uganda.

GenAI [encompasses](#)<sup>1</sup> vast language and image models capable of generating diverse content such as blog posts, program code, poetry, and artwork. These sophisticated machine learning models use contextual information from preceding word sequences to predict the subsequent word or to generate images based on descriptions of previous visuals.

In Uganda, there are genuine concerns about the potential impact of GenAI on journalism, with both positive and negative consequences. As is the case with many global media, there are uncertainties about GenAI's effect on media business models as well as its role in facilitating the spread of misinformation and disinformation. As a result, there are growing concerns about the erosion of trust in online news sources, compounding the existing [media viability challenges](#)<sup>2</sup> faced by the news industry.

A [survey](#)<sup>3</sup> conducted in Uganda between October and December 2020 unveiled troubling trends in public trust regarding information obtained from newspapers,

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<sup>1</sup> Thomas H. Davenport and Nitin Mittal, "How Generative AI Is Changing Creative Work," Harvard Business Review, November 14, 2022, <https://hbr.org/2022/11/how-generative-ai-is-changing-creative-work>.

<sup>2</sup> "The state of innovation and media viability in East Africa," African Centre for Media Excellence, November 25, 2022, <https://acme-ug.org/2022/11/25/the-state-of-innovation-and-media-viability-in-east-africa/>.

<sup>3</sup> "Ugandan citizens' experiences and opinions on the media," Twaweza, May 2021, <https://twaweza.org/wp-content/uploads/2021/05/Media-WPFD-fact-sheet-d1.pdf>

which decreased from 27 percent of citizens in 2019 to 23 percent in 2020. Conversely, the data highlighted radio as the most trusted source of information, surpassing other channels such as public meetings, newspapers, and social media. During a 2021 World Press Freedom gathering in Kampala, the capital of Uganda, Daniel Kalinaki, chairman of the Uganda Editors' Guild, [attributed](#)<sup>4</sup> the decline in media trust to two main factors: the proliferation of fake news and disinformation and the failure of media practitioners to address the media's role effectively. Thus, a fragile equilibrium exists among audiences, legacy media, and digital media—a fragility that GenAI threatens to exacerbate in the absence of the necessary skills required to navigate that equilibrium.

However, the risk of being left behind looms large, as underscored by Solomon Serwanjja, who noted in a Reuters interview that investigative journalism is transitioning from rudimentary techniques to harnessing open-source intelligence (OSI) and artificial intelligence. These advanced new skills have not yet been widely learned by Ugandan journalists; thus local news organizations will need to invest in building capacity in this area.<sup>5</sup>

Illustrating the potential of OSI in pushing back against misinformation and disinformation, a 2021 [BBC Africa Eye](#)<sup>6</sup> investigative report employed OSI skills to expose police in a truck firing indiscriminately at seven unarmed individuals within a minute, killing at least four. This case unveiled OSI's untapped potential in Uganda's media landscape. However, the state's apprehension regarding extensive public domain data use became apparent when the editor of the Daily Monitor, one of Uganda's major newspapers, was summoned by the police following the publication of the BBC investigation's findings. The managing director of Nation Media Group, which owns the newspaper, was similarly [summoned](#),<sup>7</sup> both suspected of publishing false news, libel, and incitement.

In an interview, media trainer and researcher Paul Kimumwe said that despite the immense opportunities that AI offers, "we haven't seen the media and journalists in Uganda taking advantage of it. And this particularly due to the limited skills set and capacity to adopt the required technology. We still see a lot of fake and

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<sup>4</sup> "Public trust in radio, television content remains consistent—Report," *The Independent*, May 3, 2021, <https://www.independent.co.ug/public-trust-in-radio-television-content-remains-consistent-report/>.

<sup>5</sup> Maurice Oniang'o, "I'd like African journalists to do African investigations supported by African people," Reuters Institute for the Study of Journalism, November 28, 2022, <https://reutersinstitute.politics.ox.ac.uk/news/id-african-journalists-do-african-investigations-supported-african-people>.

<sup>6</sup> "Uganda: Finding the truth behind a killing spree in Kampala," BBC, May 31, 2021, <https://www.bbc.com/news/av/world-africa-57286419>.

<sup>7</sup> "Uganda: Two summoned after reporting on BBC investigation," BBC, June 3, 2021, <https://www.bbc.com/news/world-africa-57333272>.

unverified news and info especially on social media handles, and yet there are tools that can be used to fact-check.”<sup>8</sup>

As untrue information proliferates in society, AI’s potential to make matters worse is matched by its potential to help counter its spread. Among the potential tools poised to assist journalists, some are specifically [engineered to unmask and confront](#)<sup>9</sup> false content embedded in text and manipulated images. However, the skills and indeed the tools still remain out of reach for many journalists—and indeed newsrooms. This is despite the impact such tools could have on content, particularly during key events such as elections. Concerns are steadily growing that disinformation is likely to become more sophisticated, less traceable, and more convincing with some [predicting](#)<sup>10</sup> GenAI “will supercharge propaganda and influence campaigns by bad actors” and that anyone will be able to create highly plausible images, text, audio, and video.

Indeed, it is online where various actors in the Ugandan media and political domains fight the battle for truth, control, and relevance—including through the use of online disinformation—with the latter turning to the aggressive use of bots, particularly rampant during elections. As such, it is inevitable that GenAI will become more commonly used on the disinformation battlefield and will require the Ugandan media to have the necessary skills to navigate its effects. Currently, the media remain reliant on third-party actors such as civil society organizations.

Although bots may not be considered to be AI, they are [powered by AI](#).<sup>11</sup> In the lead-up to the 2021 elections, [extensive bot activity](#)<sup>12</sup> was detected by the Digital Forensic Lab, which picked up bot accounts that posted verbatim messages supporting the Ugandan government and criticizing the opposition. The detection resulted in Facebook suspending accounts belonging to a number of government officials and ruling party officials for what it described as [“Coordinated Inauthentic Behavior”](#)<sup>13</sup> aimed at manipulating public debate ahead

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<sup>8</sup> Paul Kimumwe, in a phone interview with the author, August 9, 2023.

