## A COLLECTION OF RECOMMENDATIONS **OF THE INDEPENDENT MEDIA COUNCIL** PART I

2021



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### PREFACE





ANTONINA CHEREVKO

Chairperson of the Independent Media Council since August 28, 2020 Dear colleagues!

We are glad to welcome you to the pages of the new collection of materials by the Independent Media Council (IMC). As many of you know, the mission of the IMC is to promote the upholding of quality standards of media self-regulation through expert evaluations of controversial situations in the Ukrainian media environment. The IMC's activities, however, are not limited to it: we also issue thematic recommendations, initiate advocacy statements and organize interesting discussions for and with you.

It so happens that both the ICM's formation and current activities are carried out at the fateful time for global media development. It is probably no exaggeration to say that nowadays, freedom of expression as a conceptual principle and the media as a democratic

institution have faced perhaps the greatest challenges since the universal introduction of international human rights law after World War II.

This is largely due to the influence of the Internet as a new space and our communications, as well as our virtual existence in general. New technologies of this scale always bring new challenges or considerably reinforce old ones. The onslaught of disinformation and hate speech, as well as the monopoly position of large social media platforms combined with a massive misuse of their users' personal data are prompting legislators around the world to seek appropriate regulation, often disproportionate and, at times, repressive. At the global level, we still seem to be far from a reasonable and balanced consensus on the role of legislation in regulating these phenomena. At the same time, the difficulties of online monetization have severely hampered traditional media business models, making media organizations more dependent on their owners, the state, or international donors.

In such a situation, it is extremely important for the media to strengthen their intellectual and organizational capacities, increase solidarity within the sector and offer the state effective mechanisms of self- or co-regulation that can truly be an effective alternative to state regulation. It is necessary to build up and improve competencies



that will make it possible both to act innovatively and restore the confidence of audiences in the media as a democratic institution, which has also declined significantly in recent years. Through its activities, the IMC seeks to support media professionals on this difficult path in today's turbulent times, which, in addition to what has been said above, are also marked by the global COVID-19 pandemic. At the IMC, we hope to be both a source of expert opinion and professional advice for the media on often complex and ambiguous topics.

## Thus, in this collection, the IMC offers you recommendations on the following topics:

The powers of the National Council on Television and Radio Broadcasting of Ukraine in the field of audiovisual content regulation.

The principles of inviting guests and captioning experts in information and analytical journalism.

How to write about the energy market without errors and manipulations.

The use of languages in the media.

Ukrainian terra incognita: how to write about the occupied Crimea without fakes and manipulations.

How to write about scientific research.

How a journalist/newsroom should take care of their mental health and corporate communications.

How to write about religion, denominations and/or religious organizations without bias, stereotypes, and incitement to hatred.

How to prevent hate speech against protected groups and stereotypes in the media.

How to maintain journalists' professional reputation working in owner-dependent media.

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How to cover crime stories.

The IMC recommendations are based on international standards, best practice and research, and, of course, on many years of professional experience of both the IMC members and the founding organizations, which are undoubtedly leaders of Ukrainian civil society.

As the current head of the IMC, I hope that in this collection, you will find useful food for the mind and some inspiration to reflect on the role and tasks of democratic media in the modern world. After all, times of great change are always times of fresh opportunities, and only those who are ready intellectually, psychologically, and emotionally will be able to enter into a "new wonderful world" as winners.

> Respects and best wishes, Antonina Cherevko Chairperson of the Independent Media Council

# ABOUT THE INDEPENDENT

## 



### The Council was established by five leading media NGOs

(the Center for Democracy and the Rule of Law (formerly the Media Law Institute), the Institute of Mass Media. Internews Ukraine, Detector Media (formerly Telekritika, NGO) and Souspilnist Foundation) and comprises 15 members. Each of the five organizations that signed the Memorandum for this body's establishment delegates three representatives to the Council, at least one of whom should not be a member of the organization delegating them.

#### The Independent Media Council

is a permanent public oversight and expert advisory body designated to promote high standards of journalism and self-regulation in the Ukrainian media sector by providing a professional opinion, commentary or recommendations based on international standards, national laws and ethics standards of professional journalism.

The Independent Media Council reviews controversial situations regarding compliance with media legislation, international standards of media coverage, as well as violations of journalism ethics. In addition to expert opinions on resolving controversial situations, the Independent Media Council provides recommendations to the authorities and other stakeholders so that they improve regulation in the media sphere.



#### The Council members

are individuals having the proper experience in the field of media and an impeccable reputation that can perform their duties independently and impartially. The members of the Media Council participate in its work on a voluntary basis. The Independent Media Council brought together reputable media figures from more than ten organizations with extensive expertise in the media field. The Council acts on the basis of complaints from any interested parties in written and/or electronic form or on its own initiative taking into account the importance of resolving such issues for society. In its activities, the Independent Media Council is guided by the Constitution of Ukraine, Ukrainian legislation, international treaties approved by the Verkhovna Rada of Ukraine, the case law of the European Court of Human Rights and other international judicial and quasi-judicial bodies, and the international media and journalism ethics standards of leading intergovernmental and non-governmental organizations. Complaints are reviewed free of charge. To ensure a comprehensive and objective review of certain issues, the Council can, on its own initiative, engage experts in the realm of mass media, law, political science, psychology, etc. to take part in its meetings.

The Independent Media Council accepts applications to review controversial cases in the media sphere, as well as applications to provide recommendations and expert opinions at the e-mail address

#### mediacouncil.ukraine@gmail.com

as well as in writing at the address:

3/1 M.Zankovetska Street, Office 12, Kyiv 01001.







IMC recommendations in electronic format in Ukrainian

RECOMMENDATIONS



IMC recommendations in electronic format in English



### RECOMMENDATION



## Regarding the powers of the National Council of Ukraine on Television and Radio Broadcasting on the audiovisual content

Television and radio are the most influential media, given their powerful visual and audio influence and their wide viewing and listening audience. In view of this, **in international practice, regulators in the field of television and radio broadcasting have broad powers to regulate audiovisual content within the bounds of freedom of expression.** These bounds ensure impartial journalistic coverage of events, respect for human rights, protecting society from the illegal dissemination of information.

At the same time, Ukrainian media do not pay proper attention to legislative restrictions on content, with the National Council on Television and Radio Broadcasting, for its part, avoiding to actively use the full range of its powers, facing ineffective prosecution mechanisms in some areas. This necessitates the need for **explaining the importance of regulating content by distinguishing it from censorship**, as well as **for encouraging the National Council to actively use its powers under current legislation** allowing it to greatly influence the quality of audiovisual content already today.

#### 1. Regulating audiovisual content as a popular tool for improving quality

**1.1.** In this recommendation, the Independent Media Council proceeds from the premise that "the powers to regulate content on the part of national regulators is a necessary means in a democratic society in the context of permissible restrictions on freedom of expression,"as <u>stipulated[1]</u> by Part 2 of Article 10 of the European Convention on Human Rights. Thus, the possibility to regulate content should also be provided by law, pursuing a legitimate aim.

**1.2.** <u>The recommendations</u> of the Committee of Ministers of the Council of Europe on the independence and functions of regulatory authorities for the broadcasting sector[2] emphasize that "it is **essential to provide for** adequate and proportionate **regulation** of that sector [broadcasting], in order to guarantee the freedom of the media, whilst at the same time ensuring a balance between that freedom and other legitimate rights and interests", and it is recommended that provisions be included in

national legislation, and means in the policy, that **would give regulatory authorities** in the broadcasting sector the **powers** to carry out their tasks... effectively, independently and transparently".

Furthermore, the basic principles on which the regulator's activity should rest are also emphasized. Paragraph 18 of the Council of Europe guidelines and activities to support the independence of media regulatory authorities (approved by the aforementioned Recommendations) says that regulators must ensure that broadcasters within their jurisdiction comply with the basic principles <u>set out[3]</u> in the European Convention on Transfrontier Television, including Article 7. The latter stipulates that the broadcaster shall:

respect the dignity of the human being and the fundamental rights of others, when providing program services – they shall not be indecent and contain pornography, give undue prominence to violence or be likely to incite to racial hatred;

not schedule programme services which are likely to impair the physical, mental or moral development of children and adolescents, when they are likely to watch them;

ensure that news fairly presents facts and events and encourages the free formation of opinions.

**1.3.** There is an opinion that such regulatory activities are a form of censorship, prohibited by the Constitution of Ukraine. However, censorship in the classical sense presupposes obtaining consent to publishing certain content prior to its being published, except in cases of internal editorial control (i.e. preliminary approval to publish certain content). Ukrainian law <u>defines</u>[4] **censorship** as "any requirement, in particular, for a journalist, media, its founder (co-founder), publisher, manager, distributor, to receive approval regarding some information before it is disseminated or prohibited, or in any other way preventing information from being replicated or disseminated."

Therefore, being held liable for disseminating illegal content after its publication cannot be considered censorship in the classical sense, but a preventive measure to improve the quality of content in the first place, encourage journalists to adhere to journalistic standards, refraining from abusing human rights in the media.

Similarly, according to the aforementioned Guidelines[5], broadcasts should always

be monitored **after being aired**, and that if a "broadcaster does not comply with the law or the terms set out in the license, regulatory authorities should be authorized to impose sanctions in accordance with the law". Therefore, such control, on the contrary, is a **necessary tool in the fight against disseminating illegal content**.

**1.4.** International experience <u>shows</u>[6] that content regulation is a common practice among European regulators. For example, the Radio and Television Board of Denmark reviewed complaints three times against the local ROJ television, which, according to the complainants, justified the actions and demands of the Kurdistan Workers' Party, recognized as a terrorist organization by the European Union. In none of the cases did the regulator find any illegal propaganda of violence or racial hatred, and so no sanctions were imposed on the television channel.

The UK Office of Communications <u>identified</u> three violations committed by a radio station broadcasting music content with obscene language in a radio program, Children's Hour. The regulator not only recognized this content as likely to impair the physical, mental or moral development of children, but also explained what measures should be taken by the radio station to avoid such offenses [7].

The Broadcasting Authority of Ireland <u>found</u>[8] a breach of journalistic principles of fairness, objectivity and impartiality in the Ray D'Arcy Show, where a guest openly advocated for changes in abortion law. Because the other views presented in the program did not hold water, and an alternative point of view was presented by the radio station only 11 weeks later, the regulator concluded that the radio station did not provide objective coverage of the facts.

**1.5.** From the examples and standards cited above, it can be concluded that content regulation by authorized, competent bodies in European legal systems is a well-established practice, at times including not only action toward prohibiting content, but also analysis of broadcasts' compliance with journalistic standards, in particular ensuring objective coverage of facts and events and promoting the free formation of opinions.

2. Powers of the National Council under the current legislation of Ukraine and their proactive application

**2.1.** Despite the debate over the need to either grant more or remove powers from the regulator in Ukraine, which is partly taking place, becoming more intense in the

context of discussing new legislation on audiovisual media services, it should be borne in mind that current Ukrainian legislation provides for mechanisms for regulatory intervention in content. To ensure the **quality of Ukrainian media content that is quite often the mouthpiece of the owners covering their views, including those on political life**, the regulator should take proactive actions, playing a preventive role and not justifying inaction by a lack of appeals from concerned citizens. **Such regulation should apply to all types of content, dissemination of which is limited by legislation.** 

**2.2.** The powers of the National Council are set forth in legislation on television and radio broadcasting, as well as in other laws, in particular those regarding advertising and elections. In regulations on advertising and elections, the scope of powers differs significantly, since in these areas, the National Council is authorized to exclusively identify violations, while perpetrators are to be brought to justice through the mediation of other bodies.

**2.3.** The main part of the powers of the National Council of Ukraine on Television and Radio Broadcasting, the Ukrainian regulator in the field of television and radio broadcasting, is provided for under the laws of Ukraine On Television and Radio Broadcasting and On the National Council of Ukraine on Television and Radio Broadcasting. Article 13 of the law On the National Council <u>provides</u>[9] that, inter alia, the National Council shall:

supervise the observance by television and radio organizations, and program service providers of the requirements of the laws on television and radio broadcasting;

supervise the observance by licensees of the requirements of Ukraine's legislation on advertising and sponsorship in television and radio broadcasting;

supervise the observance by licensees of the broadcasting procedure during election campaigns and referendums, as prescribed by law;

supervise the observance by television and radio organizations of Ukraine's legislation on cinematography;

supervise the observance by television and radio organizations of the requirements of Ukraine's legislation regarding the share of domestic product in their programs (broadcasts) and the use of languages in television and radio broadcasts; supervise the observance by television and radio organizations of legislation on protecting public morality.

The Law on Television and Radio Broadcasting to some extent <u>duplicates[10]</u> the provisions. According to Article 70, the National Council monitors compliance and enforces the requirements of:

Ukraine's legislation on television and radio broadcasting;

the Law of Ukraine On Advertising with regard to sponsorship and advertising on television and radio;

legislation on protection of public morals;

legislation on cinematography regarding the quota for domestic films and distribution or showing by broadcasting organizations of works, whose distribution and showing is prohibited by legislation on cinematography;

election legislation.

3. Regulation of audiovisual content and express provisions of the Law of Ukraine On Television and Radio Broadcasting

**3.1.** The Law on Television and Radio Broadcasting clearly provides for mechanisms for the regulator to respond to violations of "**legislation on television and radio broadcasting, legislation on cinematography and legislation on protection of public morals.**" Respective mechanisms are provided for in Articles 71, 72 and Part 6 of Article 70 of the Law on Television and Radio Broadcasting.

It should be noted that, in accordance with the provisions of Article 3 of the Law, legislation on television and radio broadcasting also comprises the Law of Ukraine On Information and international treaties whose binding nature was approved by the Verkhovna Rada of Ukraine.

Articles 71 and 72 of the Law on Television and Radio Broadcasting establishing liabilities and sanctions for violations of legislation on television and radio broadcasting, allow the National Council of Ukraine on Television and Radio Broadcasting to extend control activities to monitor compliance with the provisions of the **European**  **Convention on Transfrontier Television, including the requirements for ensuring objective coverage of facts and events.** Importantly, the latter requirement is also set forth in Article 59 of the Law on Television and Radio Broadcasting, stipulating the broadcasters' obligation to **disseminate objective information.** The regulator must therefore respond to the dissemination of biased information by broadcasters.

**3.2.** The provisions of Articles 71 and 72 of the Law on Television and Radio Broadcasting stipulate that the responsibility for a breach of the television and radio broadcasting legislation shall be established on the basis of **documented testimonies**, **reports of the results of audits of broadcasting organizations(including official monitoring on the part of the National Council and citizens' appeals), petitions of <b>public authorities as set forth by this Law.** It is also possible to impose the following sanctions for broadcasting illegal content:

admonition;

■ fine (in case the violation is eliminated following an admonition or if the television and radio organization has received at least three admonitions after the issuance (renewal) of the license);

initiation of broadcast license revocation in court (if the violation is not eliminated following an admonition and the imposition of a fine).

As for the competence in the field of cinematography legislation, in case of detecting signs of a breach of cinematography legislation by television and radio organizations regarding the quota of domestic films and distributing or showing works as prohibited by cinematography legislation, the regulator shall draw up a respective act to be passed to **Ukraine State Film Agency** to take measures, as provided by law.

**3.3.** Article 15 of the Law of Ukraine On Protection of Public Morals <u>provides</u>[11] that the National Council of Ukraine on Television and Radio Broadcasting supervises compliance with the law within its competence. As a licensing body in the field of television and radio broadcasting, it has the right to consider cases of violation of the Law on Public Morals and license conditions on the part of business entities and issue admonitions, apply fines, suspend or revoke licenses, and refer the cases of violations in this field to the prosecutor's office and the court for consideration.

In addition, Article 62 of the Law on Television and Radio Broadcasting contains a provision stipulates that broadcasting organizations and programming service providers are obliged to respect the provisions of the Ukrainian legislation on protec-

tion of public morals as they create, prepare and distribute television and radio programs and broadcasts. This, in turn, leads to the conclusion that violations will make it possible the application of sanctions, as mentioned in paragraph 3.2 of the Recommendation.

■ 4. Powers of the National Council in the light of blanket provisions of the Law of Ukraine On Television and Radio Broadcasting (regarding advertising and elections)

**4.1.** In the context of the blanket provisions of Article 71 of the Law on Television and Radio Broadcasting, it is necessary to refer separately to the relevant legislation detailing the scope of the regulator's powers in other areas, not specified in paragraph 3.1 of the Recommendation. Unlike television and radio legislation, the regulator's mechanisms for bringing to justice for disseminating illegal content **in other areas** are more complex and less effective due to their being mediated by other authorities. However, in order to effectively ensure human rights, the National Council of Ukraine on Television and Radio Broadcasting **must vigorously act within the limits of such powers.** 

**4.2.** Article 70 of the Law on Television and Radio Broadcasting contains a blanket norm stipulating the powers of the National Council to monitor implementation of and ensure compliance with the requirements of the Law of Ukraine On Advertising regarding sponsorship and advertising on television and radio. It is important to emphasize that such requirements are contained not only in the special provisions of Article 5 ("Sponsorship") and Article 13 ("Advertising on Television and Radio") of the Law of Ukraine On Advertising but also in **Article 8 ("General Requirements for Advertising")** governing some specific aspects of the content component.

Article 26 of the Law of Ukraine On Advertising <u>defines</u>[12] the National Council of Ukraine on Television and Radio Broadcasting as a body "supervising the compliance with the law of Ukraine on advertising for television and radio organizations of all forms of ownership". Consequently, **as stated in Part 2 of said article and article 27 of the Law on Advertising**, the regulator is **vested with the power to:** 

demand that advertisers, advertising producers and distributors eliminate the identified violations of the law;

provide (send to) advertisers, advertising producers and distributors manda-

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tory instruction on eliminating violations;

decide on stopping the distribution of advertising;

■ file a legal action to ban advertising and refute it in public, protecting the interests of society, the state, consumers of advertising and the advertising market participants;

make a submission to the central executive body implementing state policies in the field of state supervision of compliance with laws on consumer protection (currently, the State Service of Ukraine for Food Safety and Consumer Protection) to impose fines under the Law on Advertising (five times the cost of advertising for its distributors).

