User Generated Diversity
Some Reflections on How to Improve the Quality of Amateur Productions (*) (**)

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Abstract: The potential of user created content to make a meaningful contribution to media diversity is subject to debates. Central to these debates is the argument of the quality of amateur productions. This article will take a close look at this argument, and make some suggestions on how to improve the quality and utility of amateur productions with regard to the democratic functions of media.

Key words: user created content, diversity, quality, strategies.

Cultural diversity is "an essential condition of human society" (Council of Europe, 2000). A well-balanced diet of contributions from different sources that reflect different viewpoints, ideas and ideals is widely perceived as the matrix for cultural exchange, democratic participation and personal development. The notion of diversity is linked to our perceptions of how citizens should function in a democratic society and media play an important role in offering access to a diverse information offer (SUNSTEIN, 2007).

Another essential human condition is the need for self expression, acknowledgement and communication – major drivers behind the User Created Content (UCC) phenomenon (OECD, 2007a; OFCOM, 2008).

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Against this background, web 2.0 and the increasing popularity and proliferation of user generated content of all kinds is seen by many with great excitement, curiosity and hope. If digital technologies and the internet substantially lower the threshold for individuals to participate in media production, to contribute their own views and ideas and to enter into a virtual dialogue with others, powerful human and societal forces are set to work to shape our information landscape. The outcome could be media that truly reflect all the different cultures and ideas that live in our society. Or as Professor Benkler puts it:

> "The emergence of a networked public sphere […] provides an avenue for substantially more diverse and politically mobilized communication than was feasible in a commercial mass media with a small number of speakers and a vast number of passive recipients" (BENKLER, 2006 and 1999).

Although only a fraction of web 2.0 users is actually contributing (the 90-9-1 rule is still valid; LE BORGNE-BACHSCHMIDT *et al*, 2009; SLOT, 2009), the absolute number of contributors and thereby the diversity in contents and viewpoints has already increased dramatically. It is estimated that in 2009 the number of active internet users, those involved in activities such as uploading video and writing blogs, was approximately 625 million (Universal McCann, 2009). According to Eurostat data in 2009 approximately 31% of Internet users in EU27 engaged in some form of UCC. Considering that Internet penetration worldwide is only 25% [1] and broadband penetration in the EU is only 24% [2], considerable growth can still be expected.

Not all commentators are equally optimistic about the amateur user and his positive impact upon media diversity (see for instance KEEN, 2007). Some of the most serious concerns relate to the issue of quality. On the one hand, commentators indicate that flooding the market with large amounts of cheaply produced and freely available amateur content could negatively affect the viability of comparable high quality, professional content (BAKER, 2007; SUNSTEIN, 2007; CARR, 2005). On the other hand and maybe even more important, the abundance of content and the difficulty of finding and identifying quality content can result in an even higher concentration of the audience on a few 'quality media' outlets. Baker has called this the "Hollywood effect" (BAKER, 2007). In web 2.0 it is not content but attention

1 http://www.internetworldstats.com/stats.htm

2 European Commission, 2009a.

that is scarce. Users – lost in plenty – will flock around a few sources they can trust, either because they are affiliated with well-known established media, or because they are popular among large numbers of fellow users.

The goal of this article is it to reflect on the strategies that might help to improve the quality and findability of UCC, thereby increasing the contribution of UCC to a truly diverse media landscape. After some notes about the notion of quality in the following section , two questions will be discussed in particular: 'How to raise the quality of amateur content?' and 'How can users contribute to assessing quality content when they encounter it?'. This article does not have the ambition to develop fully fledged answers to either of these questions. Instead, its aim is to explore the field, analyze emerging trends and suggest some important issues for further research.

■ Some notes about the notion of "quality"

At this point, a note of clarification might be at place. There is no commonly agreed-on definition of what "quality media content" is. Much of the development of UCC takes place in the entertainment domain, and the discussion about the quality of UCC is often centred around its economic value. In other words, "quality UCC" is often considered UCC that creates commercial opportunities [3]. Having said this, focusing only on this aspect of UCC underestimates the democratic value that UCC can add to our media landscape. There are numerous platforms and communities in which users create content that can have significant social or informative value: the popularity of citizen journalism is on the rise, and for many, the reading of blogs has become part of the daily information gathering routine. Blogging and social networking can also be an important element in the formation of cultural identity (ETLING & KELLY *et al*., 2009), and the effect and potential of social networks on political discourse is just beginning to be understood (JOYCE, 2007; KUSHIN & KITCHENER, 2009; HICKEY, 2008).

Also, the parameters to measure quality in media content will differ between different categories of content. Personal holiday accounts and baby pictures do not need to be particularly well written or technically brilliant; they thrive on personal value and the feeling of connectedness. As opposed to for example, medical information, where accuracy and expertise are

[3] European Commission, 2009a.

indispensable, while news will be rather measured in terms of balance, truthfulness and timeliness.