<sup>9</sup> Tom Cassauwers, “Can artificial intelligence help end fake news?,” European Commission, April 15, 2019, <https://ec.europa.eu/research-and-innovation/en/horizon-magazine/can-artificial-intelligence-help-end-fake-news>.

<sup>10</sup> Shannon Bond, “It takes a few dollars and 8 minutes to create a deep fake. And that’s only the start,” NPR, March 23, 2023, <https://www.npr.org/2023/03/23/1165146797/it-takes-a-few-dollars-and-8-minutes-to-create-a-deepfake-and-thats-only-the-sta>

<sup>11</sup> Sanksshep Mahendra, “What is a Bot? Is a Bot AI?,” Artificial Intelligence + (AI+), June 13, 2023, <https://www.aiplusinfo.com/blog/what-is-a-bot-is-a-bot-ai/>

<sup>12</sup> DFRLab, “Social media disinformation campaign targets Ugandan presidential election,” Medium, January 11, 2021, <https://medium.com/dfrlab/social-media-disinformation-campaign-targets-ugandan-presidential-election-b259dbbb1aa8>.

<sup>13</sup> Juliet Nanfuka, “Uganda’s 2021 Election: A Textbook Case of Disruption to Democracy and Digital Networks in Authoritarian Countries,” CIPESA, January 13, 2021, <https://cipesa.org/2021/01/ugandas-2021-election-a-textbook-case-of-disruption-to-democracy-and-digital-networks-in-authoritarian-countries/>.

of the elections. Twitter also suspended similar accounts. Much of this sinister activity went unidentified and unreported by the media sector which lacked the more sophisticated technical skills to detect disinformation.

Nevertheless, there is a sense of optimism within the sector. Grace Natabaalo, a former journalist turned researcher, noted in an interview that the “smartest journalists are exploring different ways of how best to utilize AI to work faster, improve grammar, or source synonyms for example.”<sup>14</sup> This sentiment is shared by writer Mark Muhumuza who added that journalists will have to invest more in themselves to learn more about the application of AI and GenAI in their work, not only as tools to remain competitive in the industry but also as tools to enhance their work.<sup>15</sup>

Ugandan newsrooms have yet to fully embrace the capabilities of GenAI as evidenced by the slow progress in developing comprehensive and ethical guidelines for the use of GenAI in the media. It must be noted that Uganda’s media uptake of AI is a reflection of broader dynamics at the national and continental level. In 2022, the country ranked 123 out of 181 countries in a [Government AI Readiness Index](#).<sup>16</sup> The index sought to understand how ready governments are to implement AI in the delivery of public services to their citizens.

As the government engages in discussions regarding the use and application of AI at a national level, it’s important to acknowledge that both state and private actors have been no strangers to the use of AI. Over the years, they have [employed AI](#)<sup>17</sup> in various ways, ranging from surveillance technology to the profiling and micro-targeting of consumers. Additionally, data mining for public sentiment analysis has been used to inform policy decisions and aid in effective planning. In January, the government, through the Ministry of Information Communication Technology and National Guidance, signed a memorandum of understanding with Sunbird AI to [increase the use of ICT services](#)<sup>18</sup> for Uganda’s social and economic development. Sunbird AI relies on large datasets to translate messages from government entities into various Ugandan languages with the goal of improving public service delivery.

<sup>14</sup> Grace Natabaalo, in a phone interview with the author, July 30, 2023.

<sup>15</sup> Mark Muhumuza, in a phone interview with the author, July 29, 2023.

<sup>16</sup> Annys Rogerson, Emma Hankins, Pablo Fuentes Nettel, and Sulamaan Rahim, *Government AI Readiness Index 2022* (Oxford Insights, December 2023), [https://www.unido.org/sites/default/files/files/2023-01/Government\\_AI\\_Readiness\\_2022\\_FV.pdf](https://www.unido.org/sites/default/files/files/2023-01/Government_AI_Readiness_2022_FV.pdf).

<sup>17</sup> Daniel Mwesigwa, ““Cameras, mobiles, radios—action!”: Old surveillance tools in new robes in Uganda,” Global Information Society Watch, August 2019, <https://www.giswatch.org/node/6194>.

<sup>18</sup> Michael Ntezza, “Gov’t, Sunbird AI Partner to Boost English to Local Languages Translation,” ChimpReports, January 24, 2023, <https://chimpreports.com/govt-sunbird-ai-partner-to-boost-english-to-local-languages-translation/>.

While the government has been employing AI in its tool kit, it will eventually evolve into using GenAI as well, in tandem with global trends. Consequently, given the unique position and role of the media in Uganda, staying ahead of the curve is crucial. This appears to be the trends in other parts of the world. In early June 2023, more than 50 of the largest US media organizations published seven principles for “[Development and Governance of Generative AI](#)”<sup>19</sup> in which they aim to guide the industry on issues pertaining to safety, compensation for intellectual property, transparency, accountability, and fairness. In May 2023, the European Union proposed the [AI Act](#),<sup>20</sup> which once approved, will be the world’s first rules regarding AI. Australia is already [considering](#)<sup>21</sup> the act as a model it could follow.

A study by International Media Support found that while there is AI use across several news organizations in Africa, the adoption of AI systems and tools in African media remains [relatively low](#),<sup>22</sup> noting most use cases in Kenya and South Africa.

Media professionals in Uganda are optimistic about GenAI but acknowledge that the sector has a long way to go in adopting GenAI tools in their work. There is consensus about its use as a tool for research and as a means of possibly enhancing journalism. However, with many media houses still grappling with long-term heavy investment into legacy media, the pace at which technology is developing is likely to affect an already struggling sector.