**4.3.** Possibilities to regulate audiovisual content in the context of election legislation are provided by the Law of Ukraine On Elections of the People's Deputies of Ukraine (even though they are not mentioned in the legislation on local elections and elections of the President of Ukraine). However, we should not forget that during the election process, the **requirements of general legislation on television and radio broadcast-ing** remain valid for broadcasters. Therefore, "in case of biased coverage of the election process", the National Council of Ukraine on Television and Radio Broadcast-ing "must respond on the basis of its powers set forth in Paragraphs 3.1-3.2 of the Recommendation".

Part 6 of Article 66 of the Law on Elections of the People's Deputies <u>provides</u>[13] for the possibility of the National Council of Ukraine on Television and Radio Broadcasting of **supervising compliance with laws on information support of elections and campaigning for electronic (audiovisual) media.** At the same time, in cases of violations, the regulator must inform the Central Election Commission or district election commissions about such violations. The latter rule actually **gives the regulator the power to identify violations in this area**, with prosecuting being the responsibility of relevant authorities.

**4.4.** It is worth mentioning the provisions of the Code of Ukraine on Administrative Offenses, regulating the powers of the regulator's representatives in the context of drawing up protocols on commission of offenses. The National Council's representatives may thus <u>draw up</u> protocols[14] in cases of commission of offenses under Articles 212-19 for violating campaigning rules, campaigning in the course of preparing and conducting a referendum, the procedure for providing information support to elections using electronic (audiovisual) media and 212-11 on not

providing the opportunity to publish an answer to information in relation to a subject of the election process disseminated by electronic (audiovisual) mass media.

Based on the above, it can be argued that the National Council of Ukraine on Television and Radio Broadcasting has a significant range of powers in all areas of content distribution under the Law on Television and Radio Broadcasting, the Law on the National Council, and their blanket provisions. However, it should be noted that some provisions concerning the possibility of intervening with content and prosecuting are not clear enough needing additional refinement on the part of the regulator or clearer specification, as the law permits.

The Independent Media Council, guided by Paragraph 4 of the Regulations on the Independent Media Council, and also for the purpose of encouraging and improving independent, proactive work of the regulator – the National Council of Ukraine on Television and Radio Broadcasting – in the field of television and radio broadcasting, recommends that:

the National Council of Ukraine on Television and Radio Broadcasting:

make effective use of the powers to regulate audiovisual content, vested in the regulator under current legislation in the field of television and radio broadcasting, and cinematography, in particular in the context of broadcaster's compliance with the requirements for disseminating objective information;

proactively respond to violations by broadcasters in the areas of advertising and elections, within the powers prescribed by advertising and election legislation;

encourage the use of citizens' appeals regarding audiovisual media content as an effective way to control its quality, establish a mechanism for reviewing such appeals within a reasonable time, taking into account a broad viewing and listening audience and their being greatly influenced by audiovisual content;

improve internal procedures for monitoring content and responding to offenses, with greater involvement by NGOs in this area;

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make possible submitting electronic complaints.	

the Verkhovna Rada of Ukraine:

develop, with the participation of the expert community, proposals for necessary legislative changes regarding television and radio broadcasting, to optimize the mechanisms for prosecuting violations in all areas of audiovisual content regulation, in particular in the field of election legislation;

consider the possibility of expanding and incorporating in one law the regulator's powers to regulate audiovisual content, when adopting updated legislation on audiovisual media services.

#### SOURCES:

[1] Freedom of expression, Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms

[2] Recommendation Rec (2000) 23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector

[3] The European Convention on Transfrontier Television with the amendments introduced by the Protocol of September 9, 1998

[4] Part 1 of Article 24 of the Law of Ukraine On Information

[5] Recommendation Rec (2000) 23 of the Committee of Ministers to member states on the independence and

functions of regulatory authorities for the broadcasting sector

[6] The official website of the Agency for Culture and Palaces

[7] The Ofcom Broadcast and On Demand Bulletin, issue number 304, 9 May 2016

[8] Broadcasting Authority of Ireland Broadcasting Complaint Decisions, May 2016

[9] Article 13 of the Law of Ukraine On the National Council of Ukraine on Television and Radio Broadcasting

[10] Article 70 of the Law of Ukraine On Television and Radio Broadcasting

[11] Article 15 of the Law of Ukraine On the Protection of Public Morals

[12] Article 15 of the Law of Ukraine On Advertising

[13] Part 6 of Article 66 of the Law of Ukraine On Elections of the People's Deputies

[14] Article 213 of the Code of Ukraine of Administrative Offenses

### RECOMMENDATION -----



#### On the principles of inviting quests and captioning experts in information and analytical journalism

According to the results[1] of consistent research into the influence of the media on the formation of public opinion in Ukraine, the main sources of information are national TV channels and newscasts. At the same time, Ukrainian information journalism in general produces a significant number of problems related to content of news, quest studios, documentary reports, political talk shows, etc., as well as compliance with the standards of information journalism in producing such content.

Such standards that are most often laid out in broadcasters' editorial statutes (and, unfortunately, are not met), include, in particular, standards of balance and reliability.

As noted by the Independent Media Council in its opinions on the telecast "In the Footsteps of Grant-Eaters: Special Report[2]" by TV channel Ukraine (No. 16 of June 27, 2017) and on the story "Selection of Judges to the Supreme Court: Who Pulled Plug on the Process[3]" in the program "Details" on Inter TV channel on June 13, 2017 (No. 17 of July 5, 2017), balance includes giving the floor to all parties to the conflict issue, as well as experts. Reliability, in turn, specifically implies that there is an identified and confirmed source of each fact heard in a particular program or mate-rial.

Returning to the problems that information journalism in Ukraine faces with regard to compliance with the aforementioned standards, it is worth dwelling on the problem of "expertise". A significant number of events occurring worldwide require qualified, expert comments from specialists in relevant fields. Thanks to such comments, it is possible to create high-guality journalistic content.

At the same time, Ukraine has a situation, where a number of media neglect the need to thoroughly select experts for their information and analytical materials. As a result, it is common for an expert to comment repeatedly on unrelated topics or different fields - from the US presidential election to removing garbage from Lviv. Obviously, such individuals' comments are of questionable value, and they no longer act as experts in a particular field, but are actually showmen and / or transmitters of certain political and business interests.

The problem is not however limited to choosing experts. It is often the case that a person who may really be an expert in some field is captioned something like a "politi-

cal expert", "political scientist", "media expert", "public activist", or not captioned at all. This practice is due to the fact that media editors fear that specifying a person's position, place of work or any other information about experts or event participants might be regarded as advertising. However, during the pre-election period, such fears vanished, and representatives of respective political forces were often properly captioned, and even in the post-election period, such as Serhiy Kaplin, who is often not only captioned "MP" but also "representative of a certain political party").

Captioning a person as an abstract "professional" or "expert" makes it difficult for the average viewer to understand the level of competence of the invited guest and, most importantly, identify them as the representative of a particular profession or a company, institution, public organization, etc.

Therefore, in our opinion, there are two main problems regarding"expertise" in the information space:

**1)** compliance with the standards of balance and accuracy by inviting qualified experts in certain fields to provide comments;

2) compliance with the standard of reliability by properly captioning the experts.

#### I. Balance, accuracy and inviting qualified experts

**1.1.** It is hard to clearly identify the qualifications of an expert on a particular topic due to the vast range of reasons: a large number of experts in a particular field; the absence of and impossibility to set a single criterion to determine a person's competence; hypothetical corporate interests and bias, etc. Despite the public sector's attempts to develop experts' databases for the media

expert 4 media[4]

Respect: a campaign against sexism[5]

HelpSMI[6]

as well as the recently created database of the Ukrainian Catholic University's own experts, they have not gained popularity with information channels and media in general.

**1.2.** However, at the practical level of complying with journalistic standards, the problem of getting experts to comment on certain events in the information materials should be viewed primarily in terms of balance and accuracy of information. Engaging experts is one of the main tools for achieving the balance of alternative points of view on a problem by providing an **unbiased** opinion from the outside.

**1.3.** As mentioned above, it is common practice to seek out"experts in everything" – individuals ready to comment on any events around them. This practice is unacceptable as it distorts content significantly reducing its quality.

There are several hypothetical ways of how media could protect themselves from allegations of dishonesty in the context of inviting individual guests and experts. Firstly, media should be eager to invite different experts and guests. Because, as noted above, some industries have broad representation and it is possible to invite a variety of professionals, "diluting" the usual talking heads. It should also be borne in mind that some fields are relatively narrow making the search for relevant experts truly difficult.

Secondly, media must also carry out due diligence regarding possible conflict of interest and integrity of the invited guests and experts. In a number of materials, especially those related to politics, there is a dangerous tendency to invite representatives of unknown public organizations and associations to comment and express "alternative" opinions, – or even deliberately invite experts who are not there to really oppose or provide a balance of views, unbiased views, but confirm the ideas originally expressed by the authors. Consumers of media materials thus get a distorted picture of a particular issue.

Thirdly, inviting politicians as experts should be done with caution. On the one hand, MPs, especially those working in relevant committees, can indeed be experts in regulation of one area or another. On the other hand, it should be understood that there is a significant risk that they will relay the views of their political force on a range of issues. Therefore, only individuals whose political impartiality is beyond doubt should act as experts. Those who, at least hypothetically, might have a personal interest in a particular issue, should be presented accordingly in the media. **Politicians must comment on social and political phenomena either on behalf of the political force they represent, or within the scope of their competence, either professional (previous expertise, scientific work, etc.) or official (representing a corresponding parliamentary committee or being in charge of a particular sphere).** 

1.4. We would like to emphasize that the work of professional journalists simultane-

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ously serves the interests of the audience, including, in particular, professional performance of the duties of preparing information. These founding principles are also set out in Articles 10 and 19 of the Ethics Code of Ukrainian Journalists. According to Article 10 of the Code "the views of opponents, including those who have been the object of journalistic criticism, should be presented in a balanced way. The assessments by independent experts should also be presented." Article 19 deserves special attention: "Deliberate violation of the ethics code is absolutely incompatible with professional journalism."Failure to provide information about an expert, their incomplete presentation can be considered a deliberate violation of ethics, as it deprives the audience of full information about the expert making it possible to manipulate opinion. Instead, journalists should make an effort to thoroughly study the situation and context, making a proper selection of experts competent in the subject, and providing their audience with full and comprehensive information on the issue being covered. Without the secrecy of experts and without the risk of manipulating the opinion of the audience about true qualifications of an expert, commenting on this or that information or event.

**1.5.** There is no denying the right to discuss various ways of Ukraine's development as a state, and it should be noted that media should be responsible in inviting politicians as experts on general topics known to have used hate speech, manipulated facts, been biased, etc. during the armed aggression of the Russian Federation, when talking with them does not have to do with those individuals' specific activities or their responsibility for certain actions.

**1.6.** In view of this, the Independent Media Council **calls on the representatives of the Ukrainian media market to take a more cautious approach to selecting persons to provide expert comments in information and analytical materials.** Such selection should take due account of a person's previous experience and ability to comment on a subject, impartiality on the topic or certain political and business forces, the need to ensure variability of the expert environment, as well as such a person's possible conflict of interest.

#### II. Captioning experts and reliability

**2.1.** As for captioning, it is widely thought that specifying a commentator's position or place of work in the captions for the material is an advertisement. According to the <u>definition</u>[7] in the Law of Ukraine On Advertising, **advertising is information about a person or goods, disseminated in any form and by any means, and aimed at the** 



development of and maintenance of advertising consumers' awareness and their interest related to such a person or goods. It is a broad definition, allowing one to consider advertising a wide range of different materials.

**2.2.** The purpose of advertising should be separated from the purpose of informing guests on the air - there are good grounds for differentiating the criteria for maintaining awareness and interest in a particular person in the current legislation. Special attention should be paid to Article 9 of the Law of Ukraine On Advertising about identifying advertisements.

This Article's logic is that advertising should clearly be separated from other information through any means and by using the word "advertising". At the same time, this article provides for exceptions for the materials that should not be identified as advertising:

The logo of a TV or radio organization broadcasting the program;

A sign or plate with information about a person, etc., on the inner surface of a person's own (or granted-for-use) premises, on the outer surface of a house or building not higher than the first floor, or on the floor where a person's own or granted-for-use premises are located.

The main feature uniting those exceptions is their purpose -of **providing information** about the program's broadcaster, the person providing a certain type of service, etc., without the purpose of "selling" something. By its very nature, captioning the persons present in a particular studio or being featured in certain materials, or invited to comment on a certain socially important event, **also fulfills the function of duly informing about the essence of the event, the phenomenon covered in it.** And it helps **accurately identify the participants in the program**.

**2.3.** Apart from the informing function, proper captioning makes it possible to identify relevant competencies and positions of TV speakers, commentators in print media, facilitating the ability to fact-check how qualified the comments provided by a person are, whether it is an unbiased expert in the field, or how authentic (reliable) information provided by such a person is.

**2.4.** It is also worth noting that advertising is unacceptable in newscasts for information and analytical materials. Of course, in the context of captioning, there is an issue of hidden advertising, paid news, etc. and differentiating it from simply informing the audience about a person. However, in our opinion, it is worth distinguishing between

Collection of Recommendations	

these facts.

According to applicable law, hidden advertising is **information about a person or goods in a program, telecast, publication, if such information serves advertising purposes and may mislead individuals about the true purpose of such programs, telecasts, publications.** One of the signs of hidden advertising or paid news is providing respective names, positions, and the like, but always together with other signs. Specifically, such signs are a lack of relevant news or informational value in covering the activities of a person, just as any facts giving grounds to speak about some person's explicit interest in conveying information about themselves or their services or relevant signs, which clearly prevails over the consumers' interest in receiving such information. Another factor to consider is the repeated appearance of the same experts or mentions of certain individuals/organizations in the same programs.

2.5. In view of this, the Independent Media Council believes that captioning experts as representing a particular organization, including specifying the experts' positions during their commenting on topical issues should not be regarded as advertising in information and analytical journalism. In the absence of signs of hidden advertising, such captioning should be considered as a good practice promoting compliance with such standards of journalistic activity as the reliability and accuracy of information.

The Independent Media Council, guided by paragraph 4 of the Regulations on the Independent Media Council, and also with the purpose of improving information and analytical content in the Ukrainian media, recommends that:

#### 1. Ukrainian media

carry out a proper assessment of the qualifications of experts in a particular field before inviting them to express an opinion;

abandon the practice of inviting biased person having conflict of interest to comment on any topic under the guise of independent experts;

incumbent politicians not be invited as experts; provide all comments by politicians with captions that properly indicate affiliation to a certain political force;

invite responsible politicians known for their hate speech, manipulating facts, bias, etc. to comment on general topics. Especially during the armed aggression of the Russian Federation;

properly identify experts and persons invited to comment or participate in the program, specifying their position and place of work;

2. The National Council on Television and Radio Broadcasting

apply this approach to the captioning of experts and guests of the program;

not consider such captioning as advertising in case of disputes;

#### 3. Experts and persons invited to comment on socially significant events

clearly identify their own qualifications and competence in their respective fields;

deliberately refuse to provide media commentary outside their field of expertise;

#### 4. Representatives of civil society and donors

encourage creating and promoting independent expert media databases;

carefully check the qualifications of the experts listed in respective catalogs in creating expert databases.

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[3] The Independent Media Council's opinion on the news story "Selecting Judges to the Supreme Court: Who Pulled Plug on the Process" broadcast on June 13, 2017 in the program "Podrobnosti (Details)" on the Inter TV channel

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[6] the HelpSMI web portal

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How to write about the energy market without mistakes and

The monitoring of the Ukrainian media (in particular, as carried out by Detector Media) has shown rising manipulation in the recent publications on energy tariffs, energy security and independence of Ukraine. These topics have been used by politicians and energy sector business groups to influence public opinion.

Recently reformed, the energy market has become an especially sensitive topic. The media, just like society and business, have not yet become fully accustomed to the new reality. So in addition to deliberate misrepresentation and disinformation, journalistic materials may contain unintended errors. Following up on the complaints concerning manipulations in the energy market, the Independent Media Council has produced a set of recommendations that will help the journalists covering these topics make their texts easy to understand and avoid misleading the readers, whether intentionally or not.

#### 1. Before writing on energy, a proper understanding of the context should be gained.

You should start by reading trade publications such as Ukrainian Energy[1] that publishes substantial materials and a wide range of energy news. A high-quality archive of news and reprints of business media materials is available on <u>uaEnergy[2]</u>. EXPRO consulting[3] is worth visiting if you are looking for interviews and the sector's latest developments. Lots of information on the energy market can also be found in consumer publications but they are more likely to use outdated information or serve the interests of businessmen and politicians.

2. Politicians' statements make space for manipulation with regard to energy.

Their viewpoints are not always based on economic realities and they often seek to attract voters like retirees and the needy who will always find lower rates appealing. Some politicians represent the interests of large financial and political groups or



### **3**. Pay attention to the quality and professionalism of the commentators whose opinion you use in your texts.

In recent years, the number of experts has significantly increased with the quality of expertise drastically deteriorating. Many energy experts who appear in pro-Russian media base their viewpoints on economic indicators. So, prior to asking for a commentary, try to find this expert's statements on the Internet or on social networks and weigh the risks. It is best to look for commentators and sources of information at professional events (Energy Club meetings, Adam Smith Forum, Ukrainian Energy Forum, etc.) or in expert organizations that have already established themselves in the market and often conduct training sessions for journalists, and professional meetings. Experts from DiXi Group, Argus Media, Energy Club, etc. are eager to provide commentary and assist with energy education. Associations such as the Ukrainian Wind Energy Association or the Gas Market Association will help with more specific topics. GreenCubator will help you comment on the intersection of environmental topics and energy and the nuances of energy market legislation.