To complicate matters even more, notions of quality in general and journalistic quality in particular are subject to change and debate, largely as a result of the emancipation of media users. In relation to news and information for instance, dialogue, personal involvement and authenticity have gained importance in addition to or sometimes even in place of traditional journalistic values such as neutrality, expert knowledge and truthfulness. This more general development is amplified by UCC and online civil journalism platforms. Nevertheless, recognizing and debating quality are still vital mechanisms in determining the value and usefulness of content, even though definitions of quality are shifting and vary for different types of content (COSTERA-MEIJER, 2009, GILLMOR, 2004). We will discuss some of these mechanisms later.

The diversity principle with regard to the democratic functions of media is about bringing people in touch with many different viewpoints and ideas. Hence, in this very particular sense, personal diaries, videos of last Friday's party on YouTube or family pictures on Flickr are less relevant than blogs that report or discuss current affairs, business news or cultural production. They might contribute to the preconditions of democratic participation because they stimulate people's creativeness, help them to connect or raise their web 2.0 skills, but they have no direct impact on the public debate. In contrast, there are categories of UCC whose very goal is to engage in a discussion about the world around us, and content that is meant to reach out and post certain issues or ideas in the public forum. Examples of the latter are citizen journalism on OhMyNews, [4] Agora Vox [5] or Daily Kos, [6] amateur broadcasting on Pandora.tv, [7] virtual gigs on MySpace, [8] audiobooks from LibriVox, [9] encyclopedic knowledge on Wikipedia, [10] book recommendations on LibraryThing, [11] or political and expert commentary on BoingBoing, [12]

4 http://english.ohmynews.com/
5 http://www.agoravox.com/
6 http://www.dailykos.com/
7 http://www.pandora.tv/info/
8 www.myspace.com
9 http://librivox.org/
10 www.wikipedia.org
11 http://www.librarything.com/
12 http://boingboing.net/

Balkinization [13] and the Volokh Conspiracy. [14] These latter examples seek in one way or another to reach beyond the personal sphere and to contribute to a public debate. It is these examples that we will focus on in the remainder of this article.

■ Factors that influence the quality of UCC

The quality of UCC is the result of an interplay of many different factors and players, some of which we will describe in the following section: the environment in which UCC is created and distributed (e.g. professional news media or general purpose platforms), the quality standards and degree of moderation applied, the tools and technology that is available to users, but also the type of content and the applicable legal framework. Due to the restricted scope of this publication, the description is anecdotic rather than comprehensive. We will also demonstrate that it is not possible to speak about "the quality of UCC", but that the assessment of UCC quality is dependent upon the type of content, the intended use and audience, the community in question and the different standards used.

Self expression, social interaction and public debate

Much of UCC is driven by the need for self expression and social interaction (OECD 2007a). UCC platforms that cater to this need include social networks and more general platforms such as YouTube. The purpose of these platforms is often not so much to exercise extensive quality control. Instead, they focus on facilitating communication and personalisation.

For other amateurs, the UCC phenomenon is an opportunity to reach beyond their personal sphere, and to post news, commentary, ideas or reflections in the public forum. When asked why they blog, almost 80% of bloggers indicated that they wish to speak their mind on areas of interest and 73% say that they want to share their expertise and experience (as opposed to 32% who blog for purely personal reasons, namely to keep friends and family updated about their life). Similar motives probably keep

13 http://balkin.blogspot.com/

14 http://volokh.com/

the more than 3400 French citizen journalists writing, who together upload more than 1000 news stories per day on the French citizen journalism site Agora Vox (LE BORGNE-BACHSCHMIDT *et al.*, 2009).

Integration of UCC into traditional media platforms is one way to not only monitor the quality of UCC (see section 3.2), but also to stimulate amateur users to produce quality content (LEURDIJK, 2008). Newspapers such as the *Guardian* (e.g. 'Investigate your MP's expenses' [15] and 'Comment is Free' [16]) and *Le Monde* (LePost.fr [17]), as well as large media companies such as CNN (iReport [18]) and the BBC (e.g. the UGC hub [19] and 'Backstage' [20]) incorporate citizen participation in the production of news.