Dr. George Lugalambi, executive director of the African Center for Media Excellence, stated that many media houses have not adjusted to technology at the same pace as consumers have.<sup>23</sup> Talk about GenAI may still be in its preliminary stages in Uganda, but GenAI is evolving at a rapid pace.

“The Western world is on a high-speed train, and we are on a bicycle,” noted Natabaalo in reference to the adoption of new technologies. However, she said that all too often these technologies are created exclusive of contexts in the

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<sup>19</sup> “Principles for Development and Governance of Generative AI,” Digital Content Next, June 2023, <https://digitalcontentnext.org/wp-content/uploads/2023/06/DCN-Principles-for-Development-and-Governance-of-Generative-AI.pdf>.

<sup>20</sup> “AI Act: a step closer to the first rules on Artificial Intelligence,” European Parliament, May 2023, <https://www.europarl.europa.eu/news/en/press-room/20230505IPR84904/ai-act-a-step-closer-to-the-first-rules-on-artificial-intelligence>.

<sup>21</sup> MinterEllison, “The European Union’s AI Act—a model Australia will follow?,” Lexology, June 23, 2023, <https://www.lexology.com/library/detail.aspx?g=ede47e9f-4a26-49ee-a65c-e65b808d8f3b>.

<sup>22</sup> David Lush, “How African newsrooms are using AI to analyse data and produce good journalism,” IMS, November 30, 2022, <https://www.mediasupport.org/blogpost/how-african-newsrooms-are-using-ai-to-analyse-data-and-produce-good-journalism/>.

<sup>23</sup> George Lugalambi, in a phone interview with author, July 20, 2023.

developing world.<sup>24</sup> GenAI has ushered in two predominant forms of [bias](#).<sup>25</sup> The first manifests as algorithmic or “data bias,” emerging when algorithms are honed using skewed data, resulting in distorted outputs. The second derives from societal bias, emanating from prevailing assumptions and norms that may introduce blind spots in the way AI-generated content perceives and mirrors the world.

Thus, Uganda lies at the precipice of decisions that must be made by the media. These include the development of guidelines on the use of GenAI and related tools through to the investment in journalists and the tools. These decisions could define public trust in the media but could also possibly hold some innovative solutions for the viability of media.

Uganda’s media are now facing decisions that could reshape their very essence. Decisions to craft comprehensive guidelines governing the judicious use of GenAI and its associated tools can serve to enhance public trust in the media in an age of increased digitalization. These decisions should also address commitments to the nurturing of journalistic skills in the use of the new tools as well as the acquisition of these tools. Thus, the investment in both human expertise and technological innovation might be the foundation for a revitalized media as the industry navigates uncertain times.

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<sup>24</sup> Grace Natabaalo, in a phone interview with the author, July 30, 2023.

<sup>25</sup> “Bias in AI and Machine Learning: Some Recent Examples (OR Cases in Point),” Lexalytics, March 2021, <https://www.lexalytics.com/blog/bias-in-ai-machine-learning/#:~:text=There%20are%20two%20types%20of,certain%20expectations%20in%20our%20thinking>.

# Digital Innovation in Liberia's Media Sector: Challenges and Opportunities in Low-Income Democracies

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**Prue Clarke and Maureen Sieh**

**N**ews media in low-income countries are being left behind in the digital transformation of the news business. News media around the world are taking advantage of business model transformation opportunities provided by the internet: analytic tools to better understand audiences and news products that better serve and monetize audiences and diversify revenue streams.<sup>1</sup>

To date, donors have focused their support for news digital transformation in middle-income countries that have an educated middle class and higher internet penetration and bandwidth, assuming, understandably, that they are better placed to monetize audiences. The authors were unable to find research on funding to digital news transformation in low-income countries, but our experience working in newsrooms in Liberia and Sierra Leone is that almost none is going there. At the same time, news media in low-income countries have been hit harder by the arrival of digital platforms—particularly Facebook—than many of their middle-income counterparts because these platforms have become audiences' prime conduit for accessing the internet.

This paper argues that even as exciting developments in the digital transformation of media in places such as Kenya and Nigeria give the impression progress is being made, low-income countries are being left to fend for themselves against the worst of the platforms' harms. The failure of donors to provide support for the transformation to digital media in low-income countries overlooks opportunities to monetize certain audiences, such as diasporas, expatriates, and researchers. It also risks undermining decades of efforts to build their democracies and economies by excluding a group of countries from developing the rigorous, independent journalism that strong democracies need.

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<sup>1</sup> Louisa Wright, "'From start to success' — New handbook to support startups striving for media viability," Deutsche Welle Akademie, September 9, 2020, <https://akademie.dw.com/en/from-start-to-success-new-handbook-to-support-startups-striving-for-media-viability/a-54856371>.

A decline in the quality of information ecosystems and inevitable democratic backsliding will have consequences for people inside and outside these countries (22 of the World Bank's list of 26 low-income countries are in sub-Saharan Africa).<sup>2</sup> They are all on the front lines of climate change-induced economic fragility, making them increasingly vulnerable to the disinformation that feeds authoritarianism, terrorism, conflict, and migration.

The West African nation of Liberia is a case study of this oversight. With a population of 5.2 million, a per capita GDP of \$630 a year, a literacy rate of 50 percent, and only a third of its citizens using the internet, the country is representative of most low-income countries. Independent news media—including the internationally acclaimed Front Page Africa—thrived in the decade of reconstruction that followed the end of the country's devastating 14-year civil war in 2003.