#### 4. You can only quote biased experts in one case,

namely if you want to present the position of the other party mentioned in the text but cannot comment directly on behalf of that party (for instance, Gazprom or another Russian organization which are normally reluctant to comment on international affairs for Ukrainian media). However, even in this case, it is better to contact the source of the information. A commentary from a company representative or its public position on the Internet will balance the material better than citing biased experts' views.

#### **5.** Choose the format carefully.

Analytics requires that each statement be well reasoned. While you can simply call



the tariff system unfair in your column, you will have to substantiate this argument in an analytical publication. Try to reduce the impact of personal likes and dislikes on the text. Even if your text exposes corruption, less emotional wording should be chosen and your statements should be backed with the comments from lawyers or experts. If you are writing about a company's monopoly position in the market (as yet officially unconfirmed), that is, you understand that the company is really a monopoly but the Antimonopoly Committee has not yet recognized it as such, you had better refrain from calling it that. Write about the "monopoly characteristics" explaining what they are and let the reader draw a conclusion. Yes, this will complicate the text stylistically but it will also allow you to maintain professional neutrality. Otherwise, quote an expert who will confirm your point. But do not forget to present the positions of other parties.

#### 6. Special energy-related media projects should be treated with reserve.

Due to the possibility of creating partner publications, many companies are now actively promoting their viewpoint, sometimes at the expense of standards and logic. If you see that the topic is covered one-sidedly with links to related publications or ideas coming from dubious media or from the media affiliated with the beneficiaries such materials will be of questionable value and their information should be carefully verified.

#### **7.** A major distortion that arose in the media sphere

with the introduction of the new electricity market is the misrepresentation of price. Many market participants try to pass off their product's desired price as real, i.e. established by the market.

#### **8**. Statistics provides a good illustration of the topic.

It can be the original source for news or analytical materials. But statistics alone cannot be used to build up a publication, it needs further clarification. If you do not work for an industry or business publication targeting a wider audience, make sure that you do not fail to explain your choice of comparison. Comparing electricity prices



in different markets may be quite obvious to you but not so obvious to the average reader. If you simply compare two indicators, make it clear to all why you selected them. After all, manipulation of incomprehensible statistics looks credible resulting in wrong ideas ("numbers cannot lie"). Remember, statistics may also be inaccurate. So if you have the possibility to compare two sources, do it.

#### 9. Use plain language and your own words

avoiding industry-specific terminology and jargon. If you have to use professional terminology (e.g. in quotations), explain its meaning to a wide audience. And never be embarrassed to ask experts to explain the terminology they use. Keep in mind the following saying: If you cannot explain your topic easily and in plain language it means you do not know it well enough yourself.

#### 10. Use official sources to verify the facts.

If you need to compare electricity prices in Ukraine and abroad there are a <u>number</u>[4] of energy exchanges that regularly publish cost data for both electricity and energy (<u>coal</u>[5], <u>uranium</u>[6]) markets. For example, here are the energy exchanges of Ukraine's western neighbors <u>Poland</u>[7], <u>Hungary</u>[8], <u>Slovakia</u>[9] and <u>Romania</u>[10]. It is usually free of charge, as with <u>IndexMundi</u>[11]. Although some of this data is provided on a paying basis (like <u>Bloomberg</u>[12] or Argus), experts usually have access to such data. The Baumgarten (<u>Central European Gas Hub</u>[13]) is normally consulted with regard to gas, so it makes sense to monitor it as well.

#### 11. Legislation will help you understand the situation and relations between the market players.

It is important that you familiarize yourself with the following laws: <u>On the Electricity</u> <u>Market</u>[14] (the new and older versions to trace the changes in the market and see why its restructuring is being discussed so much), <u>On Heating</u>[15], <u>On Oil and</u> <u>Gas</u>[16], <u>On the NCSREPU</u>[17], as well as the <u>Energy Strategy of Ukraine until</u> <u>2035</u>[18] and the <u>low-carbon development strategy of Ukraine until 2050</u>[19]. You should also consider international sources such as the <u>EU Third Energy Package</u>[20],

the Agreement on the terms of the future unification of the energy systems of Ukraine and Moldova with the continental power grid of Europe[21], and the Paris Climate Agreement[22]. They impact the development of Ukrainian legislation and its further harmonization with European laws. It is the introduction of symmetrical provisions that has caused so many market disputes today. It is also useful to know the provisions with regard to state-owned companies such as Ukrhydroenergo, Ukrenergo and Naftogaz of Ukraine. And certainly, everything related to privatization: a number of the energy sector enterprises are still state-owned, being on the privatization list for several years. So it is important to understand what is going on in the privatization sphere and why things may go wrong.

#### **12.** It is worth learning to read financial statements.

There are a lot of interesting topics to be found in the production and financial reports, starting from the companies' debts and ending with their recent secret purchases. YouControl conducts occasional webinars on how to read the reports correctly.

#### ■ 13. Investment companies' analysts can help you understand the situation.

Almost all of them are eager to give commentary and they are actively using social networks. However, you should take into consideration whether or not this particular company owns the shares of the business you are writing about or provides services to it, as it is then a conflict of interest. However, the commentary made by the companies whose customers are energy sector enterprises is appropriate when it relates to litigation cases involving energy market players: this is how you get a firsthand view.

#### **14**. It is useful to read industry-specific literature.

You can start with the Encyclopedia of Ukrainian Energy compiled under former Minister of Fuel and Energy Ivan Plachkov. The information there is partly outdated but it will still provide you with a general understanding of how the country's energy industry works. The same applies to the archives of the papers like Kommersant, Delo, InvestGazeta, Biznes, Delovaya Stolitsa, Kontrakty, Forbes and the like. They will



help you understand the market situation during the Revolution of Dignity.

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- [14] The Law of Ukraine On the Electricity Market
- [15] The Law of Ukraine On Heat Supply
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- [17] The Law of Ukraine On the National Commission for State Regulation of Energy and Utilities

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[19] the Ministry of Environmental Protection and Natural Resources: "Strategy of Low Carbon Development of Ukraine until 2050"

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# On the use of languages in the media

Some national media groups' representatives regularly make statements about non-competitiveness of the Ukrainian language/Ukrainian-language product. Specifically, in 2019, T V host Oksana Marchenko <u>argued[1]</u> that the new language legislation would "deprive Ukrainians of access to global science." Recently, Olena Yeremeyeva of 1+1 T V channel <u>came up</u> with the following statement[2]: "It is not easy to find the tonality of the Ukrainian language for the viewer to take it in. According to our observations, TV dramas in Ukrainian get less views than comedies."

When considering the language aspect in the media, a number of both objective and subjective factors need to be taken into account.

# I. General considerations

**1.1.** Ukrainian (and, by extension, the rights of its speakers) used to systematically face restrictions imposed by the imperial center or the occupying state (e.g. the Emsky Decree, the Valuev Circular, etc). During the Soviet period, Ukrainian was officially recognized alongside Russian but the actual status of Russian was higher as a language of inter-ethnic communication in the USSR and the language of the largest group within the Soviet Union, including due to well-designed and de facto imperial policies of the Soviet regime itself.

We should also keep in mind the difficult situation of the Crimean Tatar language, including due to Russia's occupation of the Crimean peninsula.

**1.2.** According to Article 10 of the Constitution of Ukraine, Ukrainian is the state language and the state ensures its full development and functioning while also guaranteeing free development and use of Russian and other languages of the national minorities. At the same time, supporting the state language is not only an element of implementing general principles of the constitutional order ensuring unity of the Ukrainian people but also a means to ensure the language rights of Ukrainian-speaking citizens. Unlike other widespread languages (such as English, French, or Russian) that became so as a result of complex historical circumstances including colonization and seizure of territories, Ukrainian currently has official status in Ukraine only. That is, Ukraine is the only place where Ukrainian-speaking citizens

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should enjoy all the conveniences that native speakers traditionally have in their own country. For example, it would be strange if an Italian-speaking Italian did not feel comfortable in the public sphere in Italy or a German-speaking German in Germany. That is, legislative policy in the language sphere is carried out not solely to ensure the status of the state language but also to ensure the rights of citizens whose mother tongue is Ukrainian.

However, if due to the official status of the Ukrainian language the state has largely succeeded in making it the language of government bodies and their communication with private individuals, or the language of education, Ukrainian governments have failed to make even some formal steps in the context of guaranteeing the rights of Ukrainian-speaking persons to use and especially to obtain information in their native language (despite Russia's aggressive policy of promoting the Russian language beyond its borders officially proclaimed in the early 2000s). The adoption in 2019 of the Law of Ukraine on Ensuring the Functioning of Ukrainian as the State Language in our situation does not guarantee full implementation of its provisions.

# II. Subjective factors

**2.1.** Discourse around language often contains judgments of those discussing it with regard to the prevalence of this or that language in Ukraine based on their own empirical observations in everyday life. But the subjective circle of communication and the information bubble of any person are not able to give them an objective picture of the language situation in the country. The high percentage of bilingual citizens should also be <u>taken into consideration</u>[3] (20-30% depending on nationality and environment (at home and at work). That is, for native speakers of a certain language, their entourage and communication distorts the language situation rather in favor of their language (their conversation partners switch to their language; when searching for informational or entertaining content people choose products in their own language, etc). Thus, in the eyes of the Russian speakers their language is more widespread than Ukrainian.

**2.2.** As far as the Russian language is concerned, it should also be noted that it traditionally plays two roles in Ukraine: as a national minority language and as the language of the former empire. Imperial languages traditionally prevail and have a more powerful influence than the languages of colonized peoples. Colonization never took place without cultural pressure and forced assimilation that were and remain its important tools. Downgrading one's own language, culture and society, as well as

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favoring the language and cultural product of the former empire is nothing but a manifestation of a post-colonial syndrome blocking true spiritual freedom. Some Ukrainian media managers and ordinary citizens are not unique in this at all. Similarly, in the former French colonies of North Africa, certain communities still favor French both for communication and receiving news from French media. Ukraine's situation is special due to fighting a war for independence from the former metropolis still today, and the language issue is used in it as an effective weapon. Thus, for the aggressor country, any statements about alleged "backwardness" or "insufficiency" of the Ukrainian language are an invaluable way of delegitimizing Ukrainian statehood as such since an "imperfect" language could only produce "imperfect" statehood and, essentially, a failed state. The aggressor country will waste no time in using our post-colonial syndrome, pathological cultural dependence on the former metropolis, media managers' desire for easy enrichment, and doubts about our own capacity, for territorial and spiritual occupation since it will not be possible to retain the conquered territories without spiritual colonization. During this historic period, national media must take great pains to not play the role of "useful idiots" supporting and promoting the aggressive foreign policy ambitions of the Russian Federation.

**2.3.** Apparently, media managers believe that changing the media's broadcast language will affect their audience: as a result of the change (increase in the percentage) of the language of a TV channel, radio or print media, a part of the audience may "migrate" to other media that have not made the respective language switch. But even if we assume that such fears are grounded it does not mean that, as a result of language change, the media is sure to lose some part of its audience since another segment of the audience may migrate to it that is already targeting this media's new language. However, in reality this process is slower than the audience loss described above, since for the media's existing audience such a change is obvious immediately whereas for potential audience (who are consuming the media's content yet) it is not so obvious. Therefore, any statements about audience loss following the changing of a TV channel's broadcast language would be premature.

Considering the share of Ukrainian and Russian, it is also necessary to <u>take into</u> <u>account</u>[4] the greater percentage of Russian and bilingual speakers in large cities and the predominantly Ukrainian language speakers in towns and villages due, in particular, to the industrialization processes and migration during the imperial and Soviet times. For television, city audiences may be regarded as more commercially attractive with rural television ratings not even being measured. But since the radio frequency resource used for broadcasting is provided by the state (for details see the Law on Radio Frequency Resource of Ukraine and the Law on Television and Radio Broadcasting) certain population groups should not be placed in a privileged position

based on the commercial considerations of the broadcaster while the needs of other social groups are ignored or marginalized.

**2.4.** Creating information products in a certain language logically calls for use of native speakers. Even if the overwhelming majority of Ukrainian citizens are considered to be fluent in the state language to an extent sufficient to understand it, it does not mean that anyone involved in the creation of information products in Russian will be able to create a Ukrainian-language product equally efficiently and well.

# III. Objective factors

**3.1.** According to a national survey by the Ilko Kucheriv Democratic Initiatives Foundation conducted jointly with the Razumkov Center's sociological service in December 2019, 81% of the citizens agreed that Ukrainian is an important attribute of Ukraine's independence. It should be noted that this opinion is shared by the majority of respondents in all regions of Ukraine (e.g. 64% in Skhidne). Most citizens (79%) believe that at least half of the Ukrainian media's content should be in Ukrainian (53% fully agree and another 26% rather agree) with similar views prevailing in all regions.

**3.2.** In his book "Sapience: A Brief History of Humankind[5]", Yuval Noah Harari shows how the dominance of one social group over another, which is ultimately reflected in the emergence of discriminatory laws (apartheid, Emsky Decree, etc), causes the discriminated group to be marginalized to a greater or lesser extent. Such marginalization gives rise to cultural prejudices in the dominant social group toward the discriminated group and the former come up with seemingly rational arguments to keep discriminatory laws and maintain the discriminatory status of the discriminated group. This is fully applicable to the language sphere: e.g. carrying a prejudice toward the languages that were/are discriminated against, making statements about their non-competitiveness in comparison to the dominant language, and renewing/reinforcing discrimination.

**3.3.** Two languages, even if they are similar to each other, differ in their characteristics such as the number of words and native speakers, developed terminology in a particular field, ways of constructing linguistic structures, etc. But every language is also a dynamic system able to change and evolve, and refusing to use a language quite logically impedes its development, particularly in the sense of blocking a new lexical stock to describe contemporary phenomena.

We are all familiar with the widespread humorous characteristics of different language es like French being the language of love and Italian the language of music, German being only for philosophers, and English topping the bill with regard to business correspondence. However, such biased opinions are acceptable only when meant as a joke, but they are ridiculous as a serious intellectual statement. After all, everyone who speaks more than one language is well aware that each language has unique words that simply do not directly translate into other languages, and, therefore, each language is rich and special in its own way. That is why preserving linguistic diversity is an important cultural task for humanity, which, unfortunately, continues to lose its less commonly used languages.

**3.4.** The Russian-language market for information products and services is objectively much larger than the Ukrainian-language market due to the difference in the number of native speakers of these two languages. Due to this, the economic scale effect reduces the cost of production of the Russian-speaking product making it commercially attractive in Ukraine. However, national media and content producers are still largely limited to exporting products to the Russian Federation and CIS countries ignoring the rest of the world, apparently for lack of courage to compete outside the former empire. At the same time, profiting from exports to the Russian Federation during a conflict with this country is a form of painful addiction to it and leads to devaluation of Ukraine's assets in a short-, medium- and, especially, long-term perspective.

IV. In light of the above, the Independent Media Council, guided by Clause 4 of the Independent Media Council Regulations, recommends media to:

try to meet the language needs even of that audience segment which may initially appear as commercially unattractive;

take into account the possible time lag associated with content language change between the outflow of the previous language-oriented audience and gradual influx of the new audience favoring products in the new language;

engage native speakers of when switching to content production in a certain language;

not be limited by the market of the Russian Federation and CIS countries when producing content for export;

avoid statements by media managers on behalf of the media about non-competitiveness of Ukrainian, Crimean Tatar, and other languages whose speakers have been discriminated against on the basis of language since such statements not only diminish human dignity of the speakers of those languages, but – in the case of Ukrainian – also work to delegitimize Ukrainian statehood as such, which is totally unacceptable in the face of the conflict directly relating to defending independence, sovereignty and territorial integrity of our state.

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# **RECOMMENDATION**

Ukrainian terra incognita: how to write about the occupied Crimea without fakes and manipulations

With Russia's occupation of Crimea and access to the peninsula becoming much more difficult, there has been a significant decline in the amount of media coverage of Crimea's events and issues in Ukrainian media space. In recent years, this sad trend has been markedly stronger. The monitoring of Ukrainian TV channels' broadcasts carried out by representatives of the National Council for Television and Radio Broadcasting in previous years showed that from 1% to 2% of the channels' airtime was dedicated to the occupied Crimea. According to the January 2020 monitoring by NGO Detector Media, the materials relating to the occupied Crimea in the news of all-Ukrainian TV channels made up from 0% to 1%.

Those rare news stories with regard to events on the peninsula that still pop up in the Ukrainian media mostly cover the actions of the occupying authorities and law enforcement bodies, i.e. trials of political prisoners, detention of activists, militarization, etc. The viewers, listeners and readers are told almost nothing about the life of two million citizens of Ukraine on the occupied peninsula.

At the same time, Russian media whose representatives have access to Crimea and the opportunity to film openly are much more active in covering Crimean issues. But they do it selectively and in a specific way, emphasizing "successes" and silencing "uncomfortable" topics. According to a study by NGO Institute of Mass Media, Crimean news in Russian media is covered in the best traditions of Soviet propaganda – most of them (33%) are dedicated to the so-called "improvement" of the situation on the peninsula following the 2014 events, with "KrymNash (Crimea is ours)" focusing on "Russian" Crimea as a fait accompli never to be changed running second (16.5%).