Traditional media that integrate UCC in their regular activities have a vested interest to guarantee a certain quality standard (in technical terms as well as in professional, artistic and creative terms), firstly because they have to keep up a reputation of providing high quality content, but also because they take into account possible pressure from advertisers as well as from legislators. This can be an incentive for traditional media companies to not only provide users with easy-to-use and cheap tools, but also to guide and educate users on how to make UCC that is of sufficient technical, artistic and professional quality to be broadcast or published. For example, the BBC has a dedicated UCC hub [21], a team of 23 journalists (up from three in 2005) in the BBC's integrated newsroom, which liaises with editors and journalists about what kind of UCC is needed, collect UCC from users and connect user content creators with journalists as required, and process audience material. [22] The team of journalists go through comments and submissions for news content and for eyewitnesses to pass on to radio and TV as

15 http://mps-expenses.guardian.co.uk/

16 http://www.guardian.co.uk/commentisfree

17 forum4editors.com (2009). "ePost.fr: How amateurs produce valuable journalism", interview with Benoît Raphaël, the Editor in Chief of LePost.fr, a subsidiary of *Le Monde*. http://forum4editors.com/2009/10/lepostfr-how-amateurs-produce-valuable-journalism/

18 http://www.ireport.com/

19 http://www.bbc.co.uk/blogs/theeditors/2008/10/reaching_out.html; http://reportr.net/2009/09/09/how-the-bbc-views-ugc-as-newsgathering/

20 http://backstage.bbc.co.uk/

21 http://www.bbc.co.uk/blogs/theeditors/2008/10/reaching_out.html; http://reportr.net/2009/09/09/how-the-bbc-views-ugc-as-newsgathering/

22 Reportr.net (2009). How the BBC views UGC as newsgathering. http://reportr.net/2009/09/09/how-the-bbc-views-ugc-as-newsgathering/

potential interviewees. Sources for content include the 'have your say' [23] and 'Your news, your pictures' [24] websites. A greater degree of participation occurs at the BBC iPm [25] show that provides a blog where people can discuss ideas with the production team, and view and comment on stories that are being lined up for the programme.

UCC platforms unrelated to the traditional media organisations, too, are experimenting with ways to raise the quality, as well as to integrate amateur productions into news media services. Also here, guiding and educating amateurs is increasingly a concern of more specialised citizen media platforms. For example, citizen journalism platform OhMyNews [26] opened an (offline) "citizen journalism school" to serve as a collaborative knowledge centre for classes in journalism, digital cameras and photojournalism. For the same reason, the AgoraVox team has published a journalism citizen guide to help people who launch into writing news stories to learn about ethics, methods of writing, information gathering and pertinent and efficient writing.

Talent development

Some amateurs perceive the UCC phenomenon as an opportunity and stepping stone for more professional activities. [27] This is the target group of a growing number of specialised talent scouting platforms on the internet. These platforms are targeted at amateur photographers (e.g. the photobook publishing platform blurb [28]), writers (e.g. Le manuscript [29] or Lulu [30]), bands (such as SellaBand [31] and MTV Flux [32]) or video makers (like

23 http://news.bbc.co.uk/2/hi/talking_point/default.stm

24 http://news.bbc.co.uk/2/hi/talking_point/2780295.stm

25 http://www.bbc.co.uk/blogs/ipm/

26 OhMyNews is an online newspaper website with the majority of reporters being users (not professional journalists.

27 In 2009 an independent film maker from Uruguay made a short video “Ataque de Pánico!” which got a lot of media coverage and led to a Hollywood movie contract. Another example is Dutch singer Esmee Denters, who got discovered via Youtube and was awarded a record deal in the US.

28 http://www.blurb.com/

29 http://www.manuscrit.com/chartEnglish.aspx

30 http://www.lulu.com/

31 http://www.sellaband.com/

32 http://www.mtv.co.uk/community

Zizone [33], FameTV [34] or FourDocs [35]). Many of these talent scouting sites are operated by professional publishers, broadcasters and telecommunication service providers in search for new talent.

Talent scouting services encourage and support amateur producers in various ways to produce quality content. Many provide the tools to create video, ebooks or music. Many educate users how to use tools, but also more generally how to make high quality productions. Most talent scouting services provide social incentives by creating active communities, organising contests and awards but also through establishing peer review and rating mechanisms. Talent scouting services also offer their amateur creators exposure and access to (professional) distribution channels, allowing users to print and sell their own books, raising money to record their own CD or broadcasting UCC on TV. Others implement specific programmes targeting talented creators so as to favour the development of quality content. One example is DailyMotion's MotionMaker program. The goal of the MotionMaker program is to "feature the most creative content, and to encourage tomorrow's talent". [36] According to DailyMotion, the Motion Maker programme registered 13,000 creators in November 2008, i.e. 1% of its total base of registered members. Youtube has developed the 'creators corner'– a "creative hub for aspiring videographers with big dreams and small budgets". [37] The creators corner is an initiative designed for connecting creators, stimulating collaboration, setting up an environment for constructive critique and reflecting on each other's work.