With the massive financial injection of a United Nations Peacekeeping Mission and international donor support for the administration of Nobel laureate Ellen Johnson Sirleaf, Africa's first elected female president, the news media built robust, but compromised, businesses on two shaky sources: government advertising and payments from newsmakers—essentially bribes—to run their propaganda as news. A big source of this second form of funding was the UN and development agencies making payments in the forms of “transport” and “per diem” stipends to journalists and payments to news media to run press releases or agency-drafted “stories” as if they were independently reported by their own journalists. Most news media organizations pay little or nothing to their journalists, encouraging them to supplement income with payments from sources. Most news media are little more than mouthpieces for interested parties. There is no funding for phone calls or travel. News topics are not chosen based on their importance to the audience—they are dictated by newsmakers.<sup>3</sup>

The UN mission withdrew in 2018, and the aid caravan moved on as new president George Weah and his band of [kleptocrats](#)<sup>4</sup> took office in Liberia. The government has sought to control media not only through physical violence, threats, and vexatious lawsuits but also by withholding advertising payments from news media that cover them critically. The drop in the aid economy combined with the

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<sup>2</sup> “The World by Income and Region,” World Bank, n.d., <https://datatopics.worldbank.org/world-development-indicators/the-world-by-income-and-region.html#:~:text=The%20World%20Bank%20classifies%20economies,%2Dmiddle%2C%20and%20high%20income>, accessed August 23, 2023.

<sup>3</sup> Prue Clarke, “How development actors can help, not hurt, information ecosystems,” Deutsche Welle Akademie, January 27, 2021, <https://akademie.dw.com/en/how-development-actors-can-help-not-hurt-information-ecosystems/a-56290516>.

<sup>4</sup> Ned Price, “Imposing Sanctions on Senior Liberian Government Officials,” US Department of State, August 15, 2022, <https://www.state.gov/imposing-sanctions-on-senior-liberian-government-officials/>.

global economic shocks of the COVID-19 pandemic and the Russian invasion of Ukraine have only ratcheted up the problem. Many media outlets are on the verge of shutting down. Journalists have gone months without pay from employers. Now, as October's presidential elections approach, the industry has been given a reprieve as politicians flood the media with bribes for positive coverage.

Liberians are robbed of the honest, verified, and independent information they need to play their role in the elections. But the long-term impacts are even more worrying: Liberians' trust in their clearly compromised news media has been undermined. They don't trust any media to tell them the truth or to be their ally in the quest for good governance and accountability. The same scenario played out in Liberia's neighbor Sierra Leone ahead of its June election. Similarly low income, emerging from war, with low literacy and internet penetration, its news media has also found it impossible to develop independent business models.

By contrast, audiences in West African giant Nigeria had access to exceptional coverage of May presidential elections from truly independent news media such as *Premium Times*, *Daily Trust* and Channels TV, all of which have been recipients of years of training and financial support for digital innovation and building independent business models. *Premium Times*, for example, has built a robust digital-only business with diversified revenue streams that include a membership model, sponsored content, online advertising, a YouTube Channel with 27,000 subscribers, and an X (Twitter) following of 2.1 million. It has also built a non-profit arm that manages grants from the Bill and Melinda Gates Foundation and others to support its reporting.

Training and grants that have been given to news media in Africa's lower-middle income countries such as South Africa, Nigeria, and Kenya over the last decade have not reached news media in smaller democracies in the region. The authors were unable to find any reliable data on funding support for digital transformation of media in Africa. Luminare, one of the biggest funders of digital media transformation, focuses on Kenya and Nigeria, for example.<sup>5</sup> Of the ten African countries in which the Media Development Investment Fund has invested, just three are low income.<sup>6</sup> Among the portfolio of projects under the Google News Initiative (GNI), the biggest funder in digital news innovation, the News Showcase partners have been exclusively in high- and middle-income countries. GNI claims to have given \$300 million in funding to 7,000 organizations in 120 countries.

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<sup>5</sup> "What we do—Africa," Luminare, n.d., <https://www.luminaregroup.com/africa>, accessed August 16, 2023.

<sup>6</sup> "Countries where we have worked," Media Development Investment Fund, n.d., <https://www.mdif.org/portfolio/countries/>, August 16, 2023.

Organizations are not broken down by country but few, if any appear to be in low-income countries (there are none in Liberia.).<sup>7</sup>

This has left news media in those countries to fight alone against the twin blows to independent news media of the last decade: the loss of advertising revenue to digital platforms and the cataclysmic economic troika of the pandemic, invasion of Ukraine, and escalating impacts of climate change.

At the same time, low-income countries are facing many of the worst harms from digital platforms, without protection from local or international regulation. News media in low-income countries are more reliant on Facebook and Google to reach audiences than media in other countries. As in other low-income countries, Facebook arrived in Liberia free of mobile phone data charges and now claims as much as 67 percent of all Liberians who use the internet.<sup>8</sup> For most Liberians, Facebook is the internet. News media is largely consumed through Facebook pages rather than websites. And yet, Liberian news media have almost no access to Facebook support, and when things go wrong with their pages they are entirely on their own.

In 2022, the Facebook account of the *Daily Observer*, Liberia's second-largest news site, was seized by a hacker who had posed as a potential advertiser. The hacker programmed the page to post images of barely dressed women in sexually provocative positions. Facebook did not respond to the paper's pleas for help. After six weeks, the US media development organization Internews, which operates in the country, stepped in. Only then did Facebook help the *Daily Observer* regain access to its account. The damage was severe. Readers were given no explanation. The news site could only communicate to readers through its website and the owner's Facebook page. Facebook follower numbers plummeted. The outlet's key rival now has seven times as many followers.<sup>9</sup>

News media in Liberia have received almost no support for digital transformation. A recent survey of leading media outlets by the NGO New Narratives found none were aware that they could earn revenue through social media or websites, for example. When New Narratives brought *Premium Times's* business and technology leads to Liberia for a Hacks and Hackers event sponsored by the Swedish embassy, the participants unanimously described it as an "eye opener."

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<sup>7</sup> "GNI Impact Report : List of Partners," Google, 2021, [https://services.google.com/fh/files/misc/gni\\_impact\\_report\\_2021\\_partners\\_web.pdf](https://services.google.com/fh/files/misc/gni_impact_report_2021_partners_web.pdf).