Distorted coverage of topics related to Crimea, in turn, spawns numerous myths in society contributing to a mental rejection of the peninsula by the population of Ukraine. To change this situation and increase the amount of media coverage of Crimea in Ukraine's media space, the Independent Media Council offers a number of recommendations for the media on how to cover Crimea avoiding manipulation in their materials and not become a tool for disseminating false information.

## Why cover Crimea?

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Ukrainian media editors most often say that lack of materials about the current situation in Crimea is due to its being far, problematic, dangerous and not very interesting under Russian occupation. There is even an opinion that Crimea should return to Ukraine first, and then be written about.

There is a second reason: when Russia seized Crimea, most Ukrainian media lost their local news offices and journalists with whom they had worked for years. This happened because the occupying power was clearing Crimea's media environment and eliminating those not in support of the Kremlin's policy. Due to the presence of the Russian military contingent and security services on the peninsula, Ukrainian media cannot send their journalists there without exposing them to danger.

However, rare news related to Crimea in the Ukrainian media space creates a false impression for the population of Ukraine that it either does not exist or is a foreign, non-Ukrainian land. This is contrary to Ukraine's general policy of not recognizing Crimea as "Russian" which most countries in the world support, including the European Union and the United States, as well as authoritative international institutions such as the UN, Council of Europe, and OSCE that adopt resolutions each year against Russia's occupation of Crimea.

For Crimeans – both the residents of the peninsula and displaced persons – the lack of coverage of this topic by national media is also a signal that "Crimea is lost for a long time."

Firstly, keeping Crimea in Ukraine's media space and providing true and adequate coverage of the lives of Ukrainian citizens under Russian occupation will ensure the right of Ukrainian society to truthful information about the part of their country currently under occupation by the neighboring state. Secondly, it will strengthen the connection of the occupied territory with the free territories of Ukraine. Thirdly, it will signal to Ukrainian authorities that it is necessary to initiate the process of returning the peninsula to the control of Ukraine and reintegrate it into Ukrainian society, and not just wait for the right moment to do so. After all, any editorial office providing its audience with truthful and impartial information about the situation in the occupied Crimea documents an important part of their own state's history.

Covering Crimea-related topics calls for clear and strict security rules, both physical and digital. We offer a number of recommendations based on the journalists' and editorial offices' experience prioritizing the coverage of Crimean issues.

Collection of Recommendations
Part L Covering Crimea-related topics

# 1. Avoid manipulations

Working with topics related to Crimea calls for the ability to distinguish between typical manipulations and avoid them.

Manipulation No 1. "Those in Crimea are traitors because they supported Russia"

It is widely believed that "the majority of Crimeans supported Russia in 2014" and are "traitors of Ukraine." These beliefs came into being influenced by Russian propaganda. However, they can also be heard in Ukrainian media as one of the reasons for not covering Crimean matters.

Such judgments are manipulative because they are not backed up by any objective, factual data or research.

The last sociological survey of sentiment in the occupied Crimea was conducted in 2015 by GFK on behalf of the Free Crimea project of Ukrainian political technologist Taras Berezovets. According to it, 82% of the peninsula's population support "Crimea's accession to Russia." This survey was conducted by phone when there was still a fixed telephone connection with the occupied Crimea. But it contains a significant error. Because at that time, the Russian law enforcement system and repressive legislation was already ruling in Crimea and any appeals for non-recognition of Crimea as "Russian" were punishable by up to five years in prison. Under such conditions, the answers provided by Crimeans to sociologists over the phone cannot be considered honest and correct. Ukrainian experts, too, later called this study unrepresentative. So whether the majority of people in Crimea are really for Russia, whether they have pro-Russian views having lived for six years in the Russian realities is not known for sure. And it is unlikely to be known before de-occupation.

It should also be acknowledged that the specific perception of reality by some Crimeans before the annexation was caused by information stagnation, lack of active



Ukrainian discourse and the ignoring of Crimea's social and political situation on the part of most media and civil society in mainland Ukraine. This, too, created favorablconditions for the flourishing of Russian propaganda and a utopian, sentimental longing for the supposedly carefree Soviet times.

Many countries around the globe have faced the need for painful integration of problem areas or groups into the general social "body". In such cases, simply rejecting, withdrawing, or pushing away is both the simplest and the worst course of action, since only active struggle strengthens and consolidates national identity.

Manipulation No 2.

"Crimea is not interesting to Ukrainian audience."

Many Ukrainian editorial offices justify their disregard for Crimean matters on this basis. But it is more of a manifestation of the editors' subjective attitude toward Crimea-related topics than an objective reality. As proved by the studies (2016, 2018) by leading Ukrainian sociological organizations, the majority of citizens of our state continue to consider Crimea Ukrainian, suggesting the possibility of its returning to the control of Ukraine. Everything that is transpiring in Crimea concerns the citizens of Ukraine staying there and having connections with the residents of different regions of the country. Being part of Ukrainian media audience, they too need objective information about the life in Crimea.

Another reason why Crimean topics are interesting is the unique historical experience. Despite the tragic situation, Ukrainian media have a unique chance to study the lives of citizens in different realities, document international crimes against their country's citizens, and study modern methods of influencing society in the XXI century of one of the most totalitarian countries in the world. This knowledge will be invaluable for many years to come.

## Manipulation No 3.

«There are no Ukrainians left in Crimea»

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This can also be heard in the editorial offices of Ukrainian media. This judgment is based on numerous publicly available pictures and videos featuring pro-Russian activists with tricolors in their hands telling how happy they are to live in "Russian Crimea." Conversely, there are almost no such videos stating a pro-Ukrainian position. It is very easy accounted for: despite the fact that Ukrainian symbols, including the flag, are not officially banned in Russia, public expression of a pro-Ukrainian position poses a threat to the inhabitants of the occupied Crimea. Most political prisoners who have gone or are going through Russian prisons and torture chambers never camouflaged their pro-Ukrainian views, openly calling Crimea Ukrainian. Their example was a signal of danger to many pro-Ukrainian people in Crimea. That is why Russian voices in Crimea are strong and loud – they are mainstream. Being "Russian" in Crimea is en vogue, "correct" and most importantly, safe. But being Ukrainian and especially declaring it means a risk to life and safety of your loved ones. However, in the six years of occupation, ties with Crimea have not been severed. Many of its residents are citizens of Ukraine associating themselves with her.

It is easy to notice Russian sentiments in Crimea because they are public and massive. But you need to be able to hear pro-Ukrainian voices carefully and cautiously. Among other things, scant Crimea's news coverage by Ukrainian media does not allow them to be heard and seen.

## 2. Expand your Crimean contacts

If you think that traveling to Crimea is too risky for you and your editorial office, it should not be an obstacle to covering the peninsula's life. Seek out your sources among the inhabitants of Crimea. There is an active civil movement there formed in the occupation years despite mass repressions, thanks to which the world can learn the truth about the situation under occupation. The Crimean Tatar association Crimean Solidarity is the most known active community. Its activists visit the trials of political prisoners, keep statistics of persecution, know about the repressive tendencies, being eye-witnesses to all changes.

The Ukrainian activists who established the Ukrainian Cultural Center in Crimea under occupation are less in number, but no less effective. They are well aware of humanitarian issues and can tell about the everyday life of the residents of Crimea in modern conditions.

One of the symbols of the Crimean resistance is archbishop of the Crimean Diocese

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of the Orthodox Church of Ukraine Klyment who also takes care of Crimean political prisoners. This is not a complete list of people who can be sources of truthful information for you despite the pressure from Russian security services.

## 3. Take care of your speakers' safety

They know the local realities better than others and can tell how the statements made by the occupying power are at variance with the reality.

However, when communicating with them and quoting their words in your materials, be as careful as possible about your wording. Remember that they live in a territory where repressive Russian legislation applies specifically providing for criminal prosecution for not recognizing the "Russian status" of Crimea. Use your language prudently and responsibly, as it may affect the fate of your Crimean sources. Make sure to discuss the publication of their words in terms of whether these sources want to be named or remain anonymous.

# 4. Seek out qualified experts on Crimea

Sources of information about the situation in the occupied Crimea can be found in mainland Ukraine. But it is important to work with those experts who are really familiar with today's realities of the peninsula. The very fact of being born there or forced to move out due to the occupation or having relatives in the occupied territory is not enough to consider the information obtained from such sources reliable and relevant to contemporary realities. Anyway, the situation on the peninsula is changing, and the markers used to track changes are not always clear or accessible to the average observer.

NGOs and human rights organizations working in mainland Ukraine are professional and reliable sources of information about the situation in Crimea. Most of them have on staff migrants from Crimea. These are professional people not relying in their judgments on subjective information obtained from their Crimean relatives or acquaintances, but on documents, evidence, facts, research, and their own work "in the field".

The most well-known of such expert organizations are Crimean Human Rights Group,



Crimean Tatar Resource Center, Regional Human Rights Center and others. They monitor the situation on the peninsula, are aware about all changes and trends and can speak about them in a professional way.

If you need to have an official position on the situation in Crimea, the state authorities of Crimea based in mainland Ukraine can be your source. These are the Representation of the President of Ukraine in the ARC, the Main Department of the National Police and the SBU in the ARC, the Prosecutor's Office of the ARC and the Ministry for Reintegration of the Temporarily Occupied Territories also overseeing Crimean matters, to name a few. Other sources providing information about the situation in Crimea can be the Mejlis of the Crimean Tatar People and the Crimean House, a state-owned enterprise headed by activist migrants from Crimea, and NGO Public Crimean Center for Business and Cultural Cooperation 'Ukrainian House' headed by former prisoner Andriy Shchekun.

# Part II. Precaution, protection and sources

## **Safety first**

Remember that Crimea is being controlled by Russian special services and a powerful law enforcement apparatus that clears the peninsula of any "hostile" or "undesirable" presence. This deters many from traveling to Crimea. Your editorial staff can choose from several options of working "in the field", none of which will be ideal involving both the reputational and safety risks. There are three scenarios of physical presence in Crimea: your staff correspondent's business trip, using the services of foreign correspondents or the services of local residents.

## 1. Staff correspondent

If your editorial office decides to send your correspondent or filming crew to Crimea, you must decide whether or not to formally comply with Russian law.

One of the aggressor state's requirements is the accreditation of foreign journalists with the Ministry of Foreign Affairs of Russia as stipulated by Article 55 of the Law of Russia On Mass Media. These are the general legal requirements in Russia. Accreditation is required of any foreign media whose representatives work in Sh-

Russia. Please note that accreditations are not issued exclusively for working in Crimea, allowing you to work anywhere in Russia. In this way, journalists receive legal status to perform their journalistic duties in Russia and in territories de facto, albeit illegally, controlled by it. Analogous to it can be a stamp in the passport from the Russian border guards obtained at the administrative border checkpoints, at the entrance to Crimea. Accreditation will also make it possible for you to cover trials of citizens of Ukraine, residents of Crimea – participants in political cases considered in the Southern District Military Court in Rostov-on-Don. This court considers all "terrorism" cases initiated by Russian security services in Crimea. Russia's Ministry of Foreign Affairs is reluctant to accredit Ukrainian media, so the focus should not be on Crimea.

An important point is that if a journalist is accredited in Russia, this can in no way be seen as recognizing the annexation and "Russian status" of Crimea or as legitimizing the illegal occupation. Under international law, the occupying power's status in an international armed conflict is always temporary, and the illegality of the forced annexation is jus cogens (a peremptory norm). In addition, only states as subjects of international law, not independent media, have the power to recognize or not to recognize the status of territories or new entities. Another important factor is that such accreditation is mandatory, i.e. the media workers in fact are left with no other choice but to obey the administrative orders of the occupying country. Therefore, while the fact of accreditation is insignificant from the point of view of international law, Russia does not abandon attempts to establish certain practices and a "people's diplomacy", apparently hoping that it may help achieve other states' recognition of the annexation, in favorable circumstances. That is why getting your media staff accredited in Russia is still a moral dilemma and can pose a serious reputational risk to your media.

If the editorial office decides in favor of journalists' work without complying with Russian laws, given that Crimea is part of Ukraine, they may be prosecuted by Russia's punitive bodies. Lack of accreditation is what Russian security services pay attention to in the first place, and this can lead to negative consequences.

If your correspondent does not have Russia's accreditation, your journalistic work in Crimea will be best qualified as violating the procedure for providing a mandatory copy of documents (Article 13.23 of Russia's Administrative Code) and illegal employment by a foreign or stateless person in Russia (Article 18.10 of the Administrative Code). In addition to the fines, the latter stipulates the expulsion of the offender from the country. Also, based on the search results and the materials revealed, journalists may be charged with crimes against the state entailing crimi-

nal charges. If your correspondent is detained in the occupied territories with filming equipment, you will not be able to convince the secret services that you are "just a tourist and filming nature." Such cases are already built into muscle memory of the Russian security services.

# A. Do not carry important information with you

When traveling to the occupied territories, keep in mind that, unlike civilized countries, there are special rules in the "gray zone" of the peninsula that do not comply with either Russian or international law. You must be prepared for different scenarios, so the filming process should be organized in such a way that you do not walk on the street or use transportation with your footage without previously made copies. Overall, it is desirable to immediately send the information filmed to the editorial office, so as not to lose it. Your data media should be new since the information deleted using software is usually left on the media until erased by new information. The same applies to mobile phones and other media. During your stay in Crimea, "disappear" from social networks. Close access to your page and log out of all accounts. It is best to have a primitive phone without unnecessary software and contact lists.

You should not send correspondents with significant "digital footprints" on the Internet, especially if they have been active in expressing their position – they will be the prey of the FSB and Russian propaganda.

## B. Keep in touch with the outside world around the clock

In the occupied territory, it is necessary to organize the filming process in such a way that the correspondents constantly – day and night – are in touch with their editorial office. In case of unforeseen circumstances, the editorial office will be able to quickly find out about the problem and inform the authorities and human rights organizations in Ukraine so that they can help protect the correspondents. Make arrangements with those you trust in advance and report everything that happens to you. Install software that automatically sends SOS signals with your whereabouts.



## C. Have your lawyers' phones ready at hand

If you are detained in the occupied territories by local law enforcement bodies, do not resist. This will only complicate your situation, as you may be prosecuted for "resistance to the lawful actions of a law enforcement officer."

Find a way to report the detention to someone you trust. Demand a call to your lawyer. This is your legal right and it sometimes works even under occupation.

The main thing is to have the phone numbers of the lawyers working in the occupied Crimea so that they can provide immediate help.

Overall, taking into account all the risks and expanding your Crimean contact base in accordance with our recommendations set out above, you will be able to create interesting and useful Crimea-related content without making dangerous trips.

# **2.** Foreign correspondent

If your representative is not a citizen of Ukraine, she / he must have permission from the Ukrainian authorities to cross the administrative border with the occupied Crimea. To do this, you must contact the State Border Guard Service of Ukraine. According to Ukrainian law, entry and exit to the Crimea is possible only through road checkpoints set up in Kherson Oblast. Such cooperation may be safer but also more costly, in line with Ukrainian law.

## 3. Locals

If you engage a local resident / journalist, you should be aware that you are exposing her or him to danger, since it may qualify as espionage or terrorist activity for the secret services. Such collaboration is of the highest quality since local residents know the situation best, but it is also the most dangerous for them. If you engage such persons, you should protect them as much as possible from being identified, including through "digital footprints". Crimean organizations should be consulted on such a decision at all times.

# SEPARATE OPINION



# **ROMAN HOLOVENKO**

by member of the Independent Media Council

on Recommendation No 6 "Ukrainian terra incognita: how to write about the occupied Crimea without fakes and manipulations"

# 29.05.2020

I cannot agree that obtaining accreditation for journalists from the Ministry of Foreign Affairs of the Russian Federation in order to cover the events in Crimea is presented in this Recommendation as normal conduct.

Firstly, such accreditation causes a certain form of control on the part of Russian authorities over journalists, since, during accreditation, they provide certain personal data, which, in particular, allows for tracking their whereabouts.

Secondly, although accreditation from Russian authorities for covering the events in Crimea is not in itself a legal recognition of its affiliation with Russia, the facts of such accreditation could be presented in the information space to facilitate the legalization of the peninsula's annexation.

Having proper accreditation clearly simplifies journalists' access to events or simply to the premises of the Russian occupation authorities in Crimea, but does this allow them to obtain more information compared to the amount of information available in Russian media?

There is another aspect to potential legal liability in Russia for the journalistic activities of foreign media representatives having no accreditation from the Russian Foreign Ministry. However, the journalistic profession is about collecting, creating, processing and disseminating mass information primarily in the interests of media audiences. Accreditation applies only to such a component of a journalist's work as gathering information, while the need for journalists' physical presence at the scene has been reduced in the last decade due to the development of information and communication technologies.

On the one hand, in order to receive comments, you can now seek out the right person (participant, witness, expert) on social networks or elsewhere and interview them

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remotely via video conferencing. On the other hand, social networks are already producing more information than mass media. Therefore, at the stage of gathering information, journalistic work is increasingly reduced not so much to documenting facts at the scene, but to the ability to seek out the necessary information that has already been published on the Internet to further verify and present it to the audience along with other important information (event context, a different point of view when covering conflicts, comments, etc.). With nearly everyone having a smartphone, socially significant information will be documented mainly by ordinary citizens, not by journalists and cameramen. Although this does not mean that journalism can be reduced to merely copying information from social networks.

Therefore, the comparison of the shortcomings and opportunities provided by said accreditation of journalists covering Crimean issues, in my opinion, is clearly not more in favor of accreditation, so it can be acceptable only in extreme cases.





# How to write about scientific research

In a developed democratic society, the media play an important role. In addition to their principal – informational – function, they ought to increase the audience's knowledge level. The media's educational function is just as important as the informational function. In his Journalism and Media Handbook, Siegfried Weischenberg described the educational function as follows: "Conveying knowledge to the public enables them to adequately assess and organize information obtained from different sources, as well as navigate the contradictory flow of information."This becomes especially relevant in the era of social networks' development that are often a source of false and manipulative information.