Another measure that various talent scouting platforms experiment with are revenue sharing models. Many amateurs are not motivated primarily by commercial considerations. Having said this, particularly those that have more serious and professional aspirations, can benefit from some form of revenue sharing. Two main models co-exist: the generation of direct revenues, or a commission system. OhMyNews, an advertisement financed service, for example, awards reporters each month three prizes based on the quality, timeliness and overall excellence of the reporting. The online

33 http://www.zizone.tv/?flash=true

34 http://www.fametv.com/

35 http://www.4docs.org.uk/

36 For more information visit:
http://blog.dailymotion.com/2007/01/31/the-motionmaker-program-beta/

37 http://www.youtube.com/t/creators_corner

gaming platform Kongregate [38] shares advertising revenues with amateur game programmers, and it grants monthly cash rewards for top rated games. Other services, like the online publishing platform Lulu, take a commission for amateur content sold through their platforms, and share revenues with their amateur producers.

Defining and handling quality standards

Traditional news media commonly abide to high professional standards. Depending on the type of service (audiovisual, press) (additional) legal or self-regulatory standards may apply. Regarding legal standards, some forms of content are more strictly regulated than others. For example, law in many EU countries stipulates extensive requirements regarding the diversity, journalistic quality, safety and suitability of audiovisual contents, independence from, or transparency about commercial influences and the protection of consumers. In contrast, the written press is, depending on the country in question, often less densely regulated, and in many countries subject to a self-regulatory regime (Article XIX, 1993).

When implementing UCC into their own news offers, traditional media tend to, not surprisingly, measure UCC against traditional, more or less professional standards (SCHAFFER, 2007; THURMAN, 2008; WARDLE & WILLIAMS, 2008), while for other forms of user participation different, less vigorous, quality standards can be applied e.g. in form of 'house rules' or community guidelines.

In addition, an increasing body of UCC-specific quality guidelines develops for different types and aspects of UCC. These can include platform specific guidelines, but also self-regulatory acts and guidelines of independent third parties. For example, the citizen media site OhMyNews requires all citizen reporters to abide to a strict Code of Ethics, while AgoraVox focuses on transparency of the editorial guidelines. Particularly in the blogosphere, more generally, platform independent Codes of Conduct are being elaborated, like the Blogger's Code of Ethics [39] and the Healthcare Blogger Code of Ethics. [40] An example of an independent code of conduct is the Code of Best Practices for Sustainable Filmmaking of the

38 http://www.kongregate.com/

39 http://www.cyberjournalist.net/news/000215.php

40 http://medbloggercode.com/the-code/

US Centre for Social Media [41]. Self- and co-regulatory codes tend to be industry specific and also often focus on a particular topic, like copyright, protection of minors, data protection, harmful content and ethical standards (for an overview of some of the most relevant codes for UCC, see LE BORGNE-BACHSCHMIDT *et al*. – Annexes, 2009).

When content is used in the traditional media offering, for example before putting it on TV or publishing it on a main news site, often pre-moderation will be used. Partly, this trend is also driven by the fear of legal complaints and responsibility as publisher or broadcaster (SCHAFFER, 2007; THURMAN, 2008; WARDLE & WILIAMS, 2008; LE BORGNE-BACHSCHMIDT *et al*., 2009). For other types of UCC use (bulletin boards, virtual environments, mailing lists, weblogs and newsgroups, etc.), different types of moderation can be used, e.g. depending on the distribution platform (TV, Internet), [42] the type of content or the audience. For example, the BBC instructs its producers to apply premoderation to sites that are designed to appeal to children, that discuss personal health problems, or areas which invite users to email pictures. On the contrary, the BBC recommends postmoderation for sites that attract robust debate about current affairs, and reactive moderation for less polarizing topics. [43]

Some specialised citizen journalism platforms are also increasing the requirements for their citizen reporters and moderation. For example GroundReport [44] has implemented stricter moderation processes, trading speed of reporting for accountability. According to the founder of the platform this led to a decrease in contributions of 50% per month, but an increase in traffic of 10% (COHN, 2009). OhMyNews editors read and fact-check each story, and AgoraVox has set up a strict, triple stage, pre-moderation process. Some platforms, such as AgoraVox, also experiment with amateur moderation. Any Agoravox author who has published at least four stories automatically becomes a moderator, and is asked to vote stories according to their newsworthiness, pertinence and quality.

At the other end of the spectrum are citizen journalism sites such as CNN's iReport but also more general UCC platforms such as YouTube and DailyMotion that only apply reactive moderation after the platform has been

41 http://www.centerforsocialmedia.org/resources/publications/greenfilm/

42 http://www.bbc.co.uk/guidelines/editorialguidelines/onguide/interacting/usercontentontv.shtml

43 http://www.bbc.co.uk/guidelines/editorialguidelines/onguide/interacting/reactivestandar.shtml

44 http://www.groundreport.com

informed of the presence of unlawful content or content that is in conflict with the community guidelines.