<sup>8</sup> "Facebook users in Liberia," NapoleonCat, June 2023, <https://napoleoncat.com/stats/facebook-users-in-liberia/2023/06/>.

<sup>9</sup> See the outlets' respective Facebook pages here: Liberia Observer Online: <https://www.facebook.com/libobserver> and Front Page Africa: <https://www.facebook.com/watch/100064591453774/>, both accessed August 16, 2023.

A follow-up survey showed that they were eager to better understand audiences, build new products, and diversify their revenue streams to minimize their reliance on newsmakers for income. But without funding and training to develop new products and journalism tools, they said, they were unable to take the next steps.

Newsroom leaders said they needed basic support for things such as hiring and training technologists and audience engagement managers, buying video equipment for a YouTube channel, funding for database management software. In most cases they estimated \$10,000 would be enough to get them to the stage where they could begin to generate revenue.

It is true that news media in low-income countries will continue to face big challenges in monetizing audiences. The digital divide between low-income countries and the rest of the world is not just playing out in the media space. Low bandwidth, expensive data, and limited internet infrastructure are affecting all areas of economic activity. Internet access has increased rapidly in the last three years in Liberia, for example, but it is still only 34 percent.<sup>10</sup> The low income of local audiences limits their ability to pay for news and other products.

There is little hope that government regulation will help newsrooms. Most low-income countries are new democracies working to develop basic democratic institutions and the rule of law. Liberia has no data protection law for example.<sup>11</sup> There is little prospect of low-income countries developing the type of regulatory solutions that are being pursued in middle- and high-income countries.

But news media in low-income countries such as Liberia have two advantages that their counterparts in Nigeria and other middle-income countries do not: their labor costs are very low (one major Liberian news organization told us it operates on \$50,000 a year), and their diasporas—comparatively large and mostly in high-income democracies—cannot get news about their homeland anywhere else. Our surveys of Liberian diaspora audiences show that they are loyal to the leading local news media and because they live in advanced democracies, they often have a higher appreciation for the importance of a free press than their compatriots at home. There are also expatriate communities and researchers that need access to the news that they provide and who have business accounts that can pay. The news organization mentioned above needs to persuade just 2,000 members of its audience to pay \$25 a year—perhaps for access to closed

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<sup>10</sup> "Individuals using the Internet (% of population)—Liberia," World Bank, n.d., <https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=LR>, accessed August 16, 2023.

<sup>11</sup> "Liberia Data Protection Factsheet," Data Protection Africa, May 25, 2022, <https://dataprotection.africa/liberia/#:~:text=Privacy%20enshrined%20in%20Constitution%3A%20Yes,includes%20the%20privacy%20of%20correspondence>.

monthly Zoom meetings with the editor or as donations, for example—and it would double its annual revenue.

On top of opportunities to monetize audiences directly, Liberian news media could use new digital tools to learn about audiences, better meet their needs, provide more engaging content, and build trust. That would increase their appeal to online advertisers and increase their leverage with government advertisers when it came time for payment.

Additionally, news media in low-income countries have not had access to the donor funds for journalism that have gone to news media in middle-income countries. New Narratives has been an important conduit for donor funding for independent investigative, explanatory, and solutions journalism by leading newsrooms in Liberia and Sierra Leone. Given that support, New Narratives-funded newsrooms eagerly take advantage of the opportunity to do brave and rigorous independent journalism. But they need a lot more. And such support is almost non-existent in most low-income democracies.

Major investments in media in Liberia through USAID have focused almost exclusively on community radio. Radio is where the vast majority of low-income Africans get their news, but radio gets its news from leading online journalism newsrooms. These are the forums where the most influential audiences get their news and where the national agenda is set.

There are different challenges in low-income democracies to their middle-income counterparts, but there are myriad ways for low-income newsrooms to take advantage of new digital tools and donor funding to build sustainable newsrooms. Donors must recognize this profound shift in the news business and the opportunities it brings to newsrooms of low-income countries. If they do not, they will fuel democratic backsliding in these countries, which will have profound impact beyond their shores.

## Recommendations

- Donors who are interested in fostering democratic resilience in low-income countries should stop paying “transport” and other inducements to journalists to run press releases as news stories. They should incorporate financial and editorial capacity building of leading journalism organizations, not just community radio stations, into their programs. Radio is where most people in low-income countries get their news but print and online publications are often where radio gets the news it disseminates. Leading journalism organizations are read by the most influential audiences and thus set the national agenda.

- Donors should support leading independent news media in low-income countries with grants to fund journalism until a robust business model can be found to fund the depth and quality of journalism a strong democracy needs.
- Donors and digital platforms should understand the new opportunities presented to news media to develop independent revenue streams through new online news products such as podcasts, newsletters and memberships. They should fund training and grants to support product development and experimentation by news media to help them develop independent revenue streams that can sustainably support their journalism.
- News media in low-income countries should form a coalition to demand better customer support from leading social media platforms.
- Donors should fund more research on digital news media transformation in low- and middle-income countries to offer best practice advice.

# Digital Regulation, Media Sustainability, and Freedom of Speech

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**Juliana Harsianti**

In 2022, Indonesia expanded its internet governance framework when its parliament passed the Personal Data Protection (PDP) bill in September and the president signed it into law in October.<sup>1</sup> With the enactment of this long-awaited law, whose draft had been the subject of discussions since 2016, Indonesia joined several other members of the Association of Southeast Asian Nations, such as Malaysia and the Philippines, in adopting a dedicated data protection regulation.<sup>2</sup>

Prior to the PDP law, Indonesia had at least 30 sector-specific regulations related to privacy, according to a report by the Carnegie Endowment for International Peace, but these offered minimal safeguards and failed to protect the data of citizens and journalists.<sup>3</sup> High-profile data breaches since 2020 reportedly compromised the data of 15 million users of an Indonesian e-commerce company and the personal information of nearly 270 million citizens registered with the Indonesian Healthcare and Social Security Agency.<sup>4</sup> On the journalism front, news organizations that reported independently and critically on the government faced targeted attacks that led to data breaches. The digital attacks on independent

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<sup>1</sup> Ayman Falak Medina, "Indonesia Enacts First Personal Data Protection Law: Key Compliance Requirements," ASEAN Briefing, October 12, 2022, <https://www.aseanbriefing.com/news/indonesia-enacts-first-personal-data-protection-law-key-compliance-requirements/>; "Indonesia's new data protection law: everything you need to know," Didomi, November 30, 2022, <https://blog.didomi.io/en/indonesia-personal-data-protection-law>.