One of the elements of educational journalism is covering scientific research studies.

Such materials have significantly increased in number with onset of the coronavirus pandemic. <u>According to</u> the Institute of Mass Information[1], 8% of all media materials about the pandemic were dedicated to COVID-19 research.

However, it should be noted that sometimes publications regarding anti-virus drug efficacy studies were written in a non-constructive way potentially encouraging people to self-medicate.

# ■ The Independent Media Council has prepared recommendations on covering scientific research studies.

1. Before writing a piece about a research study, make sure that the latter was published in a leading peer reviewed journal. That way, you will be sure that it is a reliable and legitimate study. Peer reviewed publications (journals) can be found in the <u>Scopus</u>[2] or <u>Web of Science</u>[3] databases. The better the journal, the higher the citation rating, based on which the IF (impact factor) is calculated.

2. Be sure to include the name of the research institution that conducted the study. Do not use general phrases such as "British scholars", "scholars from the Netherlands", etc.

3. Do not use scientific jargon or overload the text with incomprehensible terminolo-



gy. Remember that every scientific term needs to be clearly and intelligibly explained to the audience.

4. Deliver accurate information. Journalists and the media should not exaggerate the importance of scientific findings to attract the audience's attention. At the same time, you can make assumptions about the outcomes of a study. However, your comments or assumptions have to be clearly separated from the facts, and the audience should understand that this is only your opinion.

5. It is advisable to seek comment from experts in the field you are writing about. It could be provided by a study's author or another researcher to help you critically evaluate the study. By providing two expert opinions, you will ensure a balance in covering the topic.

6. The vast majority of research studies contain information about the error margin or factors that may negatively affect the accuracy of the results. When preparing a publication, you should always indicate the margin of error or mention those negative factors. If the study you are writing about does not mention such a margin, it calls into question the validity of its findings. The lack of data on the margin of error may indicate that an experiment was not comprehensive, is incomplete, or that this study is questionable.

7. Use a <u>constructive approach</u>[4]: explain to the audience the consequences of a study in terms of practical applications, and what difference it can make. Maybe, it will not suffice to rely just on your own conclusions, and it will be more appropriate to seek the opinions of experts in the field.

8. Do not use emotionally charged value judgments and epithets such as "of paramount importance", "latest," "scandalous," stunning," etc. Do not overestimate or undermine the importance of a study either.

9. Be sure to remind the audience that their use of the elements or findings of a study could be dangerous, and that the study itself is not a substitute for seeking professional medical advice in case of illness. For example, unauthorized use of drugs whose efficacy in treating certain diseases was studied can be extremely dangerous if used without a doctor's recommendation.

**10.** If you order a translation from a foreign language, it should be made by a transla-tor familiar with the terminology used in a given scientific field.



**11.** Make sure that you do not infringe copyright when publishing, translating and/or reprinting a study.

**12.** Be extremely cautious when choosing the title for your material, because a simplified or incorrectly generalized title could distort and even downplay the important essence of a study, while such out-of-context description could be a citation source for other media or even do harm to the information environment by intensifying the disinfodemic.

## SOURCES:

[1] The website of the NGO Institute of Mass Information: How online media cover COVID-19. IMI monitoring.

- [2] The Scopus database website
- [3] The Web of Science database website
- [4] The website of the NGO Institute of Mass Information: How to write in a constructive way

# RECOMMENDATION



How a journalist / newsroom should take care of mental health and corporate communications

Mental health problems are often perceived as taboo – something not worth talking about, especially at work.

However, every fourth person in the world experiences mental health problems. And since they affect all of us, we should feel able to talk about them, seek support or receive quality care. With more dialogue, we can refute more myths breaking down barriers, putting an end to isolation, shame, and inferiority, often felt by those facing mental health problems.

Caring about mental health in a media organization, creating a supportive environment for journalists, bolstering resistance to stress and learning how to take care of oneself and others not only helps the physical and emotional health and recovery of the team members, but also increases employees' loyalty, productivity and engagement.

What is mental health? It is at the core of human health: a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. Mental health is a state of well-being in which an individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and is able to make a contribution to his or her community (World Health Organization).

Why is it important to develop a mental health care culture within a media organization? According to research, three out of every five employees have experienced mental health issues because of work (Business in the Community (2017). Mental Health report: National employee mental well-being survey findings).

Multitasking, unstable and intense work schedules, being focused on emotionally complex subjects, attacks and harassment in connection with professional activities – these peculiar features of journalistic work can also cause significant stress, increase anxiety, result in emotional burnout, impair physical and mental health.

# **Research suggests that**

up to 80% of journalists have been exposed to a work-related traumatic event

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(The Dart Center for Journalism and Trauma);

31% reported having received threats during the year (Löfgren Nilsson & Örnebring, 2016, Sweden);

21,9 % of female journalists reported experiencing physical violence in relation to their work (Barton & Storm, 2016).

Journalism is often associated with work-related pressure, and stress is the biggest health and safety issues affecting workers in the media sector (National Union of Journalists, NUJ, UK).

It has been calculated that each case of stress–related ill health leads to an average of 30.9 working days lost (WHO, 2019, facts about mental health).

At the same time, there are effective practices for care of the employees experiencing mental health problems. It is possible to start with small, simple steps that everyone can take to take care of their own and their colleagues' condition. Below are some tips to help reduce stress and help journalists take care of their mental health and emotional well-being.

# Bolstering mental health at work comprises the following two components:

**1.** Strengthening psychological resilience (recovery, the ability to cope with difficulties, and grow) at the personal level;

2. Creating a supportive environment at work, and human-oriented processes.

# Strengthening psychological resilence

Interventions for stress and mental health management in the workplace can increase work productivity by 30% (National Institute for Health and Care Excellence, 2009).

Reporters, cameramen, designers and other newsroom staff can experience traumatic stress during news events, both while at the scene or at their desk. It is therefore important to provide systematic support to the media team regarding mental health issues to help oneself and colleagues in difficult times.



**1.** Giving encouragement to undergo training on stress resilience, emotional regulation methods.

2. Giving encouragement to colleagues to discuss mental health issues. One option is to organize basic peer-to-peer support, where team members can call each other or the editor-in-chief, when seeking support. Sometimes it is enough to simply agree on this. Encourage communication between colleagues, especially when it comes to covering complex events. Reminding of the value and importance of each other's work, the feeling of a helping hand from those nearby gives strength to cope with difficulties. When colleagues are working on a difficult story, let them know that they should not hide their stress, bury their feelings or emotions in these moments. Create an environment of trust in the newsroom, where there is awareness of the importance of acknowledging difficult feelings, and expressing them. Any mental health problem should not be viewed as something to be ashamed of or "uncomfortable" to talk about. Another option is to introduce mentoring practices. According to research, young journalists have higher levels of stress and a slower recovery than older journalists.

**3.** Building up the newsroom's "network of contacts" to be used in emergencies. This contact list should contain a clear procedure for who to call during special or traumatic events. This procedure should be available to all employees.

**4.** Posting easy-to-understand and well-written procedures for taking care of oneself and colleagues, as well as basic methods of emotional regulation. For example, in the form of portable cards and / or posters on the walls in the newsroom.





## Infographics made by the NGO "Souspilnist Foundation"



Infographics made by the NGO "Souspilnist Foundation"

## Understanding when the newsroom needs expert help

Guide your employees toward monitoring burnout symptoms or mental health problems. The more people around you are aware of the first signs, the easier it will be to provide them with the help they need.





## Below is a list of signs requiring expert attention:

severing ties with your usual environment: if you avoid relatives and friends, lose the desire to communicate with others;

changes in work behavior: for example, coming to work very early or staying late at work;

obsessive thoughts and obsession with a certain subject;

neglecting personal hygiene and appearance;

 difficulty concentrating, making decisions, maintaining conversation, memory impairment;

- feeling panic, constant anxiety;
- constant fatigue, poor self-management;

prolonged depression, indifference and loss of interest in activities, including those that were previously enjoyed;

- self-blame and suffering constant guilt;
- sudden mood swings for no apparent reason;

changes in eating habits, appetite, increased smoking or alcohol consumption.

Any of these signs indicate that you need a consultation and a checkup with a specialist. Especially if such manifestations last more than two weeks.

However, if you notice a change in the behavior or appearance of a fellow journalist, do not jump to conclusions about their mental health. If you feel ready, offer to have a conversation over coffee at a place outside of work, ask a lot of free-answer questions, being open-minded and non-judgmental. However, it is important to understand that this person may already be receiving help or not eager to share their experiences with you; this is also normal.



### Creating a supportive environment at work, and human-oriented processes

## Among the components of creating a supportive environment in the newsroom are:

- being aware of work-related risk factors, and controlling them;
- clearly defined principles of corporate communication, and following them;
- transparent internal processes and human-oriented services;

culture of zero tolerance for stigma, specifically, being aware of the most common mental disorders and myths around this subject, adhering to the principles of correct interaction with colleagues experiencing mental health problems.

## Mental health risk factors associated with journalistic activities:

- workload (both excessive and insufficient);
- lack of participation and control in the workplace:
- monotonous or unpleasant tasks;
- ambiguous role or conflict;
- lack of recognition at work;
- inequality;
- poor interpersonal relationships;
- poor working conditions;
- poor leadership / management and communication;
- conflict between domestic and work needs.

All of the above calls for attention from the newsroom's top management.



# Principles of corporate communication of journalists

Building psychological safety, trust and interpersonal relationships is the basis for the media team's coordinated work. Measuring "temperature" will help better understand your colleagues, develop empathy, make humaneness, sincerity and trust the foundation of collaboration.

# For example, a simple and effective tool for this is "check-in & check-out"

Whenever possible, open and close your working days with team-friendly check-ins and check-outs, with each team member briefly answering questions about their condition and mood. This helps build a focus, increase self-awareness and clarify each member's emotional state to build a proper collaboration.

# Provide a place in the newsroom where your team can talk about what worries them

Start holding newsroom meetings where your team can talk about:

- 1) your organization's existing problems no one dares to bring up;
- 2) something that happened a while ago that your team still cannot get over.

A question-and-answer work mailbox for the team to be able to ask any questions during the week, with the top managers or owners, or investors responding during the week. This is an opportunity to ask a question that will be answered, without fear of looking incompetent. Develop a culture of "no stupid or awkward questions."

# Feedback sessions, developing a feedback culture

This widens the understanding of the team members' actions and moods, allowing you to respond correctly to your colleagues' positive and negative actions. Quality feedback can be built using the following algorithm:

1) observation (your description of the situation based on the particular facts);

2) influence (informing about the consequences of the person's action, either positive or negative);

3) proposal (supporting, encouraging to move on at the same pace, or resolving an



unpleasant situation).

## Transparent internal processes and human-oriented services

### Job assignments in the newsroom:

set reasonable and agreed-on deadlines for implementation and completion of work;

- provide an appropriate working environment;
- define the job role and responsibilities as clearly and accurately as possible;
- where possible, engage employees in planning workload allocations.

Goals: Set goals and priorities within the organization and within the team so that everyone can focus on the important things. It is important to set SMART goals, jointly defined in the newsroom.

Work schedule: Set your work schedule and specific hours (start, end, lunch time) and mark them on the calendar for your media team to know when you are there.

Know your natural clock and try to adjust the work rhythm accordingly. Choosing the best time to do a particular job depends on the nature of the job, with each particular case having a golden time of its own. And these individual characteristics should be taken into account by the team members and management and, if possible, when organizing the work process.

Recovery breaks: Make it a habit to get up and take a five minute walk after each hour of work. This enables better recovery and increases concentration. The most effective ways to relieve stress and improve mood in the course of a working day are short breaks for physical activity, as well as the so-called social breaks such as talking to colleagues about something unrelated to your work.

Make sure your employees have at least a half-hour lunch break, and encourage them to be away from the desk. It is best to combine lunch with a walk.

On a personal level, reward yourself for achievements. Most of the time, we tend to focus on what needs to be done next, forgetting to reward ourselves for what we have already done. Introduce acknowledgment practice into your newsroom. Em-



ployees in organizations with a culture of acknowledgment are more satisfied with their work and feel valued. Participate in and communicate within professional associations, such as independent media unions and the National Press Club, win professional journalism awards.

## Human-oriented services in a media organization. Specifically:

simplify the technological process of preparing materials as much as possible;

use electronic services of editing and approving journalistic products at all levels of the organization;

create a convenient record keeping and inventory and logistics system for your media team members' work processes;

### **Organization design:**

make sure the workplace and environment are suitable for preparing editorial material. Noise, temperature and light levels can affect well-being. Where possible, consider space dividers and a quiet space to improve your work environment;

make sure there are clear and regular communication channels with telecommuting employees, avoiding a situation where a person is expected to be online / in touch around the clock. Being constantly occupied with work contributes to rapid burnout. Employees should have time for self-reflection, for other activities and interests outside of work. This also applies to those team members who do not currently have a family, children, etc. Being free of the need to devote time to family does not mean having no interests other than work. Regardless of marital status, everyone should switch to different activities;

remember that a journalist's emotional and psychological state affects their assessment of the situation. However, it is important to be able to maintain internal balance and stay focused to do a high-quality journalistic job. At the same time, the way in which a journalist covers a story, interrogates sources and provides information may have different effects on those directly concerned by the event, and on the public in general. Therefore, the question of the importance of a journalist's good mental health of goes beyond individual well-being, having a great social significance.

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On how to write about religion, denominations and/or religious

The Independent Media Council has prepared recommendations for journalists and the media seeking to cover religious events, in accordance with professional standards.

Article 35 of the Constitution of Ukraine guarantees everyone the freedom of religion including "the freedom to profess or not profess any religion, perform without impediment religious rites and ceremonial rituals individually or collectively, and conduct religious activities." The unacceptability of discrimination on the grounds of religion is enshrined in the Ethics Code of Ukrainian Journalists: "No one should be discriminated against because of sex, language, race, religion, national, regional or social origin or political preferences."

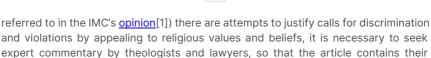
Religious organizations are part of society, and the activities of clergy and religious communities are a matter of public interest. In responding to society's request for information about religious organizations, journalists should avoid discrimination, hate speech and bias. At the same time, the media should not refrain from covering important events and issues related to religious organizations and figures, alone for fear of offending the feelings of religious believers.

The Independent Media Council has prepared recommendations for journalists seeking to cover religious organizations, in compliance with professional standards and without deepening conflicts in society.

Avoid false generalizations. Covering the activities of a representative of a religious community, a clergyman, or even a hierarch (denominational leader) should not become criticism of the entire religious organization or community. The media should not create an illusion of the believers' collective responsibility for the actions of individual members of the community, organization or its leaders, if there is no good reason to talk about their joint, concerted action.

The content of beliefs, religious rites or traditions should not be criticized or ridiculed unless they contravene the law or violate someone's rights.

If, in your opinion, the religion's dogmas or the calls coming from a religious organization contravene civil rights and freedoms or (as in the case of the article in Livyi Bereh



professional assessment. The same applies to situations where the statements by representatives of religious organizations show signs of xenophobia (e.g. homophobia in particular). For example, the <u>statement[2]</u> by honorary patriarch of the Orthodox Church of Ukraine Filaret that the same-sex marriage is the cause of the coronavirus pandemic is xenophobic and

should be disseminated in the media only with relevant commentary from independent experts. It is inappropriate to discuss a religious organization or figure in such situations as a party to a conflict.

It is unacceptable to make a comparison of religions, denominations and religious organizations, from which one could conclude that one of them is superior to another. Verified information about the date of foundation, number of believers, communities or religious buildings, connections with other religious organizations in Ukraine and abroad is an important background of journalistic materials, but it should not follow that one religion, denomination or religious organization is "dominant", "more original" or "more traditional" than another, and should therefore receive privileges or have more rights. Citing quotes about the special status or superiority of a religion, denomination or religious organization in comparison with others should include the quote's originator, combined with the background and independent expert commentary.

It is unacceptable to selectively use the results of opinion polls or statistics to prove the superiority of a religion, denomination or religious organization over others, regardless of whether those figures are given in the author's text or cited directly or indirectly. When using the results of opinion polls, you should always mention the sample, research method, question wording, time and other data, important in interpreting the figures.

**Use the correct name** of denominations, religious organizations, communities and their members. As a rule, the name used by the organization and the people belonging to it is correct. Exceptions are possible if the organization's self-designation confuses or misinforms the audience due to consonance with the names of other religious organizations (e.g. the Ukrainian Orthodox Church). In this case, it is necessary to provide a clarification: "Ukrainian Orthodox Church of the Moscow Patriarchate."

In the case of religious communities not having a specific self-designation (e.g. Buchach



<u>district Protestants</u>[3] referring to themselves as "believers"), journalists should treat with caution the names given to those communities by other people (in this case, "kash-ketnyky (<u>cap wearers</u>[4])"). You can only use them if you are sure that the name is not perceived as offensive by the community.

Avoid insulting definitions, negative stereotypes, and labels that may increase the audience's bias and distrust. The words "sect", "cult", "(non)canonical church", "Uniates", "schismatics", "Shtundists", "Islamists", "infidels", "priests", "churchmen", "Mormons" are unacceptable for use in the author's (journalistic) text (as is the case, for instance, with <u>strana.ua's[5] article[6]</u> "From sensation to oblivion. Five principal questions about tomos now one year old", biased against the Orthodox Church of Ukraine). Citing such words is only possible when a journalist needs to give an exam-ple of an unacceptable statement. In such cases, the material should be supplement-ed by expert commentary on the unacceptability of discrimination, xenophobia or hate speech.