Moderation for quality, but also for copyright infringement, abusive behaviour and other malicious practices is still a low tech and therefore costly activity. Ironically, the more actively traditional and new media are engaged in selecting, editing and monitoring UCC, the more likely it is that they can be held liable for the lawfulness and quality of the information stored by their users. This is the result of the present legal situation, notably the interplay between the so-called hosting exception of the Art. 14 of the European E-Commerce Directive [45] and media and press law (for a detailed discussion, see LE BORGNE-BACHSCHMIDT *et al*., 2009). The present legal situation can act as a serious disincentive for moderation and quality control on UCC sites, calling for a more differentiated legal approach.

Tools and technologies

In general, the proliferation of UCC is dependent upon access, availability and affordability of a number of technological facilities. Broadband internet access at affordable costs is considered one of the most vital factors for UCC (OECD 2007a; OECD 2007b). Mobile broadband networks are considered to be an even greater (future) driver of UCC (PASCU, 2008), and true value can be achieved by UCC that is created while being away from home (e.g. when reporting on incidents). The combination of fixed and/or mobile broadband networks, easy-to-use and low cost online tools and applications and light weight, easy to use and often multifunctional recording devices such as digital cameras, mobile phones with camera, flip camera, has led to the enormous growth of content generated by users.

Another important factor is the availability of easy-to-use and affordable software tools. Depending on the type of content and UCC platforms concerned, many platforms already now provide users, often free of charge, with a set of tools for creation, editing and uploading, but also for cataloguing, tagging and managing UCC. These can be proprietary, third

[45] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), OJ L 178/1 (17.07.2000). Article 14 of the E-Commerce Directive touches upon a vital question for UCC providers namely the extent to which they are liable for the contributions of their users.

party or sometimes even user generated tools.[46] Sometimes, platforms reserve certain tools for more "serious" amateurs. For example, on DailyMotion, only accredited MotionMakers can upload videos on HD quality.

A supportive legal environment

Legal norms, too, can influence the quality of UCC. On the one hand, legal norms stipulate quality requirements for different types of content (see also section 3.2). On the other hand, the law can also support the activities of (amateur) producers, for example by granting media specific privileges. Two questions are relevant in this context, namely: to what extent are legal quality requirements and safeguards also applicable to individual amateurs (3.4.1), and to what extent does the law favour and support the activities of amateurs (3.4.2).

Users as producers

The first question essentially relates to the question of what the legal implications are of users turning into producers and distributors of media content. The changing role of the user cannot only unsettle established industries; it also raises some difficult legal questions. The production, distribution and consumption of media content is governed by sector specific law, including audiovisual and press law, copyright law, data protection law, e-commerce law and telecommunications law. Many of the existing rules still operate from the assumption that the roles of traditional, professional suppliers and users as amateurs can be clearly distinguished, and that the production and dissemination of content and the provision of information society services is reserved to professional suppliers (LE BORGNE-BACHSCHMIDT *et al*., 2009). If users turn into producers and publishers of media content, does this also mean that they are subject to the same rules that apply to broadcasters and information society services?

Existing legal definitions are not always clear on this point. Arguably, the law does leave some room to treat amateur users the same way as professional broadcasters or journalists, providing their activities display a certain regularity, scale and public impact (LE BORGNE-BACHSCHMIDT *et al*., 2009). As a consequence, certain amateurs would have to observe the

46 See e.g. http://www.myspacetoolbox.com/

same rules as e.g. professional broadcasters, including provisions on safeguarding and realizing a diverse media offer, advertising, protection of minors, promotion of European works, etc. Having said this, amateurs are, at present, exposed to considerable legal uncertainty under which conditions this would be actually the case, and what the concrete legal consequences are.

Even if amateur creators of UCC did, in principle, qualify as information society service providers or even broadcasters, the question still is whether it is adequate and justified to treat them in the same way as professional producers. On the one hand, it can be argued that the activities of an individual can be equally harmful, misleading or offensive as those of a professional supplier. For example, an argument could be made that the safety and sound mental development of minors deserves protection irrespective of whether a publicly available video is made by a professional or amateur [47], and that end-users should be informed about eventual sponsoring or advertising to be able to correctly assess the content in question. On the other hand, even if an individual creator can deliver content of professional quality and interest, he still remains an amateur with limited legal knowledge, void of the financial resources to hire a legal department, and not necessarily trained in understanding the full (legal and economic) consequences of his acting. This is, of course, particularly true in the case of underage amateurs.