<sup>2</sup> Sithanoxay Suvannaphakdy, "2022/67 'Better Safeguards Needed for Trusted Data Use in ASEAN Countries,'" ISEAS, 2022, <https://www.iseas.edu.sg/articles-commentaries/iseas-perspective/2022-67-better-safeguards-needed-for-trusted-data-use-in-asean-countries-by-sithanoxay-suvannaphakdy/>; Nopparat Lalitkamon, Napassorn Lertussavavivat and Wilin Somya, "AI, Privacy, and Data Protection: Legal Considerations in Southeast Asia," Tilleke & Gibbins, May 9, 2023, <https://www.tilleke.com/insights/ai-privacy-and-data-protection-legal-considerations-in-southeast-asia/>.

<sup>3</sup> Sinta Dewi Rosadi, "Privacy vs. Democracy in the Digital Age: Indonesia's Challenge," Carnegie Endowment for International Peace, October 19, 2021, <https://carnegieendowment.org/2021/10/19/privacy-vs.-democracy-in-digital-age-indonesia-s-challenge-pub-85517>.

<sup>4</sup> "Indonesia Data," Asia Society Policy Institute, n.d., <https://asiasociety.org/policy-institute/raising-standards-data-ai-southeast-asia/data/indonesia>, accessed August 28, 2023.

investigative news organization *Narasi* included mobile phone hacking of its 38 current and former employees. The personal information of a journalist working for the small and independent feminist online magazine *Magdalene* was hacked, leading to doxing and targeted online harassment.<sup>5</sup> These sorts of attacks fed demand for a data protection law in Indonesia.

The PDP law, according to authorities and independent observers, is modeled after the European Union's General Data Protection Regulation (GDPR).<sup>6</sup> It applies to the processing of personal data, which is defined broadly as any information that can identify an individual directly or indirectly.<sup>7</sup> The six legal foundations for processing personal data are similar to Article 6.1 of the GDPR.<sup>8</sup> The unlawful collection, disclosure, or use of personal data, as well as the creation of false personal data carry a punishment of up to six years in prison and up to \$400,000 in fines. Administrative failure to comply with the law can lead to fines up to 2 percent of the company's annual revenue, among other sanctions.<sup>9</sup> The PDP law's scope includes extraterritoriality: it applies to every person, entity, public institution, and international organization that processes personal data in Indonesia or outside of Indonesia but with a legal impact in Indonesia or on Indonesian citizens outside the country.<sup>10</sup> Other features include rights for data subjects, exemptions for law enforcement and financial services, and protections for cross-border data transfers commensurate with the law.<sup>11</sup>

This is only the beginning. Organizations have been given a transition period of two years—until the end of 2024—to comply with the law.<sup>12</sup> The official data protection authority outlined in the law is also yet to be established.

<sup>5</sup> Herlambang Perdana Wiratraman, "How can Indonesian journalists be best protected from digital attacks?," 360Info, May 4, 2023, <https://360info.org/how-can-indonesian-journalists-be-best-protected-from-digital-attacks/>.

<sup>6</sup> Stanley Widiyanto, "Indonesia parliament passes long-awaited data protection bill," Reuters, September 20, 2022, <https://www.reuters.com/world/asia-pacific/indonesia-parliament-passes-long-awaited-data-protection-bill-2022-09-20/>; Hunter Dorwart, Katerina Demetzou, Dominic Paulger, Josh Lee Kok Thong, et al., "Indonesia's Personal Data Protection Bill: Overview, Key Takeaways, and Context," Future of Privacy Forum, October 19, 2022, <https://fpf.org/blog/indonesias-personal-data-protection-bill-overview-key-takeaways-and-context/>.

<sup>7</sup> Dorwart et al., "Indonesia's Personal Data Protection Bill: Overview, Key Takeaways, and Context."

<sup>8</sup> "Art. 6 GDPR: Lawfulness of processing," Intersoft Consulting, n.d., <https://gdpr-info.eu/art-6-gdpr/>, accessed August 28, 2023.

<sup>9</sup> Medina, "Indonesia Enacts First Personal Data Protection Law: Key Compliance Requirements."

<sup>10</sup> Daniel Pardede, "Indonesia: The Personal Data Protection Law is finally here. What does that mean for your business?," Connect on Tech, October 4, 2022, <https://www.connectontech.com/indonesia-the-personal-data-protection-law-is-finally-here-what-does-that-mean-for-your-business/>.

<sup>11</sup> Dorwart et al., "Indonesia's Personal Data Protection Bill: Overview, Key Takeaways, and Context."

<sup>12</sup> Ibid.

While citizens can find comfort in the PDP law, which seems impressive on paper, the news media and journalists in Indonesia might be more apprehensive. The data protection law is only one part of an internet governance regime that has threatened digital media independence and online freedom of expression in Indonesia in the recent past. For small digital media, the issues of press freedom and online expression are often directly linked to news media sustainability. Indonesia's track record of misuse of cyber laws against journalists might not engender confidence in the news media about the benefits of the PDP law, especially when the controversial Electronic Information and Transactions (ITE) law is still enforced.<sup>13</sup>

## Indonesia's Digital Technology Landscape and the ITE Law

Digital technology use has grown rapidly in Indonesia. According to Indonesia Internet Digital Outlook 2022, Indonesia's internet users have increased from around 83.7 million in 2013 to 215 million in 2023. According to a report by an Indonesian internet service provider, the COVID-19 pandemic changed the digital landscape, boosting the number of internet users, especially in households.<sup>14</sup>

The growth of digital technology also affected journalism practices in many ways. The Indonesia Press Board has recorded more than 1,700 news sites in the country, of which 902 operate predominantly in the digital space.<sup>15</sup> Apart from changes in news delivery and newsgathering, technology has also changed how journalists and activists express their views on certain issues. Digital technology has opened the opportunity to speak up more using various social media platforms, e.g., X (Twitter), Facebook, and YouTube.