Check the facts, when coming up with characteristics related to religion, denominations, religious organizations and communities. It is important that the characteristics and statements not be dictated by prejudice and myths, being consistent with the current situation. For example, the <u>statement</u>[7] that "Mormons have several wives" is false, since The Church of Jesus Christ of Latter-day Saints renounced polygamy over a hundred years ago. Similarly, in most Muslim communities around the globe, polygamous marriages have long since ceased to exist. Therefore, any characteristics related to religions, denominations, religious organizations, their beliefs and traditions need to be verified against reliable, unbiased sources.

The media should not be a platform for interfaith animosity. Do not disseminate accusations and negative statements by representatives of a religion, denomination, religious organization against others, if they are not directly related to the problem, topic or situation being covered in your material. If such statements are important in covering a social conflict, their meaning should be conveyed in indirect language, avoiding citing literally xenophobic statements or hate speech. It is unacceptable even to indirectly quote calls for violence and any illegal actions, except when the subject of your article is actually condemnation of such calls.

When covering a conflict between religious communities, always try to let the parties express their position equally, to the same extent. Postponed balance, i.e. presenting the position of each party in separate articles, separated in time, is unacceptable when covering religious conflicts. A clear example of such inappropriate actions was the unbalanced coverage of a conflict in December 2018 by the



Public Broadcaster's Vinnytsia branch, <u>resulting</u> in the dismissal of the editor-in-chief[8]. Highlighting the positions of one party and ironing out the wrinkles in the plot led to being dangerously skewed towards one of the parties to the conflict.

When interviewing a representative of the conflicting party, make sure that this person is empowered by the community to make known a collective position, and not just speaking on his/her own behalf. Maintaining balance does not only mean citing directly or indirectly the parties to the conflict: the journalist's task is to verify the statements made by all parties and include the results of this verification in the article. For example, if each of the two communities competing for a temple claims to have a legal right to own it, request to see the documents, find out if they are authentic, and contact the issuing authorities.

**Church histories should not be unduly politicized** by adding context, background, and comments not directly related to the events being covered. At the same time, mention should be made of the political aspects of the events and issues you are covering, if they provide an important context and are relevant to society at large and to your audience in particular.

Distinguish between political manipulation and participation in social and political life. Involvement of religious figures and organizations in politics and local self-government is not prohibited. However, such a prohibition may be contained in the statutes of respective religious communities; or political activity requires obtaining a blessing or other form of religious approval from higher persons in the hierarchy of a particular religious organization. According to the Constitution, the church is separated from the state, but the law does not prohibit clergy from participating in elections and other political processes. According to Article 5 of the Law on Freedom of Conscience and Religious Organizations "religious organizations do not participate in activities of political parties, or provide financial aid to political parties, or nominate candidates to state bodies, or agitate or finance election campaigns of candidates to these bodies. Priests have the right to participate in political life on an equal footing with all citizens." If you are not sure whether the activities of the persons covered in your article contravene the law, it is better to consult an expert in election law, and if such activities may be unauthorized by the respective religious organization, seek out the experts or this religious organization's officials.

**Media interest in the possessions of church leaders** such as in the <u>Church Gold</u> <u>investigation by Slidstvo.info</u>[9] – is j ustified by the fact that those people are to some extent public figures, publicly professing and promoting certain life values, e.g. chastity and modesty. In such cases, professional standards of journalism require that



the persons featured in the article be asked for comment to state their position or refuse to comment. However, journalists should not interfere with the private lives of ordinary clergy unless justified by social significance (e.g. covering a conflict, a high-profile event) or discuss the appearance of their well-being (houses, cars, etc.) as evidence of corruption or misconduct. Let us not forget that clergy have the same civil rights and freedoms as other citizens, and the Ethics Code of Ukrainian Journal-ists requires that a person's private life be respected.

The media is not a church court. Internal conflicts and discussions in religious organizations can be a subject of public interest and, therefore, covered in the media. However, journalists should not try to evaluate the actions of clergy and believers within the rules of their religious organization, unless their actions are also a violation of state laws and social norms.

Select experts carefully, taking into account the public position and place of work of each of them. Many experts commenting on religious issues are ideologically, denominationally, or politically biased, so their comments are not entirely unbiased. This does not mean that such experts should not be sought out, but their comments will add to your material a view of an expert communicy committed to one or the other party to the conflict. This must be communicated to the audience. A balance of biased expert opinions will not replace an unbiased opinion expressed by an independent expert.

The publication in the media of social network posts questioning the right to freedom of conscience or religion, discrediting religious organizations and inciting religious hatred does not release editorial offices from responsibility for disseminating content. For example, the article in the online media Vezha "Beware of Charismatics!"[10], containing negative stereotypes and labels attached to a particular Christian church and a vaguely defined circle of other religious organizations is a post copied from Facebook, with the original post now deleted. In such cases, religious organizations whose rights were violated have grounds for filing a complaint in a court of law or law enforcement agencies against the editorial office.

If journalists have a potential conflict of interest related to their affiliation with the religious organization being covered, the editorial board or the authors themselves should take special care to be impartial, verifying all the facts and citing the sources. We remind that the authors' own assessments and judgments are unacceptable in news items and should be clearly separated from the facts in analytical and journalis-tic writing.

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## SOURCES:

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[2] The Ukrayinska Pravda website: Filaret attributes the coronavirus pandemic to same-sex marriages

[3] Wikipedia: Buchach Raion

[4] The Agentsiia Novyn z Ternopolia ("News Agency from Ternopil") website: the search page for "Cap wearers"

[5] The strana.ua website

[6] The strana.ua website: From sensation to oblivion. Five major questions about the Tomos, now one year old, by Viktoriia Venk and Halyna Studennykova

[7] The Gazeta.ua website: The Mormon prophet allows polygamy, Olha Vaskiv

[8] Detector Media: The news editor-in-chief at UA: Vinnytsia dismissed by agreement between the parties because of a news story about the Moscow church

[9] The Slidstvo.info online media outlet: "I may as well own dozens of apartments": how officials at the Ukrainian Orthodox Church of the Moscow Patriarchate live and explain their wealth, Yevheniia Motorevska

[10] The Vezha ("tower") website: Beware of charismatics, Oleksandr Melnyk

# RECOMMENDATION



On how to prevent hate speech against protected groups and stereotypes in the media

Freedom of expression protects not only neutral ideas or ideas that are favorably received but also those that <u>offend[1]</u>, shock or disturb the State or any sector of the population. Over time, the possibility of stimulating heated public debate with provocative language developed into the so-called right to insult.

Under international law, free speech is regulated on a global scale – the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention and Punishment of the Crime of Genocide, and the Universal Declaration of Human Rights as an instrument of soft law. The regional arrangements for protecting human rights in Europe establish similar regulation in the Convention for the Protection of Human Rights and Fundamental Freedoms. What emerges from the wording of these legal provisions is that, at one end of the spectrum, speech that intentionally incites genocide or discrimination, and speech inciting violence have to be eliminated and punished. At the <u>other end of the spectrum</u>[2], is speech that is merely insulting, disturbing or shocking, yet acceptable in society. The line between what is acceptable and provocative, and unacceptable and discriminatory is blurred, and so there is a need to review legal and journalistic practice in this matter.

Freedom of expression should not be interpreted as the freedom to incite hostility or promote racial hatred, discrimination or violence. At the same time, efforts to combat racism, xenophobia and related intolerance have to be balanced with the need to implement and protect freedom of expression. Hate speech, such as on the Internet, can be best countered[3] not by censorship but by fostering free access to information, which exposed those ideas for what they were. On the other hand, the so-called "marketplace of ideas" does not work very effectively to offset dangerous narratives in a situation, where such narratives are already common or even dominant in society[4]. An effective alternative[5] to partially solve this problem online is timely responding to violations on the part of Internet intermediaries, online media and other actors (via complaints, etc.). This makes it possible, on the one hand, to respond to illegal content ex post facto, rather than setting preliminary filters (that may also automatically filter out fully permitted content), and on the other hand - to act on the basis of negative reactions from and concerns of society - if there is a complaint about a certain type of content, then the impugned statement may have exceeded the permissible limit and may be violating the rights of a particular social group or person.



The role of journalists in society is to present the truth. Journalists should avoid one-sided coverage of events. Full information should be provided and the public/audience should be allowed to make their own decisions and form their own judgments. However, the question arises as to how discriminatory statements by public figures should be presented and balanced, or how oversimplifying, polarizing or stereotyping certain sectors of the population should be avoided. At this point, the issue falls under the domain of journalistic ethics, which requires not only legal recommendations.

People tend to pay more attention to and remember bad events (negativity bias). Therefore, publications containing violence or aggression will have a greater impact on shaping our consciousness. In such situations, greater danger comes from statementscalling for discrimination, violence and/or intolerance – hate speech. The essence of hate speech is defined by the most important factor - being based on such phenomena as social stereotypes, negative prejudice and discrimination. It is part of a broader and more complex phenomenon – communication based on prejudice and discrimination. Such communication is often expressed indirectly, using negative connotations in an ironic way to create an image of being "different", and, contrastingly, an attractive and correct image. The division into "Us"and"Them" is monitored and developed, just as is a simplification of the situation.

For the purpose of simplification, stereotypes are sometimes used, i.e. a set of characteristics, a set thinking pattern allowing you to imagine people belonging to another group. Bias – a negative attitude towards any group – stems from stereotypes. The purpose of such mechanisms of the human brain is obvious: why start learning about a group anew every time, if you can "download" a standard set of that group's characteristics. The problem with this scheme is that oversimplification and bias create a black-and-white picture ("they are all good" or "they are all bad," which is never true), ignoring differences within a group, and adapting poorly to temporal and spatial changes. For example, this can be seen in <u>Disney cartoons</u>[6], made in the twentieth century containing stereotypes about the role of women and their purpose in society, racism or toxic relationships. <u>Disney+[7]</u> has now added disclaimers warning about those products' content.

Stereotypes and bias can often be found in advertising, e.g. toxic masculinity in <u>Gillette ads[8]</u>, <u>racism in Volkswagen[9]</u> or <u>Dior</u>[10] ads, or an August advertisement by a pizzeria in <u>Rivne[11]</u> with the objectification of women, sexism and racism. Finally, discrimination is the unfair treatment of people because they are members of a certain (protected) group. Discrimination is often positioned as a behavioral side of bias.



In the digital age, the problem of responsibility and reliability in using information concerns not only journalists. At a time when individuals can freely communicate with a wide audience, responsibility lies not only with media professionals. Public figures, including politicians, should be aware that they play a leading role in exposing and combating the intolerance and discrimination, including hate speech.

Anti-discrimination legislation criminalizing hate speech toward protected groups is quite common and can be applied to **political speeches.** The Law On Printed Mass Media (Press) in Ukraine protects from liability editorial teams and journalists in the event of a verbatim reproduction of public speeches or messages by power brokers. In Feret v. Belgium[12], the court found that in the case of racist or xenophobic discourse, a statement made in an electoral context by an MP has a greater resonance and is apparently even more inciting to hatred. Furthermore, the court stressed that it is extremely important for politicians to avoid public comment that could foster intolerance. Their duty is to defend democracy and its principles, as the ultimate goal was to fulfill the responsibilities of a manager, not just a politician conducting an election campaign. The ECtHR reached a similar conclusion in Le Pen v. France[13], emphasizing that the speaker's influence and status make discriminatory narratives and hate speech even more dangerous, as they legitimize such views in the eyes of the audience. Accordingly, if the media make reference to statements by politicians that are essentially abuses of freedom of expression (with such referencesbeing made in a neutral manner, without condemning or distancing themselves from the content of the statement), then such transmission of discrimination and unlawful callsfoster greater public acceptability of such views, creating the ground for supporting negative rhetoric about vulnerable social groups.

Editors and journalists should therefore be extremely cautious when citing discriminatory statements by public figures, including politicians. In such situations, it is necessary to balance contradictory statements, providing a general context of the situation and explaining the circumstances behind the person's judgment. It is equally important to present the views of independent experts and respond appropriately to discriminatory discourse. Such situations call for active discussion, including vigorously disputing the discriminatory statements. Bigoted speech is exposed by more speech that decries bigotry[14]. Furthermore, it is important for the media to distance themselves from the content of the statements made by third parties, if the journalist is aware of or assuming the possibility of their illegality. For example, in Jerslid v. Denmark[15], the ECtHR noted that the coverage of a socially important debate on xenophobia and discrimination, as well as extremist views, was permissible. However, in covering such a discourse, it is important to avoid popularizing racist rhetoric. **The Independent Media Council recommends** that, when citing discrimina-



tory statements by public figures, their words should be balanced by explaining the context of the situation and taking into account the opinion of the group against which the phrasing was used. To do so, it is necessary to balance the things said with the comments from experts, representatives of the respective group, providing a general context of the problem, describing the situation, explaining the dangers of discrimination. This also applies to interviews, where journalists must actively respond, dispute or condemn the interviewee's discriminatory statements.

The problem of intolerance in a multicultural society, covered by the media, should be addressed by using professional practices conducting to the promotion of a culture of tolerance. The respective Council of Europe Recommendation suggests several ways to solve the problem[16]. The first way is training. Schools of journalism might usefully introduce specialist courses with a view to developing a sense of journalistic professionalism, which is attentive to sensitive, discriminatory aspects of information. This will ensure multiethnic and multicultural coverage of events taking place in society. Further in-house training or opportunities for outside training for the staff will help adhere to professional standards of tolerance and inclusiveness. Another way is to develop detailed internal policies. For the media already experienced in covering discrimination, it is useful to systematize the acquired knowledge into practical algorithms for journalistsand editors. Such policies should include the peculiarities of reporting discrimination and violence in the media, balanced reporting on situations of tension between citizens, a prohibition of degrading stereotypes in publications or audiovisual materials. Such policies should also include the need to assess individual behavior, without linking it to the affiliation to a particular group, where it is not crucial or needed; the duty to cover cultural, ethnic or religious communities in a balanced and objective manner, depicting their points of view and worldview. For broadcasters, developing such policies is required by law[17]. In practice, editorial statutes have become a formality rather than a practical guide, able to provide answers to ambiguous ethical questions.

The Independent Media Council recommends that the media independently develop internal standards in line with best international practice for covering cases of discrimination or intolerance, encouraging the training of its employees in this area. Unfortunately, very often, the media are complicit in flourishing intolerance and ignorance, posing a real danger to free social development. To meet legal and ethical standards, journalists have to be aware that ignorance and misjudgment of different cultures, traditions and beliefs in the media lead to stereotypes that keep alive discriminatory attitudes. They should also be aware of the impact of their words and images, given the deep-seated fear and anxiety, traditionally present in the communities and society.

The Ethics Code of Ukrainian Journalists <u>prohibits</u>[18] discrimination by sex, language, race, religion, national, regional or social origin or political preference. The respective characteristics of a person (group of people) should be indicated only when this information is an essential part of the story. It is necessary to refrain from hints or comment relating to a person's physical defects or diseases, avoiding use of insulting expressions and foul language (principle 15). Other principles of j ournalistic ethics governing ethical coverage of protected groups include respect for privacy, publishing objective and complete information about facts and events, balance, prohibition to falsify content by the editorial processing. It is understood that these principles operate as a whole but still cannot fully cover the diversity, existing in society. The Code's wording almost completely duplicates the text of Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, except for one important criterion. The Convention leaves the list of grounds for discrimination open, with the list of protected groups in the Code being exhaustive. Such wording may not reflect objective reality, losing flexibility toward social change.

For example, this applies to the prohibition of discrimination on grounds of sexual orientation or gender identity. The issue of hate speech against the LGBT Q+ community was dealt with by the European Court of Human Rights in Liliendahl v. Iceland, Vej deland and Others v. Sweden. In Vej deland and Others v. Sweden[19], the court found no violation of freedom of expression in the applicants' punishment for distributing leaflets condemning homosexuality. The court emphasized that the leaflets were distributed in a school, in the lockers of young students who were at an impressionable and sensitive age and who had no possibility to decline to accept those leaflets (par.56). In Liliendahl v. Iceland, the court ruled that the contemptuous comments on homosexuals in the case did not constitute the most serious form of hate speech, which was, in essence, an abuse of rights under Article 17 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and did not fall under the protection of Article 10 of the Convention, protecting freedom of expression. However, the court added that discrimination on grounds of sexual orientation is as serious as discrimination on grounds of race or origin. The applicant's abusive comments did not contribute to public discussions in the context of which the complainant had written them. Therefore, the court found that the punishment for such comments did not constitute a violation of the applicant's freedom of expression, being lawful, appropriate and necessary in a democratic society.

The Independent Media Council suggests that colleagues from the Commission on Journalism Ethics update the text of Principle 15 of the Code of Journalistic Ethics; the IMC recommends that the mediaavoid any form of discrimination in its publica-



tionsand programs. This applies both to a balanced coverage of the context of the situation and to the use of a tolerant language in their texts. With regard to the L GBT Q+ community topic, j ournalists should avoid the phrase "non-traditional sexual orientation" or use the suffixes -ist or -ism in identifying homosexual people. These suffixes are remnants of a time when such a phenomenon was considered a disease, being criminally prosecuted. In 1991, Ukraine <u>excluded[20]</u> voluntary same-sex relationships of adults from the Criminal Code, and in 1994, the World Health Organization excluded homosexuality from the classification of diseases (ICD), noting that homosexual orientation was one of the options among a variety of sexualities.

It is also important to remember that, according to <u>case law</u> of the E CtHR[21], sexual orientation is a matter of private life, so it is inappropriate to cover this issue in the context of political discourse, when discussing election programs, civil positions or any other topics.