To conclude, more discussion is needed on the question of when an individual UCC creator should be treated in the same way as a professional entity, and where the law should take a more lenient approach. Possible criteria in this discussion could be the costs of regulatory burdens, the actual and potential harm, the ability of individual users to avoid law infringements, the commercial profit users derive from amateur activities, the reach and public attention that they generate, the degree to which they compete with professional services, etc. [48]

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[47] This argument was recently made e.g. by the German Consumer Protection Authority vzbv (*Stellungnahme des Verbraucherzentrale Bundesverbandes zum Änderungsentwurf des Jugendmedienschutz-Staatsvertrages*, 7 December 2009. http://www.vzbv.de/mediapics/jugendmedienschutz_staatsvertrag_novellierung_stn_21_01_2010.pdf

[48] To the knowledge of the authors, only few national legislators have addressed the issue of amateur users that perform similar tasks as professional users. One example is Germany. Here the legislator emphasized that it is not his intention to submit e.g. individual bloggers to the strict rules that apply to audiovisual services. Accordingly, the draft law has defined threshholds: services that target less than 500 potential users at the same time, that serve personal or family purposes or lack editorial involvement are excluded from its scope, Article 1 (2)(c) of the draft

Privileges and cultural play

Cultural play [49]

In the process of cultural production, it is not uncommon to draw inspiration from, and build upon pre-existing work. From the legal point of view, however, the usage of pre-existing creations requires licensing agreements if the user intends to subsequently distribute, communicate or otherwise publish his/her creation. Only in exceptional situations, is no licensing required, namely when the content used is in the public domain (e.g. because property rights have expired) or when one of the exceptions to copyright law apply, for example to make quotations for criticism or review, or to produce a caricature, parody or pastiche of the original content.

One aspect that distinguishes amateur users from professional suppliers is that amateur users will often not have the financial resources, commercial incentives and/or experience that are necessary to trace the original author, pay the licensing fees and other transaction costs or to stand their case in negotiations with right holders or their representatives. In some cases, these obstacles can be so high that prospective users either renounce in actually reutilising the work or prefer running the risk of facing a claim for infringement (HUGENHOLTZ, EECHOUD, GOMPEL *et al*., 2006). The US academic Julie Cohen concluded that "copyright's 'permission culture' does exert a substantial constraining influence on creative practice" (COHEN, 2007; see also LESSIG, 2004). Cohen demands therefore that "copyright's goal of creating economic fixity must accommodate its mission to foster cultural play" (COHEN, 2007).

In Europe, the introduction of some new exception to cater for creative, transformative or derivative works has been discussed repeatedly at national and European level (European Commission, 2009; *Gowers Review*, 2006). So far, however, such suggestions have not yet led to concrete proposals. At present, there is too much uncertainty of how this objective could be best achieved. Apart from structural concerns regarding the existing European copyright acquis, it is yet unclear who the beneficiaries of such an exception should be, and what activities it would need to cover. Also, more research is

implementation of the concessions made towards the EC in context with the EC's state aid investigations concerning ARD and ZDF (*Arbeitsentwurf zur Umsetzung der Zusagen gegenüber der EU-Kommission im Rahmen des EU-Beihilfeverfahrens ARD/ZDF*), 12 June 2008. http://wwma.de/wwma_service_beihilfeverfahrenard_zdf_jun2008_arbeitsentwurf.pdf

49 This section is based in substantial part on L. GUIBAULT, in: LE BORGNE-BACHSCHMIDT *et al*. (2009).

necessary in order to identify if the existing exceptions and limitations under European copyright law do not already leave sufficient room for "cultural play". Finally, more clarity is needed on what the specific needs of amateur producers are, and whether easy, affordable and user-friendly methods of clearing rights aimed at amateurs would not be more effective (Institute for Information Law, 2008). The European Commission indicated that it would study the subject further and in particular look into solutions for "easier, more affordable and user-friendly rights clearance for amateur users" (European Commission, 2009).

Professional privileges and amateur users

The producers and distributors of media content (and here in particular journalists) not only face legal responsibilities, they also benefit from privileges that aim to make their task easier, support the functioning of the media and the production of quality content. Examples are rights of access to government information and privileges under data protection law or in criminal law procedures, such as the privileges in defence of defamation. The question of whether a citizen journalist qualifies for a media privilege can differ from country to country, from case to case and, of course, from privilege to privilege. For example, the German provisions that protect the right of journalists not to disclose their sources only apply to professional journalists. [50] The law of other countries might be more lenient on that question (FLANAGAN, 2005; WERKERS, LIEVENS & VALCKE, 2006; more general: ELIASON, 2006).

Arguably, to the extent that amateur users do perform similar functions as professional media producers, namely to inform or entertain the public, it is only fair and appropriate to extend those legal and professional privileges to those amateurs. Upon a close look, however, some caveats are in place. What are the consequences if each of us indeed qualifies as a journalist, together with millions of other citizen journalists? The result could place heavy burdens on third parties and public institutions. For example, many national laws have granted journalists specific rights of access to government information. However, public institutions might become simply dysfunctional if every blogger on the Internet was permitted to spam public institutions with individual information requests, what is more, where the information requested is sensitive.