As the use of digital technology expanded, Indonesia's government decided to introduce regulation to govern its various aspects. To that end, the ITE law was promulgated in 2008.<sup>16</sup> The aim was to protect internet users and to regulate e-commerce transactions, but it was also used to govern online news and

<sup>13</sup> Jim Nolan, "Indonesia: ITE convictions threaten press freedom," December 3, 2021, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/indonesia-ite-convictions-threaten-press-freedom>.

<sup>14</sup> "Survei Internet APJII 2023," Indonesia Internet Service Provider Association, 2023, <https://survei.apjii.or.id/>, accessed August 28, 2023.

<sup>15</sup> Monavia Ayu Rizaty, "Digital Media Increasingly Dominates in Indonesia in Early 2023" (Media Digital Semakin Mendominasi di Indonesia pada Awal 2023), DataIndonesia, February 9, 2023, <https://dataindonesia.id/varia/detail/media-digital-semakin-mendominasi-di-indonesia-pada-awal-2023>.

<sup>16</sup> Leski Rizkinaswara, "Tracing the History of the ITE Law in Kominfo Tok-Tok #13," (Menilik Sejarah UU ITE dalam Tok-Tok Kominfo #13), Kominfo, February 9, 2019, <https://aptika.kominfo.go.id/2019/02/menilik-sejarah-uu-ite-dalam-tok-tok-kominfo-13/#:~:text=UU%20ITE%20pertama%20kali%20diundangkan%20pada%20tanggal%2021%20April%202008>.

opinions. The government deflected initial criticism from stakeholders about the law's problematic nature and the controls it would put on online expression by saying that it was trying to prevent the spread of misinformation, which could harm people and communities. Even though the main purpose of this regulation was to protect digital transactions, it contained clauses that allowed people to file lawsuits against other internet users whose social media posts they found offensive.

Only a few months after the regulation went into force, a private citizen, Prita Mulyasari, became the first victim of this notorious law when she was sued by a hospital in the greater Jakarta area for online defamation. A local court sentenced Prita to six years in prison and \$99,000 (one billion Indonesian Rupiah) in fines.<sup>17</sup> The Indonesian Supreme Court eventually overturned the conviction, but a dangerous trend of weaponizing the law against online expression had started.

## Misuse of ITE Law Against Journalists and Activists

Prita's case was only the beginning. Year after year, many people, including journalists, became targets of this law. The ITE law has been used by powerful entities to silence dissent and punish critical journalism.

According to SAFENet data, from 2008 to November 2015, 118 netizens were targeted under the ITE law. In 2015, the Institute for Policy Research and Advocacy (ELSAM) reported that 47 victims were accused under the law. More interestingly, according to Remotivi data, from August 28, 2008, to August 23, 2016, out of 126 cases, 50 were reported by government officials—heads of regions, local legislative members, judges or prosecutors, and law enforcement officers. The ITE law is also used by business actors. The law is most commonly used to allege defamation against media professionals, often after a journalist has published a news article to hold officials accountable for alleged corruption and violence. From the data, it is easy to conclude that the law is mostly used by those wielding wealth or political power.

The problem with the ITE law is that it has been abused in practice. Several articles are often misused by the complainant to accuse someone of blasphemy or defamation. For instance, Article 27 paragraph 3 has been called problematic and draconian. Ostensibly, it is meant to regulate online content that may cause harm or threaten others. In practice, this article has been used by powerful

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<sup>17</sup> Andra Wisnu and Eny Wulandari, "Blame game starts over misuse of law in Prita Mulyasari case," The Jakarta Post, June 5 2009, <https://www.thejakartapost.com/news/2009/06/05/blame-game-starts-over-misuse-law-prita-mulyasari-case.html>.

parties, including the government, to silence protests and take dissenters to court, with the most common accusations being defamation and blasphemy. Article 40 of the ITE law also gives the government authority to block access to potentially forbidden content.<sup>18</sup>

A study by the Citizen Lab found that several countries in Southeast Asia, including Indonesia, have been blocking LGBTQI online content, especially on international websites. The government blocked these websites with DNS hijacking methods through the local internet service provider. However, no local sites related to LGBTQI have been blocked. The Citizen Lab suspects the local sites have escaped blocking by applying self-censorship.<sup>19</sup> Before the ITE law, the government already had the authority to block websites with pornography, violence, and gambling content. However, Article 40 of the ITE law amplified content blocking and provided more justification to block certain websites that do not fit the Indonesian government's criteria.

The persecution is continuing. The Indonesian Alliance of Independent Journalists has called for amendments to the ITE law. It said the ITE law has been harmful for online journalism and critics on social media. Although the law was revised in 2016, the changes failed to address local media experts' concerns over the ways the law can be misused to silence critical voices.<sup>20</sup> In fact, the Alliance's records show that at least 38 journalists have been targeted under the law, even after the 2016 revisions were adopted, with four of them found guilty by the court and sent to prison.<sup>21</sup>

Amnesty International Indonesia reported that from 2014 to 2019, about 29 journalists, students, and civic activists were accused of violating this law because they criticized the government online—in blogs, social media posts, or articles on news websites. Amnesty International Indonesia itself experienced online disruption when its webinar was bombarded with pornographic images and their

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<sup>18</sup> "Amendment of Law on Electronic Information and Transaction (UU ITE) still potentially threat Freedom of Expression," ELSAM, 27 October, 2016, <https://www.elsam.or.id/uncategorized/amendment-of-law-on-electronic-information-and-transaction-uu-ite-still-potentially-threat-freedom-of-expression>.

