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To cite this article: Ivor Shapiro & Brian MacLeod Rogers (2016): How the “Right to be Forgotten” Challenges Journalistic Principles, Digital Journalism, DOI: [10.1080/21670811.2016.1239545](https://doi.org/10.1080/21670811.2016.1239545)

To link to this article: <http://dx.doi.org/10.1080/21670811.2016.1239545>



Published online: 18 Nov 2016.



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# HOW THE “RIGHT TO BE FORGOTTEN” CHALLENGES JOURNALISTIC PRINCIPLES

## Privacy, freedom and news durability

Ivor Shapiro and Brian MacLeod Rogers

*The “right to be forgotten” recognizes that people may have some degree of control over information about their pasts. Under this recently enshrined principle of European human-rights law, the rights of the subject must be balanced against both the public interest in the relevant information and the economic freedom of companies making the data available. The European Court’s landmark 2014 decision required only search-engine companies, rather than news organizations, to remove designated personal information from public view, but, meanwhile, news organizations have gradually become increasingly willing to grant requests for the unpublishing of damaging reports. The principles of free expression, historical integrity and accountability favor continuity of publication, while opposing values include harm reduction, privacy and redemption. To reconcile conflicting principles, it may help to distinguish between truthfulness and relevance, and between the mere availability of information and ease of searchability. But emerging ethical implications of news’ durability include a recognition that news producers and news subjects share autonomy over expression choices, and that news sources deserve to exercise a reasonable degree of informed consent regarding their collaboration in journalists’ work.*

KEYWORDS ethics; informed consent; journalism; media law; privacy; right to be forgotten

### Introduction

“The right to be forgotten” (RTBF) is a relatively new concept in human-rights law, but it deals in root ethical issues familiar to news people and their sources. Editors must routinely weigh the news’ long-term role as a “historical record” against its potential negative impacts on individuals. In the digital journalism era, publication is at the same time both more enduring and less static, creating new parameters and possibilities for ethical decision-making. Because news content may be seen by more people in more places for much longer, the potential to do lasting good or harm is greater, but, because digital publication is more retractable and redactable than legacy platforms, the possibility of correction, clarification and removal create both new harm-reduction opportunities and new challenges to the historical record. Also known as a “right to erasure” or “right to oblivion,” the RTBF, now accepted in the European Union recognizes that, even in the age of Google, people should retain some degree of control over information about themselves and their pasts (Rosen 2012; European Commission

2015; Manna 2014). This paper will explore both legal and ethical implications of the issue.

### **Birth of a Legal Right**

Data protection regimes in Europe stem from a tradition, rooted in the Napoleonic Civil Code and bolstered by a visceral post-Fascist resistance to surveillance, of legally protecting autonomy over information about “the events of an individual life, both private and public” (Toobin 2014; Mantelero 2013). This tradition is clearly distinct from the common law tort of “public disclosure of embarrassing private facts,” the very definition of which makes it tough for a potential plaintiff to protect him- or herself from disclosure of facts that are by nature in the public domain, such as a past criminal charge (Prosser 1960).

Among common law countries, historically only the United States has given broad recognition to the tort of invasion of privacy, but it is balanced there by strong First Amendment rights for free speech and relaxed defamation laws. This tort in its various forms is becoming more accepted elsewhere in the common law, but Continental Europe has long exhibited a much greater degree of respect for private matters, even for those in public life. For example, it was a breach of criminal law to publish that the French President had an illegitimate daughter by a long-standing mistress, as was subsequently revealed about François Mitterand (Baume 2012). This restriction on a free press would have been a non-starter in common law jurisdictions.