50 For example, the German Art. 53 (1) No. 5 of the StPO (*Strafprozessordnung* – code of criminal procedure).

These are arguments in favour of limiting the scope of privileged parties. The difficult question, however, is where and how to draw the dividing line? Alternatives are an institutional approach (only employees of an official media company or members of a professional association qualify for privileges) or a functional approach (everyone who adheres to certain journalistic principles can be privileged) (FLANAGAN, 2005; ELIASON, 2006). Arguments in favour of a functional approach are the wish to signal a positive attitude towards citizen journalism, to avoid a general lowering of standards in journalism and to stimulate competition between professionals and amateurs (see e.g. DOMMERING, 2008). General principles along those lines could be elaborated under the premise that anyone who adheres to these principles should also qualify for privileges attached to journalism (SCHUIJT, 2008; ALEXANDER, 2002; BERGER, 2003; WURFF & SCHÖNBACH, 2010). [51] In this context, it would also need to be decided if only professional journalistic principles are accepted, or also new, citizen journalism specific principles could be considered, such as the aforementioned Blogger's Code of Ethics [52] and the Healthcare Blogger Code of Ethics [53] which seek to adapt established journalistic standards for bloggers.

■ How users can contribute to assessing the quality of UCC

Due to the huge amount of information that is available online, it becomes increasingly difficult to find useful information and manage the information overflow (PEW, 2007). GANTZ *et al*. (2007) estimate the current size of the digital universe at 281 exabytes (281 billion gigabytes) – UCC accounts for about half of that. Finding information is thus key to enable citizens to benefit from user created diversity (OECD 2007a). This huge amount of information available to users demands a new set of digital skills to find the right information and determine its use or even reliability.

In a recent Delphi study, experts found that next to the improvement of skills and media literacy, transparency enhancing measures are the main

51 See e.g. the ongoing project on O'Reilly, "Call for a Blogger's Code of Conduct". http://radar.oreilly.com/archives/2007/03/call-for-a-bloggers-code-of-co.html

52 http://www.cyberjournalist.net/news/000215.php

53 http://medbloggercode.com/the-code/

route towards improving the quality of citizen journalism (WURFF & SCHÖNBACH, 2010). In other words, the experts laid the focus on improving the ability of end-users to recognize quality citizen journalism rather than on initiatives that would improve the capabilities of amateur writers themselves. This viewpoint is characterized by a sound portion of realism, and probably holds some truth for other forms of UCC as well. The idea of the media literate viewer who demands quality and thereby separates the chaff from the wheat himself is also increasingly prominent in today's general thinking about media policy and legislation (HELBERGER, 2008). According to the – rather ambitious - European Commission's Communication on Media Literacy, viewers must henceforth not only be able to use modern forms of audiovisual and other electronic services, but must also be able to assess informational content in terms of quality and accuracy, and be able to recognize advertising as such, as well as the safety of contents or illegal activities that are harmful to minors (European Commission, 2007).

The two questions that follow logically are, of course, what information does the media literate user need to judge the quality and utility of UCC, and who should provide her with the needed information.

In this context it is useful to note that the law does require media service providers and content producers to provide users with a certain amount of transparency and consumer information to, arguably, also support the judgment of the media consumer. Examples are the obligations in law for providers of audiovisual media services to indicate name and a geographical/electronic contact address (no affiliation though). As the Audiovisual Media Service Directive explains:

> "Because of the specific nature of audiovisual media services, especially the impact of these services on the way people form their opinions, it is essential for users to know exactly who is responsible for the content of these services" (recital 43, critical as to the proper scope of the provision: HELBERGER, 2008).

Also part of audiovisual and e-commerce law is the obligation to clearly distinguish editorial from commercial content. Again, this provision is meant to allow users to judge the nature of the content in question. A somewhat different example is copyright law's requirement that authors who copy-and-paste or who cite from existing works to indicate the source, include the original author's name.

The aforementioned rules, though clearly not yet the result of a more coherent, structured effort to improve the ability of the media literate user to judge media content, are first steps and could become the basis of a more concerted media consumer information strategy. This would require, however, a more systematic analysis of what additional information consumers need to be able to recognize and search for quality UCC.