<sup>19</sup> Jakub Dalek, Nica Dumlao, Miles Kenyon, Irene Poetranto, et al., "No Access: LGBTIQ Website Censorship in Six Countries," Citizen Lab, August 31, 2021, <https://citizenlab.ca/2021/08/no-access-lgbtqi-website-censorship-in-six-countries/>.

<sup>20</sup> Constance Johnson, "Indonesia: Revised Information Law Controversial," Library of Congress, November 2, 2016, <https://www.loc.gov/item/global-legal-monitor/2016-11-02/indonesia-revised-information-law-controversial/>.

<sup>21</sup> "Attacks on Freedom of Expression and Press Freedom Are Harmful to All Other Human Rights," Alliance of Independent Journalists, May 3, 2023, <https://aji.or.id/read/press-release/1564/attacks-on-freedom-of-expression-and-press-freedom-are-harmful-to-all-other-human-rights.html>.

online speakers inundated with robocalls.<sup>22</sup> Some journalists face even more dangerous situations. Journalists Dandhy Dwi Laksono and Ananda Badudu, who report on social injustice, and lawyer Veronica Koman, who represents the interests of Papua citizens, were accused by the government under the ITE law for their social media posts. They also faced digital threats, including doxing and hacking of social media accounts. These examples show the sinister overlap between threats to press freedom and the risks to data privacy.

## Toward Both Digital Data Protection Regulation and Freedom of Speech

Research and the experience of journalists in Indonesia show that the ITE law has been misused to persecute online expression and digital journalism.<sup>23</sup> Civil society organizations have demanded revisions in the law, including repeal of the clauses dealing with criminal defamation.<sup>24</sup> But the problematic sections of the ITE law remain in force.

In this context, the personal data protection law that promises high standards for the processing of personal data might not be sufficient to alleviate the concerns of Indonesian digital media and traditional press about media independence and sustainability. The absence of an independent data protection authority is further cause for concern. Moreover, even though the Indonesian PDP law upholds public interest as a legal basis for processing personal data, it is not clear if—like the EU’s GDPR and the UK’s data protection regime—it carries an exemption for journalism.<sup>25</sup>

In current practice, news websites around the world often rely on third-party web tracking technologies such as cookies for audience measurement or marketing purposes, which often transmit data to the US and Europe and carry the potential

<sup>22</sup> “End Wave of Digital Attacks on Students, Journalists, Activists,” Amnesty International, June 17, 2020, <https://www.amnesty.id/end-wave-of-digital-attacks-on-students-journalists-activists/>.

<sup>23</sup> Usman Hamid, “Indonesia’s Information Law has threatened free speech for more than a decade. This must stop,” The Conversation, November 24, 2019, <https://theconversation.com/indonesias-information-law-has-threatened-free-speech-for-more-than-a-decade-this-must-stop-127446>.

<sup>24</sup> “Response to the Revision of Information and Electronic Transaction Law (ITE Law): Five Crucial Issues in the ITE Law that Threaten Freedom of Expression in Indonesia,” Institute for Criminal Justice Reform, October 28, 2016, <https://icjr.or.id/response-to-the-revision-of-information-and-electronic-transaction-law-ite-law-five-crucial-issues-in-the-ite-law-that-threaten-freedom-of-expression-in-indonesia/>.

<sup>25</sup> Natalija Bitiukova, “The GDPR’s Journalistic Exemption and its Side Effects,” Verfassungsblog, June 16, 2023, <https://verfassungsblog.de/the-gdprs-journalistic-exemption-and-its-side-effects/>; Hanno Fenech, “IPSO Blog: Data protection in journalism,” Independent Press Standards Organisation, October 15, 2021, <https://www.ipso.co.uk/news-press-releases/blog/ipso-blog-data-protection-in-journalism/>.

for privacy violations.<sup>26</sup> According to one analysis, the PDP law does not explicitly refer to website cookies, but since cookies contain personal data, website owners will need to ensure compliance for the use of cookies, such as for “analytics” and “advertisement,” on their websites.<sup>27</sup> This could lead to an additional burden for independent news websites. But experts suggest that news publishers can use data protection principles, such as those in the Indonesian PDP law, to their benefit by using self-hosted tools and using limited user data collection to offer subscriptions or leveraging them for general online ads, thereby improving their financial sustainability.<sup>28</sup> How Indonesian online news platforms benefit from these strategies remains to be seen.

The link between data privacy and online expression extends to news publishing.<sup>29</sup> If journalists are at risk of digital surveillance and online attacks, they cannot operate independent media outlets, which in turn affects their media’s viability and sustainability. Indonesia’s existing internet governance framework appears to suggest that Indonesian media have a long struggle ahead if they want to ensure that citizens, news organizations, and journalists benefit equally from the new data protection law while also improving the levels of freedom of expression and the sustainability of independent journalism in the country.

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<sup>26</sup> Ayden Férdeline, *Big Data, Not Big Brother: New Data Protection Laws and the Implications for Independent Media Around the World* (Washington, DC: Center for International Media Assistance, June 2019), <https://www.cima.ned.org/publication/big-data-not-big-brother/>.

<sup>27</sup> “Indonesia’s new data protection law: everything you need to know,” Didomi, November 30, 2022, <https://blog.didomi.io/en/indonesia-personal-data-protection-law>.

<sup>28</sup> *Ibid.*

<sup>29</sup> Carly Nyst, “Two sides of the same coin—the right to privacy and freedom of expression,” Privacy International, October 7, 2013, <https://privacyinternational.org/blog/1111/two-sides-same-coin-right-privacy-and-freedom-expression>.

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