Another issue worth considering is covering gender equality in the media. Gender Media Monitoring Project[22] has been monitoring the presence of women on radio, television and in print news since 1995. The first study, conducted in 71 countries, found that only 17% of subj ects of news stories - people interviewed or mentioned in the news - were women. News was more often presented by women, but they were still not frequently featured in the stories. A 2015 study found that the world reported in the news still remains predominantly male. This can also be seen in using stereotyped roles of men and women in society in publications. Besides, the problem is not only the low mention of women in the media, but also such content's low quality. For example, when analyzing the reactions of Ukrainian society to the figure of Tymoshenko, international organizations note[23] that "Ukrainian press and social media spent more time covering a change in former Prime Minister Yulia Tymoshenko's hairstyle than they did discussing her faction's role in the political crisis surrounding a vote of no-confidence in parliament. "In particular, it has been repeatedly emphasized that the incorrect emphasis in covering women's political, social and other activities in the media leads to even greater stigmatization of the role of women. Although not always openly discriminatory, it is at least unethical and unbalanced coverage of socially important information.

The topic of sexual harassment and/or the objectification of women or men (portraying a person only as an object of sexual desire) in the press, television, and advertising also deserves mentioning. This is evidenced by the Ukrainian movement <u>#I'mNotAfraidToSay</u>[24] and its later world counterpart <u>#MeToo</u>[25], where people tell stories about cases of harassment (in two years alone, Twitter collected 24 million



posts). Another example is sexual harassment of women and the management's using their position to havesexual privilege on <u>Fox News</u>[26]. In the Ukrainian context, the question arises not only about the presence of women in the media environment or the possibility of their career growth, but also research in Ukraine on gender equality in the media and media organizations in general. An equally important aspect is the gender justice issue in media content.

The Independent Media Council recommends that the media avoid gender bias and using stereotypes about the role of men and women in society when selecting stories, their characters, and expert commentary. Similar approaches should be applied to newsrooms/media organizations' internal activities. The procedure and results of recruiting employees in media organizations should strive for gender balance, remuneration of men and women in the same/similar positions should not be different, and it is necessary to provide effective opportunities for women's career growth, promoting their influence on the development of the respective media.

Media organizations are **obliged** to adopt a policy of zero tolerance toward sexual harassment at work, the use of official positions for such purposes, providing an opportunity for anonymous reporting of such cases and their immediate and independent investigation. The following algorithm for covering gender-sensitive information will help adopt a structural approach to understanding the gender issue.

	WHAT, WHERE, WHY and HOW nder sensitive reporting.
WHO	The reporting journalists, editors, editors-in-chief, photographers, managers, board Gender is everybody's business.
WHAT	To be sensitive to gender inequalities and portray and treat women and men in a fair and just manner.
WHERE	On all levels: • at the managerial level where the general directions are made, • at the editorial department where decisions are taken about stories to be covered, • on the field when information is being gathered, • at the desk when the information is being selected, •
WHY	Fair gender portrayal is a professional and ethical aspiration, similar to respect for accuracy, fairness and honesty. It can importantly contribute and co-create more gender balanced and inclusive societies.
HOW	Achieved through: selection of sources and stories, fair portrayal of women and men through elimination of stereotypes, use of gender fair language, promoting gender equality within media organisations.

Source: Guidelines for Gender Sensitive Reporting. Prepared by Anita Ramšak, PhD.

One of the most serious issues in the Ukrainian media context is the creation and

dissemination of materials directly or indirectly relating to the topic of racial and ethnic discrimination. Traditionally, such discrimination (and, consequently, hate speech and calls for violence or hatred) is based on the deep-rooted, unjust stereotypes stemming in part from a difficult historical past. They form [27] negative expectations toward a certain social group and the behavior of its members, with the prolonged existence of such negative stereotypes and expectations contributing to automatic generalization, i.e. negative attitudes toward the group at large, which is very difficult to overcome and does not allow group members to get past the negative image of the group as a whole (so-called stigmatization). Furthermore, the concept[28] of "confirmation bias" reflects quite well the mechanism of the dissemination, rooting and dominance of stereotypes - already existing ideas or expectations of a person about a particular social group or phenomenon lead to the fact that such a person seeks and pays attention only to information confirming their existing position, while positive information about the discriminated group is ignored by such a person due to inconsistency with their original views. That is, when the audience has doubts about the appropriateness of discriminatory or implicitly discriminatory views, media materials formulated in a way supporting hate speech or at least not denying it contribute to the cultivation of discriminatory and hostile attitudes. Thus, in Perincek v. Switzerland[29] the E CtHR explicitly stated that even the remarks made in the context of political or historical debates should not stigmatize specific social groups but be very careful and balanced so as not to incite hatred toward a specific group in a social, cultural and geopolitical context.

Overall, the issue of local contexts is extremely important, as they often only increase the risk of discriminatory statements. Theses that are neutral in one region are often perceived as contrastingly negative in another region so that the audience begins to attach tothem negative connotations on a regular basis. For example, in <u>Mugesera v.</u> <u>Canada[30]</u>, the court found that ignoring the local context led to virtually unhindered spread of hate speech – the word "cockroaches" used against political opponents caused uncontrolled waves of violence in Rwanda, as it belonged to the discriminato-ry statements dividing the social groups into "Us" and "Them".

In the reality of Ukraine, the issue of discrimination against the Romani is particularly sensitive, as society has long formed a negative image of this minority and established historical stereotypes, with the ineffectiveness of respective state programs continuing to hinder the equal and full inclusion of the Romani community into Ukrainian society. A <u>significant reason[31]</u> for this bias is a lack of sufficient truthful and complete information about the life and way of life of the members of the Romani ethnic group, resulting in the information vacuum filled with rumors, fabrications and other discriminatory elements. Also, incorrect designations of this minority can often



be seen in the media, which once again reinforces the negative attitudes toward this social group, with media coverage of the life of the Romani community being almost exclusively reduced to negative reports.

The Independent Media Council recommends that the media take into account local contexts when covering information relating to racial, ethnic and national minorities (including the dissemination of materials about events abroad). When covering the culture and way of life of national and ethnic minorities, it is recommended to study in more detail their characteristic features and interpretation from the point of view of the representatives of a particular social group for the purpose of proper, complete and balanced coverage of this topic. In addition, one should refrain from using the social groups' incorrect names, and indicate the appropriate names in the notes when directly citing third parties using incorrect words, therefore contributing to the correct attitude of the reader toward the topics covered.

The topic requiring no less attention and meticulous analysis is covering information relating to religion. In <u>Norwood v. the United Kingdom</u>[32], the ECtHR noted that stigmatization of religious groups was no less dangerous than discriminatory or hostile statements on racial and ethnic grounds. The court also stressed that not only local but also global contexts should be taken into account, when covering religious topics. What is unacceptable is extrapolating negative world experience to local groups, equating their behavior with the worst historical experience. **The Indepen-dent Media Council** presented detailed recommendations[33] on covering religious information. You can read them here.

It is understood that ethics codes are unlikely to completely eradicate the problem of intolerance in the media, but they can help focus on their social responsibility in such situations. Journalists may not know all the ethics principles by heart, but they should act ethically. This applies when it is necessary to cover conflicts: some story may be true, but one should think about whether its publication would lead to an escalation of the situation, and perhaps even violence, and whether the public interest in disseminating information outweighs such risks. This is the area of editors' decision-making.

The editor's column helps evaluate the work of the entire media better. However, a problem arises with regard to the fact that readers are not interested in such material. They are more interested in headlines than in editorials. At the same time, the editor's column helps determine the media's political and value orientations, which will allow the reader to receive the published information more cautiously, being aware of possible bias given the media's social and political position.



It should also be remembered that recent trends <u>indicate</u>[34] a need to adhere to the standards of responsible journalism, when covering any event or conducting any media activity. In turn, this imposes on the media an obligation to review content of dubious legality and, if necessary, to take measures to distance the editorial office from the content of the story, in order to balance it or openly condemn the discrimina-tory statements by third parties.

Publication of material is a process requiring balanced and accurate editorial decisions. At the same time, it is a question of internal responsibility. The editorial office should work to avoid excessive sensationalism or manipulation of negative events. No one denies[35] the media's right to disseminate information in such a way as to attract maximum public attention to its material (specifically, using capitalized headlines, short and apt ideas, a sensational tone, etc.). But this does not allow journalists to use "gratuitously offensive language", therefore still requiring adherence to basic ethical standards and a balanced presentation of material. In addition, in the era of social networks, one of the urgent problems is the speed of disseminating information, as it influences the delivery of reliable data to the reader, as well as the issue of the media's citation and reputation. However, the timing of the publication should also be weighed against the balance of interests and the editor's responsible decision, especially with regard to sensitive topics, including discrimination. Although the news is referred[36] to as a perishable commodity, whose relevance decreases in direct proportion to the delays in publication, this cannot serve as a basis for disseminating unverified, unbalanced, biased or discriminatory news.

#### Prior to publication, journalists should answer the following questions:

Are we accurate, impartial, and inclusive enough, publishing information based on the facts?

Do we act independently from the narratives stemming from politics or emotion rather than the facts?

Do we fairly and transparently depict the impact of a protected/discriminated group on society?

Do we understand the definition of a protected/discriminated group, and do we use the terms correctly in our story?



Do we articulate for society the rights of protected/discriminated groups in accordance with national or international practice guidelines and standards?

Do we keep emotions under control: do we avoid victimizing or victim blaming, do we not frame them, or do we stereotype them without considering the general context?

Do we speak to everyone?

Do we avoid hate speech?

To be effective for democracy and human rights, journalism must be inclusive, accountable and a reflection of the whole community. Journalists need to <u>develop</u> [37] sources that represent the diversity of thought, feeling, and experience of the people.

Thus, the Independent Media Council, guided by Paragraph 4 of the Regulations on the Independent Media Council, and also with the purpose of improving information and analytical content in the Ukrainian media recommends that:

■ 1. For the media, journalistic and media organizations:

journalists recognize and remember their important role in combating discrimination, intensifying their efforts to adequately respond to cases of discrimination;

media and journalistic organizations organize training courses for professional journalists on international human rights standards regarding hate speech, discrimination, freedom of expression and the respective codes of conduct, on a regular basis;

journalistic organizations ensure the effective implementation of the codes of conduct (policies) to prevent hate speech and discrimination; such codes (policies) should be distributed among journalists and media organizations to ensure their harmonization and relevance, as well as sharing implementation experiences. To overcome the violation of such codes (policies), the following effective measures should be taken;



collecting one's own practice and policies in the field of anti-discrimination, and after assessing compliance with the standards, applying them widely within the organization;

building a culture of equality within the organization, developing intolerance for any discrimination and/or sexual harassment and usingone's official position for such purposes;

adopting a recruitment policy encouraging journalists from minorities and/or protected/discriminated groups to engage in mass journalism and join the organization;

encourage the coverage and promotion of diversity and inclusiveness of Ukrainian society in publications. This should be ensured in particular by internal editorial policies, containing appropriate recommendations for covering racial, ethnic, and religious groups, people with disabilities, LGBTQ+ communities, etc.

## 2. Journalists:

balance different positions in the process of covering the topics of discrimination, and actively warn about the unacceptability and dangers of discrimination;

in case of disseminating discriminatory comments by public figures, add the general context of the situation; provide balance using comments from experts and the protected/discriminated group in question;

 oppose respondents if they use discriminatory comments or resort to stereotypes and bias;

avoid an "us versus them" division; represent the whole society in the publication;

be gender-equitable in preparing stories and publications, avoid deliberately using stereotyped roles of men and women in society, except when such use will contribute to public discussions (for example, when the publication debunks or discusses stereotyped roles);

work on developing one's own worldview: read, learn the unknown, expand



the horizons of one's own ideas, fight with one's own stereotypes in the first place; remember that negative bias is often the result of a lack of knowledge, experience, courage and openness to the new and unknown in the world. The fear of what is "different" and "unknown" is natural, but for the sake of civilizational development, it is necessary to make an intellectual and moral effort on a daily basis to overcome such fear.

## 3. The government and competent state authorities:

promote awareness and adopt a culture of inclusiveness, respect for diversity and tolerance at all stages of the educational process; specifically, include respective courses in the educational program for future journalists;

study the issue of gender equality in the media industry, and assess the observance of the rights of men and women in the media profession.

### **4**. The media regulator:

in consultation with civil society and the media, develop and adopt a system to respond to cases of incitement to hatred and enmity based on race, color, language, religion, gender, political or other beliefs, national or social origin, belonging to national minorities, property, birth, sexual orientation or other characteristics in respective media content;

hold consultations with civil society and the media on a regular basis to develop effective tools to combat hate speech and discrimination in the Ukrainian media sector, including educational programs, media literacy programs, responsible citizenship development programs, and thematic content creation programs with a focus on human rights, etc.

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## For journalists on how to maintain their professional reputation working in owner-dependent media

In recent years, the influence of the media controlled by the owners of large business and political groups or local politicians in the regions has been increasing in Ukraine. However, the relationship between investors, top management and journalists usually remains unregulated, and content often becomes a tool for manipulation, disinformation or propaganda.

This recommendation is in no way urging or incentivizing journalists to work with "dependent" media, or justifying timeserving and tolerance for paid news, or unlawful influence of media owners on editorial policy.

Instead, it reflects an awareness of the reality, in which the Ukrainian media currently operate, and is designed to help those seeking to stay in the journalistic profession, even while working under difficult conditions in the "dependent" media.

Ukrainian television is considered the most popular source of information by 75% of respondents, polled as part of a study[1] by the llko Kucheriv Democratic Initiatives Foundation and Razumkov Center's sociological service at the request of Detector Media, an NGO, conducted in August 2020.

Ukrainian viewers often favor national TV channels that are part of the media groups owned by large business corporations and whose beneficiaries are representatives of oligarchic groups.

According to the study, 26.9% of respondents get their news online, 8.8% of respondents watch local TV, and 5.9% read local websites. The media dependent on their owners are among the popular media.

As practice shows, the quality of content in the Ukrainian media often depends on the wishes and interest or, conversely, a lack of interest in a particular topic on the part of media investors. Thus, according to the monitoring[2] of privatized regional print media conducted by the Pylyp Orlyk Institute for Democracy with the support of Internews implementing the Media Program in Ukraine, as at the beginning of 2020, most newspapers continued to actively promote the interests of their owners - local politicians or businessmen. "Readers of the reshaped media for the most part get distorted news about the events in their towns and villages, and the journalists show

"dutiful" loyalty to local authorities in selecting topics, facts, the ways to present information, language and visualization," the study authors note.

At the same time, a <u>study</u>[3] by the polling company InMind, conducted at the request of Internews Ukraine in October 2019, shows that only 11% of respondents are able to tell the real news from disinformation, with 68% being able to recognize paid news. Under such "dependent" conditions, the journalists preparing content for the media have increased responsibility. It becomes extremely important to defend their professional reputations and professional values, being a source of truthful information for their audience. However, this is difficult and not always possible when journalists start working in newsrooms, facing dependence on investors' interests, and, sometimes, severe internal editorial pressure. We therefore offer guidelines for media professionals on how to keep up their professional reputation, working in the owner-dependent media.

## State your position

If working in a dependent media is not a mistake or a coincidence, but a harsh reality of this segment of the media market, or a necessity caused by circumstances, you should first have a clear picture of how long your career here will be. If your plans do not include quitting immediately, and you have a desire to keep up your reputation and profession, you should immediately and squarely communicate it to the employer.

It is often the case that, despite supporting the policy of dependence on the media's owner, the manager running the media needs to increase this media's audience (because his/her standing or reward depends on it). To achieve this goal, high-quality professional materials written by motivated and professional journalists are needed.

Therefore, a timely and correct attitude regarding your being ready to do in this position "that and only that as part of professional duties" can help a productive collaboration, saving many annoying situations and troubles in the future. If we are talking about the relationship between a media owner and a manage agreeing to run the media, it is advisable to discuss in detail the terms of cooperation, including putting them in writing.

This will help create clear rules of cooperation and enable you to make substantive claims, should that agreement be breached in the future.

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Even at the beginning of your work in a newsroom, you're not being ready to go to paid-for filmings should be communicated to the management. You should demand that they warn you that a scheduled filming was paid for. The worst thing is to come to the filming location and accidentally find out that it is a paid arrangement, the purpose of which is not known to you and on which you are not going to work. It is an unfair attitude on the part of the newsroom toward the journalist. You have the right to express your disagreement. If the situation repeats itself, you will know that that is the newsroom's style of work. And you can decide whether to stay on it.

## Decline the "special-request" tasks

If an employer is not interested in creating a professional media, instead being set up to fulfill only the media owner's whims, journalists should correctly state their position, disagreeing to perform editorial tasks that do not meet professional standards or have all the hallmarks of paid news.

This right is enshrined in the <u>Code of Ethics of Ukrainian Journalists</u>[4]. According to Article 16 of the Code, "journalists cannot be officially forced to write or do something that is contrary to their own beliefs and principles. A journalist should resist any outside interference in content, whether a direct pressure or actions having indirect signs of such interference."

Media managers may use the Code as a lever of influence over the media owner, if, for example, they initiate the signing of (i.e. recognizing and committing to comply with) the Code by the newsroom staff. The team members can come up with this initiative themselves, to have leverage over the media managers or media owners.

If the media does not recognize the Code or follow its provisions, forcing journalists / media managers to create / publish non-professional or paid-for material (sometimes, under threat of dismissal), it makes sense to use ingenuity.

Journalists from various Ukrainian media, forced to go to paid-for filmings, say that when they had no option to refuse, they completed the editorial assignment but gave the editor their professional materials containing different points of view. This way, the journalists avoided providing grounds for their dismissal (because they did complete the editorial task). However, the editors had to spend a lot of their own time editing the material to get the "correct" version. After one or two such cases, professional journalists said, they were no longer sent to paid-for filmings, and such

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tasks were given to those ready to perform them.