Article 12 of the European Union’s 1995 Data Protection Directive allowed a person to require the “rectification, erasure or blocking” of unnecessary personal data (“Directive 95/46/EC of the European Parliament” 1995). As the European Union considered amendments to this directive—a process begun in 2012 and concluded in 2016 (European Commission—Justice 2016), the contentious notion of RTBF emerged as a more robust recognition of individuals’ desire to control their own information. False and defamatory statements could already be challenged through defamation laws, but not truthful facts—unless they crossed an unclear boundary into someone’s “private and family life” (European Convention on Human Rights, Article 8). The new idea of extending control over personal information was relatively easy to accept for information posted by the person on a public website, for example, especially for a youth. Similarly, there was little debate about third parties being held responsible for using personal information in the manner intended and agreed to by the individual. But proponents took the notion a step farther to encompass information that may have been published appropriately by others about the person.

Added to this respect for privacy interests came the notion of “redemption,” allowing people to put their mistakes, even criminal ones, behind them in order to start anew—a principle that has been accepted in many jurisdictions, but most commonly for young offenders, who are allowed to escape the stigma of youthful indiscretions and crimes.

The seams between European and English legal cultures came into focus when English courts sought to apply the Convention to privacy concerns under common law, going beyond traditional breach-of-confidence case law to create a new tort for

“misuse of private information” (Campbell v. MGN Limited [2004] UKHL 22 2004; Google Inc v Vidal-Hall & Ors [2015] EWCA Civ 311 2015; PJS v News Group Newspapers Ltd [2016] UKSC 26 2016). The key issue for this tort is whether the disclosure amounts to a breach of one’s “reasonable expectation of privacy.” While this is not a subjective test, it is certainly one over which people differ, particularly as between national and cultural backgrounds. It directly calls into play boundaries for free expression, also protected under the Convention (Article 10), and requires a balancing of these rights.

Such a balance would become even tougher to find as information became more accessible thanks to Google. “God forgives and forgets but the Web never does,” noted the European Commissioner when calling for rules “to better cope with privacy risks online” (Reding 2010). This created the basis for the Commission’s proposal for a RTBF that went beyond a “right to deletion or erasure” to what has been called “a right to oblivion”—that is, rather than applying only to self-published content or imposing acceptable time or usage limits on private data, access would now be blocked to information considered harmful and outdated even though true (Ambrose 2014; McGoldrick 2013; Xanthoulis 2013). In 2014, however, the European Parliament trimmed the scope of the RTBF included in Article 17 of the General Data Protection Regulation to restrict its primary focus to the “right to erasure” (European Parliament 2014).

It was against this background that the Grand Chamber of the Court of Justice of the European Union (CJEU) issued a dramatic ruling in 2014, applying the 1995 Directive to Google search results after the applicant had been unable to get a local newspaper to remove appropriately published articles from its own database (Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos (AEPD), Mario Costeja González ECLI:EU:C:2014:317 2014).

The CJEU upheld a Spanish court’s order that Google Spain should remove links to 1998 reports in the Catalan newspaper *La Vanguardia* about the forced sale of real estate in attachment proceedings against a Spanish man, Mario Costeja González, to settle his social security debts. The CJEU ruled that Google was a “controller” of personal data governed by the 1995 Directive and that the continued “processing” of personal data by search-engine operators, and the resulting ubiquity of search results, was “liable to affect significantly the fundamental rights to privacy and to the protection of personal data” when the individual’s name was searched (Google Spain, para. 80).

The new right is by no means absolute; rather, the court mandated a three-way analysis, taking into account the rights of the subject, the economic freedom of the search-engine company, and the general public’s legitimate interest in information, particularly where the subject may play a role in public life (Google Spain, para. 99). The court also drew an important distinction between search engines and website publishers with “solely ... journalistic purposes,” noting that less harm may accrue when the original publisher maintains the same information on a Web page.<sup>1</sup> As well, the passage of time may change the analysis (para. 93). In effect, data may have a “best-before date,” like yogurt.

In the wake of the Grand Chamber’s decision, Google faced a deluge of requests for removal, and, after consulting a panel of expert advisors, it moved quickly to develop principles and practices for response (Lomas 2014; Toobin 2014; “Report of the Advisory Committee to Google on the Right to Be Forgotten” 2016). By October, 2016, Google had removed over 620,000 references following RTBF requests (“How Individual Privacy Impacts Search” 2016). The immediate effects of RTBF rulings were on requests

for removal from search engines accessed within Europe only through the local URL for Google—e.g., Google.fr (France) or Google.es (Spain)—that applied to the requester. Nothing prevented someone resident in those countries—or anywhere else—from conducting their searches through Google.com or another non-European URL to seek information no longer available on the local search engine.