An interesting starting point for further research in this direction could be an analysis of the initiatives of UCC platforms to provide the audience with information to find and assess relevant UCC. UCC platforms are, of course, well aware that their success will depend to a substantial extent on their ability to master large amounts of UCC and give visitors tools at hand to find their way through the digital abundance. Platforms are experimenting with various ways of providing the audience with information that can help it to find and assess UCC upon its value and relevance. This can concern information about the status and experience of the author, whether they adhere to certain (acknowledged) quality standards or codes of conduct, the quality of the contribution itself, but also about the impact of these authors' work, for example by displaying the number and content of comments. For example, AgoraVox publishes for each citizen journalist a short biography and detailed statistics about the number of published articles, posted comments, received comments, acts of moderation and result, as well as an overview of all previous articles. This way, a reader can get a fair impression of the expertise, background and dedication of an author. Somewhat different is the approach of OhMyNews. OhMyNews' editorial team selects a number of so called 'featured writers" that "are highly committed […] by sending solid stories at a consistent rate". The OhMyNews team is quite open about the fact that "the selection process appears somewhat subjective", but it is this transparency that helps readers to assess contributions upon their value. In addition, readers get access to a short biography and a list of previous articles. Also DailyMotion's Motion Maker programme is a way to signal to the audience a certain level of dedication and the fact that videos with the Creative Content status have undergone a quality check by an experienced editorial team. At the other end of the spectrum is purely statistical information, e.g. how often videos on YouTube have been watched in which time frame, the number of comments it received and which median score. Though a different way to assess the qualities of a content or a content producer, these statistics still can give an impression of at least the popularity of a content, and arguably are for certain forms of UCC perfectly suitable.

Users, too, can play an important role helping other users to find and assess UCC upon its quality or utility. Examples range from rating videos with one or more stars on Youtube, over rankings according to the number of "digs" and "buries" on Digg, up to detailed comments and lay expert discussions on Le Manuscrit. Seeing content through the lense of other users can be another way to get an idea of the value and quality of UCC, and thereby increase transparency and findability. A closer study of citizen journalism platforms and talent search sites could be useful to learn more about the optimal form in which the information needs to be provided in order to be useful to the user. In an environment that is characterized by abundance rather than by scarcity, the importance of effective transparency can not be emphasized too much. Arguably, effective transparency initiatives online imply that information is comprehensive, (automated) searchable and in one way or another comparable.

■ Conclusions

Web 2.0 and the range of initiatives that stimulate amateurs to develop media content that goes beyond the personal sphere offer exciting and valuable additions to a diverse media landscape. Although not all UCC content is intended to or suitable to contribute to news and information, cultural exchange and democratic debate, there is definitely an emerging potential in a number of UCC services to provide more and more diverse angles to these domains. These come from Internet native UCC platforms such as OhMyNews, AgoraVox and Daily Kos but increasingly also from emerging forms of co-operation between amateurs and professionals in the context of established media organisations. Precondition is that amateur producers are motivated and enabled to turn video, text, games or audio content into meaningful contributions and that practices to improve the quality of this content are strengthened, for instance by the active role that new and established media take in training and informing amateurs.

Improving the quality and utility of UCC requires a stimulating and supportive technical, organisational and legal environment. To some extent, it also requires re-thinking traditional ideas about media production and consumption and about the quality of media content. Of course there is not one standard for assessing quality, as quality standards vary for different types of UCC (e.g. personal pictures or civil journalism) and for different UCC genres (e.g. news versus entertainment). However a common trend

across these different forms and genres is that the borders between media producers and consumers and between professionals and amateurs are becoming more fluid and standards to assess the quality of content are less fixed and increasingly subject to debate. This debate is no longer a debate just between media professionals. Media users increasingly have a voice in this debate. These developments have far reaching consequences, both for traditional media organisations and regulators, but also for internet native UCC services that intend to develop long term, viable services that live up to a particular set of quality standards. At present these consequences can not be completely assessed or even understood and more research is required.

Traditional media should use the availability of new sources of information and entertainment, and seek cooperation rather than competition. In developing high quality UCC services, their providers need to understand very well the various motives for amateurs to produce content and how amateur users can be aided to raise their level of knowledge and skills to a level that makes their content attractive and useful for other users as well. Governments need to recognise the enormous potential of UCC, and develop intelligent strategies to raise the level of Internet skills and media literacy, not only of teenagers but across all demographic levels of society. Having said that, the legal system is still very much focused on traditional routines of producing and distributing media content.

Legislators must realise that many of the existing laws are still written with the traditional producer-consumer scenario in mind, and that there is a need to adapt the laws' obligations and privileges to make room for amateur producers as well. More research is needed on how the law can provide a supportive legal environment without forcing traditional standards on UCC and amateurs. Most promising, given the enormous amount of UCC and the fact that much of this content is produced outside traditional media organisations and falls beyond the scope of national legislators, are the options of user-generated peer review, user-generated moderation and providing transparency concerning editorial goals, guidelines and codes of conduct. Taking the spirit of Web 2.0 seriously, one could argue that users could not only play a role as producers and distributors of digital content, but that they also could contribute to editing, moderating and organising UCC.

Probably as important as the measures to influence the quality of UCC, is enabling users to find and recognise UCC quality. Again, previously this was a task reserved for traditional media, notably public broadcasting organisations. Now it has also become a matter of user empowerment and collaborative effort.

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