Also remember that your field of activity is journalism. This implies compliance with the standards of information broadcasting. You do not work for the media's investor / owner / manager but for the viewer, for the audience. Therefore, its interests should be a priority for you. If a head or a media manager demands that you disregard the ethics and standards of the profession, such as "I'm paying you", "these are the duties of a journalist in our newsroom", you can point out that, in this case, it is the position of "content manager" and you were not hired for it. Your professional duties imply adherence to ethical norms and standards, whether the media manager wants it or not.

## Create an alternative platform for your audience

If a subject cannot be covered in a media's professional material but is relevant to a wide audience, it may be appropriate for a professional journalist to cover it on an alternative platform. This can be their own page on social networks or other platforms, freely available to the audience. You can publish anything missing in the materials of the owner-dependent media. The journalist thus becomes a source of reliable information separate from the media and starting up their own personal brand.

If the employment contract provides for restrictions for journalists relating to social networks, it would be advisable to distribute your journalistic material via alternative sources, such as friendly media, colleagues from other media, etc.

# Look for like-minded people, create trade union associations and defend the right to a profession

Much depends on the situation within the media's team. As a rule, even in the media with the most stringent editorial policy there are people who are not satisfied with those rules. They can be relied upon to defend the right to a profession by coordinating efforts, developing tactics, collectively resolving issues with media managers. This ultimately reduces the prospects of a sudden dismissal. Because it is more difficult to at once replace several work units than one. Qualified media professionals have long been in short supply, and it is especially noticeable in the regions.

Like-minded journalists and media managers should also be sought out in media organizations, as they are designed to protect the professional rights of media people and, as practice shows, they really influence many issues in the media industry. Since the media function of self-regulation and improving quality is the main function of such organizations.

If it is necessary to keep the job despite internal and external pressure on the newsroom, it is necessary to follow the rules of internal labor regulations, avoiding providing grounds to dismiss you at the first opportunity. As a rule, they try to dismiss "uncomfortable" people in the first place using formal grounds, such as getting sick without informing the manager, failing to fulfill a task, etc. It is important to provide no such formal grounds.

## Keep evidence of violations of your rights

If it is not possible to resolve differences of opinion on professional standards with the media manager, and pressure within the newsroom or external influence on the part of the owner becomes systematic, care should be taken to preserve evidence of the unlawful influence or pressure. It may never be used, but it can be very useful to protect the rights of a professional journalist in the future. If you keep receiving tasks to create paid news content or materials "from a certain angle", it makes sense to ask to put them in writing, e.g. e-mails. Those written instructions can be important pieces of evidence, should the journalist decide on reporting pressure.

## Be honest with yourself

Most importantly, it is crucial that professional journalists be honest with themselves, working in an owner-dependent media. Of course, the arguments like "we should provide for the family", "where else to work in a small town?", "although this media belongs to an oligarch, it offers good salaries and a social package" are important. However, it should not be explained to those aware of the media's real impact on the social, political, and defense processes in Ukraine how the struggle between the refrigerator and freedom ends. And where those end up, whose interests are served by the most distinguished media mouthpieces.

You can state your position or produce balanced materials not only when making the respective statement during recruitment. It is never too late to do this in the process

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of work, appealing to the standards of modern journalism. Even if it comes as a surprise to the media's management. We are all human, we improve, acquire new knowledge, our imagination and ability to distinguish between good and evil gets better, so there is nothing strange about it. And even if you were introduced to the limitations related to the so-called editorial policy during recruitment, do not hesitate to adjust your attitude toward it. If it surprises the administration, you can always say that the process, in your opinion, has crossed the "red line", and it is in the interests of the media and management to adjust their policies.

But it is also necessary, especially for young journalists, to be clearly aware that staying long in a toxic newsroom leads to the so-called Stockholm syndrome within the team. When most employees begin to subconsciously justify the owner's policy -"it's necessary now", "otherwise we won't survive", "why are they the first to throw sand in our eyes?". Besides, in a biased media, even if you have managed to regain a bit of relatively adequate airtime, manipulation is still backed up by editorial policies, etc.

## Be honest with your audience and ready for change

If you still fail to reach an agreement with the employer or investor, you should inform the newsroom staff about it. They have the right to know this in order to form their own vision of the situation.

Media managers willing to create a professional media should explain the existing rules to the team, providing everyone with a right to choose. You should also be honest with your audience, explaining how the media they trust actually works, what values and views are promoted by the newsroom. This truth could be a turning point that can eventually change the situation. At the same time, transparent editorial policy per se contributes to the audience's more conscious choice. **There are many examples in the history of Ukrainian media, when journalists having the courage to report pressure, dependence or censorship, eventually created professional and popular media, becoming a role model for the media market.** 

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Crime receives lots of attention in the Ukrainian media. However, such materials are not always prepared with due regard to rights of suspects, crime victims or even journalists themselves.

Crime is a sensitive subject and covering it calls for special attention. Information disseminated in the media can easily cause fear, anxiety, bias, or violate a person's privacy.

In view of this, the Independent Media Council **recommends** that the media and journalists follow a number of recommendations.

**1.** The rules for covering crimes should be discussed within the newsroom. Journalists should not be left alone with their problems, especially if they lack experience or some specific knowledge. It is desirable to write down the most typical rules and basic terms in internal editorial documents (editorial policies, guidelines, etc.).

**2.** It is necessary to strike a balance between an audience's need to be informed and an obligation to not spark panic or turn a news feed into a criminal chronicle. This applies both to selecting the subjects to be covered and coverage methods. We recommend that newsrooms produce no more than 5-10% of crime news out of all the news put out by the media (except for when covering emergencies and in the case of media specializing in crime reporting).

**3.** It is unacceptable for journalists to use emotional language in the news, especially when covering crime. This approach may both undermine the critical audience's trust toward a particular media, and scare away other viewers/readers from your media who are vulnerable or simply not willing to see a significant amount of striking negativity in the news. One should avoid excessive hyperbole, which may distort the content of information and create a false impression for the reader. Two cars burned down during the night in different parts of the city should not result in headlines like "cars were burning all over the city." The media cannot be accused of raising fear and anxiety, if the journalists stick to the facts, reporting them accurately.

**4.** Materials about a specific crime case should contain as many details as necessary to understand the context. If it is commonly known that robberies occur in a particular area on a regular basis, it is worth being mentioned in the material. Such

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information will forewarn those living in the area, without disturbing the residents of other areas.

**5.** When providing facts, it is necessary to take into consideration the rights of the persons referred to in the material. Information about a natural person found in a situation of an alleged crime may be disseminated with their consent or out of social necessity, when the public's right to know this information outweighs the potential harm from its dissemination (Article 296 of the Civil Code, Article 29 of the Law On Information, 2011 version).

If journalistic information does not contain data allowing for identification of a specific individual, that individual's rights will not be violated. However, it should be borne in mind that a person can be identified not only by name, but also by photo, address or other, more specific characteristics that may disclose a person's identity to a certain circle of those knowing them (including neighbors in an apartment building, colleagues at work to whom they would not be willing to disclose their confidential information). This usually has to do with disclosing several facts about a person at the same time, even without providing a name or a photo – place of residence / work, age, medical information, etc. Also, the degree of privacy may vary. For instance, neighbors may know that some person has been a crime victim, but that is no reason to disclose their identity in the media without their consent. After all, the media have a much wider audience than the number of neighbors.

**6.** Particular care should be taken when providing information about possible victims of an alleged crime. On the one hand, it is unacceptable to disclose a victim's identity, unless he/she so desires or is aware of the consequences of such disclosure. We would like to remind that despite the desire to reveal one's identity in the press, a person may not understand all the consequences of this action due to stress or mere ignorance.

On the other hand, it is necessary to prevent the provision of information stigmatizing the victims, partly shifting the blame for the crime onto them. The so-called victim blaming occurs when a victim (victims) of a crime, accident or any kind of violence is held fully or partly accountable for the violation or misfortune that occurred to them. Usually, victim blaming takes the form of racist, sexist and classist statements. It is desirable to provide the victims' detailed characteristics in analytical materials, i.e. without reference to a specific crime event, accompanied by comments from qualified and independent experts to avoid the aforementioned victim blaming.

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**7.** Relatives and friends should not find out about a person's death from the news in the media. Before disclosing the name of the deceased, journalists should check with law enforcement agencies or other relevant services on whether their relatives have already been informed.

8. Besides the fact that disclosing the names of those involved in criminal proceedings is unacceptable, it is worth noting the following. The alleged perpetrator's racial, national, religious affiliation, etc. should be indicated only if they are wanted by law enforcement agencies and if such characteristics are identifying, i.e. helping identify the person in question. Otherwise, such mentions will help reinforce common stereotypes and discrimination against protected groups. Family or official ties, participation in public organizations should not be mentioned, unless clearly related to the crime.

**9.** Journalistic materials simply republishing information from law enforcement agencies are biased. Apparently, it is not always possible to find witnesses, victims, and even more so, get comments from a detainee / suspect, although police reports are usually quite impersonal. However, one should search for and try to provide other sources in addition to law enforcement agencies. This follows from journalists' obligation to give their audience as much complete information as possible. Independent experts, such as forensic specialists, psychologists, experts in the field in which the crime occurred, etc. should be asked to comment. In the event that alternative sources are hard to find or reluctant to provide information, this should be clearly stated in the material. Susan Chira, editor in chief of the Marshall Project, a digital news site that focuses on the criminal justice system, told[1] The Washington Post: "The basic [journalistic] principle should be, treat the police like any other source, with the same degree of skepticism as you treat any other source."

**10.** Journalists may encounter cases where they are asked or demanded to distort or not disclose certain information in the material. Distortion is unacceptable even at the request of law enforcement agencies: clearly their task is to solve the crime, but the media in such a situation may lose the audience's trust, i.e. in this case, the interests of law enforcement and journalists do not coincide.

Law enforcement's request to not publish certain information supposed to help solve a crime, should be considered by the newsroom, taking into account all the important aspects and potential consequences of such a step. Agreeing to the law enforcement's proposal, they should be informed that it applies only to particular aspects of the specific events. The newsroom itself should control content presented to the audience.

Law enforcement agencies can also request that newsroom not disclose certain information that is the secrecy of the investigation as provided for by Article 222 of the Criminal Procedure Code, including criminal liability for disclosing information related to pre-trial investigation. Therefore, journalists / editors have no choice in such cases. However, the newsroom should clarify first whether it is an unofficial request by law enforcement or an official request under Article 222 of the Criminal Procedure Code.

**11.** We must remember that the core function of journalism is to provide its audience with the most complete information, and not to find perpetrators or prove their guilt (that is the function of law enforcement agencies). The media should provide assistance in solving crimes with no obvious harm to journalism's core public function. Journalists often view their work as correcting what they see as social flaws, putting aside their obligation to inform the audience fully and in a balanced way, instead promoting a particular point of view. On account of this, journalists should refrain from promoting any subjective view of the event that they consider correct and worth defending (in particular, with regard to a person's guilt (innocence), even if it has been emphasized that it is a subjective point of view).

**12.** If the police named a detainee / suspect / accused, providing their point of view is also required by the professional standard of balance and the principle of guaranteeing the impartiality of the trial. If a detainee or suspect (their lawyer) decline to comment, this should be specified in the material. For example, in the case of Flux and Samson v. Moldova[2] ECHR stressed that informing the reader about the views of all parties is an expression of good faith and acting in consonance with principles of responsible journalism. Journalists can, on their own initiative, disclose a person who is likely to have committed a criminal offense (indicating his/her procedural status in criminal proceedings) only if this constitutes a matter of overriding public interest, e.g. it is a public figure – a politician, famous actor, athlete, etc.

**13.** The personality of a detainee / suspect / accused should be properly separated from their family. The former's consent to appear in a media material does not imply automatic approval on the part of their family. Consent should be obtained from each individual member, and it should be borne in mind that the degree of awareness and understanding of the consequences of media appearance may vary with different family members – not all of them may be fully aware of this decision without proper explanation.

It should also be borne in mind that due to ill-thought-out coverage of events in the media, the family of a detainee / suspect / accused may face undeserved public

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condemnation or even harassment. This may have particularly severe consequences for the healthy development of minors.

**14.** It would be a breach of ethical requirements to offer material rewards to those involved in criminal proceedings in exchange for their account of the events, as low-income individuals may be tempted by such offers despite their desire to keep the information confidential.

**15.** One should be particularly cautious about providing information, when children (both victims and perpetrators) are involved in a wrongful act. With permission from parents or persons acting on their behalf to disclose the identity of a perpetrator aged 14-18, the newsroom should assess whether disclosing information about them is not contrary to their interests. Because parents, too, can harm the interests of their own children by giving their consent being in a state of shock, neglecting their responsibilities toward their children or ignoring the specific nature of the information environment or certain aspects of the minors' personal life.

If a rape case or a similar crime against a minor is covered, the child's name cannot be disclosed under any circumstances. The same applies to a minor's name (under 14 y.o.) who is in any way linked to a wrongful act (as perpetrator, victim, or witness).

**16.** The impartiality of justice is ensured not only by the composition and quality of the court, or compliance with legal requirements for trial. In some cases, the court may find itself under pressure from public opinion on the defendants' quilt or innocence, formed based on a one-sided presentation in the media of information about an alleged crime. On the one hand, it is important to realize that "courts cannot operate in a vacuum", and, therefore, an ongoing trial should not be an absolute obstacle to discussing a criminal case in the media and especially in specialized publications. Specifically, in Sunday Times v. the United Kingdom[3], the ECtHR noted that the need to disseminate information about criminal proceedings is based not only on the media's desire to impart such information, the public also has a right to receive information. On the other hand, as the ECtHR points out in its later practice, the need to cover criminal proceedings should in no way open up opportunities for journalists to usurp the role of the court. Specifically, the media reporting on the opening of criminal proceedings has no right to declare suspects guilty, passing a verdict on a person instead of judges. For instance, in Worm v. Austria[4], the Court ruled that "the public's becoming accustomed to the regular spectacle of pseudo-trials in the news media might in the long run have nefarious consequences for the acceptance of the courts as the proper forum for the determination of a person's guilt or innocence on a criminal charge". It is also worth remembering that such actions may damage the

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media's reputation, giving the impression of its incompetence in matters addressed in disseminated materials.

To prevent this, journalists have to provide balanced and accurate information about investigations and trials. It may not be easy to communicate with a detainee, but almost all of them have a lawyer who is easier to contact (compared to a person in confinement or prison). It can also be considered that the newsrooms' / journalists' right to express their own opinion in an analytical material about an alleged crime in this case is narrower and it should not interfere with a fair trial. For the same reasons, a person cannot be called a "robber", "murderer", "rapist", etc. without a court ruling.

Under no circumstances should journalists violate the presumption of innocence, i.e. declare a person guilty in one way or another of a wrongdoing prior to a court ruling about that person's guilt. This rule strictly applies to crimes investigated by law enforcement agencies or when the case has already been referred to court.

It applies even if a person has already been declared guilty by certain officials, e.g. the Minister of Internal Affairs, Prosecutor, President and others. Until the court passes a verdict, it will be a violation of the presumption of innocence and of the Constitution of Ukraine. Those officials' words may be quoted, noting the absence of a court verdict and outlining the position of the person whose actions will be assessed by the court (or their lawyer).

**17.** It is also necessary to correctly use the legal terms describing a person's status. According to Articles 42-43 of the Criminal Procedure Code:

Suspect shall be the person who has been notified of suspicion as prescribed under the CPC, or the person who has been apprehended on suspicion of having committed a criminal offence or the person in whose regard a notice of suspicion has been compiled but it has not been delivered because of failure to establish the whereabouts of the person, provided all means have been used as specified by this Code to deliver a notice of suspicion.

Accused (defendant) shall be the person an indictment in whose respect has been referred to court.

In criminal proceedings, an acquitted individual shall be the defendant in whose respect the judgment of acquittal has taken legal effect.

In criminal proceedings, an convicted individual shall be the defendant in

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whose respect the judgment of conviction has taken legal effect.

**18.** To limit the likelihood of inaccuracies, try to get information from as many sources as possible. When collecting information about an alleged crime, journalists naturally find that the sources of information are biased. In addition, many people may have been in great emotional distress at the time of the event, which prevented them from remembering certain aspects of it or looking at it from a distance. If accounts coming from different sources or the parties to criminal proceedings contradict each other, two (or more) available versions of a particular aspect of the event should be presented, indicating who sticks to which version. This rule <u>corresponds</u>[5] to the concept of "duties and responsibilities" of journalists which involves verifying factual statements by conducting a reasonable amount of research, and, therefore, processing all possible sources of information to come up with a balanced news report.

**19.** High-quality coverage of crime cases requires that journalists possess a certain professional knowledge of the theory and practice of criminal procedure and of the work of law enforcement agencies. This does not mean that journalists should have a basic legal education, but that more experienced colleagues should help the news-room beginners, given the seriousness of criminal subjects.

**20.** The media can report information provided by members of the criminal world, on condition that it is rigorously fact-checked, with appropriate skepticism and further processing. The media should not present information in such a way as to approve of or even glorify a life in crime, etc.

**21.** We would like to remind journalists (and especially newsrooms) that safety issues should be taken into consideration when working on crime news topics. It is advisable for newsrooms to refrain from assigning tasks to journalists in this area if they is unable to provide them with proper protection, not endangering their health or even life.

#### SOURCES:

[1] The Washington post: Journalists are reexamining their reliance on a longtime source: The police», Paul Farhi and Elahe Izadi

- [2] ECtHR's decision in Fluxand Samson v. Moldova
- [3] ECtHR's decision in Sunday Times v. the United Kingdom
- [4] ECtHR's decision in Worm v. Austria
- [5] ECtHR's decision in DOROTA KANIA V. POLAND (NO. 2)



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