In the United States, privacy concerns continued to be trumped by freedom of speech (*Palm Beach Newspapers v. State of Florida, et al.* 2016). However, with pressure growing for European courts to impose worldwide limits that would apply to Google and other search engines subject to the courts' authority, Google pre-emptively decided to apply court orders in Europe to its worldwide algorithms, though only for searches initiated within the affected country. When this step failed to satisfy the French regulator, Google, arguing that France was imposing its rules on citizens of other countries, launched an appeal (Campbell 2016; Dong 2016; "Google Fights French Legal Ruling" 2016; Roberts 2015).

Some media organizations responded assertively to RTBF deletions either by publishing the fact of these deletions or republishing items that had been deleted (Lee 2015; "Pink News Republishes Stories Removed" 2016). While further appeals to data protection agencies can be undertaken, as occurred in the Costeja case, the volume of requests has meant that Google itself has become the key arbiter in enforcing the law. Nor has Europe's 2016 data protection regulation clarified whether social media platforms such as Facebook and Twitter will be subject to future RTBF orders (Keller 2015; European Commission—Justice 2016).

Nevertheless, the RTBF seed has been firmly planted in European law, with seemingly inevitable international repercussions and implications for journalistic practice, as we will show in the remainder of this paper.

## A Clash of Ethical Principles

The roots of all law lie in ethics: legislation and the common law codify a society's perceived consensus on rights and wrongs, and courts then apply those principles to life-specific situations. In other words, the law seeks to codify and enforce a society's consensus on values and mediate conflicting values. Señor Costeja, for example, was far from the first person to express a desire to assume some control of information about his past life, and news people are familiar with the ethical essence of the Costeja quandary—a conflict between the duty to provide a lasting record and the expression of ordinary humanity in mitigating harm.

The moral right at the heart of this quandary is more accurately expressed as a right to obscurity (Hartzog and Selinger 2015) or, as styled by some Italian courts, oblivion: "the right of any individual to see himself or herself represented in a way that is not inconsistent with his/her current personal and social identity" (Manna 2014). Even if total control of one's universal online profile were desirable in public policy—allowing for digital oblivion—it would be an unrealistic goal (Fazlioglu 2013; Rosenzweig 2012). More realistic is the idea of relative obscurity, a circumstance-limited right which, like freedom to express oneself, derives from autonomy, the right to make the choices that drive one's life, including whether to draw attention to oneself, or to remain quiet (Ausloos 2012; Baker 2004; LaRue 2011). Similarly, the jurisprudence on both

defamation and hate speech asserts the importance of people’s ability to retain control of their own lives or to participate in democratic society. Individuals’ rights (such as the expression of provocative opinions) are, famously, limited by the social contract itself: incitement to racial violence, for example, is not protected. Autonomy rights are, therefore, limited by the conflicting attributes of a situation; for example, someone who may normally enjoy private-citizen status may later become a public figure, making information about their past important to the public interest.

The relativistic nature of autonomy rights has important practical limitations with respect to availability of information. All the courts that broke ground on the Costeja case were careful to distinguish between the continued availability of news articles in news organizations’ online archives (Glasser 2014; Tomlinson 2015). Likewise, journalists have traditionally resisted the idea of “unpublishing”—the retrospective redaction of error-free news reports. A 2009 report from the Associated Press Managing Editors (APME) described “an increasing number” of unpublishing requests to news organizations from the subjects and sources of news (English 2009). Editors surveyed for the report stated that news organizations “do not rewrite history; we report what happened,” and, “Sorry, life isn’t fair. Journalism’s job isn’t to clean up your driving record so you can get a job, is it?” On the other hand, the APME report allowed that content should be removed online under “very rare circumstances,” including where required by libel or other legal requirements. “Serious consideration to an unpublishing request should also be given when someone’s life may be endangered,” the report stated.

Four years later, a panel report for the Canadian Association of Journalists’ ethics advisory committee, revisiting the committee’s earlier stated position that journalists “are in the publishing business and generally should not unpublish”, reconstructed a case where a newspaper granted an unpublishing request, and suggested that it might be time for journalists to “reassess their attribution practices” in order to prevent long-term harm to people who volunteer information about “profoundly personal” situations (Currie and Brethour 2014; English, Currie, and Link 2010). As with the Costeja case, negative and long-past involvements with the law represent a significant proportion of news sources’ attempts to refine their online identity, a concern also evidenced by the sporadic success of unscrupulous website operators who post, and then offer to delete for a fee, accused criminals’ mug shots (Segal 2013). Nor is it surprising that previously accused people try to get the reporting of criminal charges cleaned up retrospectively; crime reporting is notoriously episodic and often left unfinished in the public record (Andrews 2014).

To describe the discussions around these issues as a direct clash between the right of free expression and that of privacy is to dramatically oversimplify the questions involved. Rather, applying a right to obscurity would involve weighing several social values including freedom of information and the integrity of historical research (Manna 2014). Viewed under this more nuanced lens, the arguments surrounding unpublishing expose no fewer than six ethical principles. Three of these principles would tend to foster continuity of publication, even of potentially harmful material, while an equal number tend in the opposite direction.

First among the three pro-continuity principles is that *free expression* should be defended (Weber 2011). To allow people in the news to exert influence over what should be (or remain) published flies in the face of the essence of press freedom, which rests to some extent on a culture of being “unconstrained by the long view or deep

understanding,” an independence of mind that mitigates such clearly undesirable constraints as dependency on “conventional wisdom” and on official and professional sources (Schudson 2005, 24–26).

Second, publication continuity is supported by the idea that information in its original form ought to be protected for the sake of *historical integrity*. This is an uncomfortable principle, and not only insofar as it touches on news reports: why should an individual’s divorce-court affidavit or contractual dispute become someone else’s business in the future? But for historians, these documents provide insight into trends and issues—plus, character-revealing details about today’s obscure individual could be of considerable public interest when that person assumes a more public role in the future. In defense of history, the question must be asked: does the right to be forgotten impose, in effect, a duty for society to forget? (Blaauw and Matheson 2013).

The third principle is that of *accountability*. Journalism is made credible by the verifiable and falsifiable details that back up reports; for this reason, journalists tend to prefer named sources to veiled ones (Gladney, Shapiro, and Ray 2013, 36–37; Vultee 2010). Shafer is far from alone in advising readers to “discount anything a shadowy unknown source is allowed to say in a news story” (Shafer 2014). This principle is undermined when a person’s name is removed from the online version of a news article.

Turning to principles that tend to constrain publication, the first and most familiar is the idea of *harm reduction*. In media ethics codes, this idea has classically been applied to children and other vulnerable subjects, and to the right to a fair trial. It has guided practice in preventively veiling the identity of whistleblowers and sexual-assault victims. As parents watch their children’s digital lives causing more than mere embarrassment, it may become harder to resist efforts to provide people with means of erasing the public record—efforts that, once acquiring momentum, are likely to embrace news reports along with sex videos and careless tweets.

A second such principle is respect for *privacy*, which Moore defines as “a right to control access to and uses of places, bodies, and personal information” (Moore 2008, 421). News people do not normally delve into adoption records, sexual matters and personal financial records without some clear public-interest justification. Indeed, “without strong privacy safeguards, it becomes far more difficult ... for people to exercise their human right to free expression. It is an established fact that when people believe they’re being watched, their behavior changes in very significant ways” (Christopher 2015). In the discussions surrounding “big data,” an emerging principle is that the collection of data is unobjectionable so long as the information is not individualized (Francis and Francis 2014). Search engines, however, individualize data almost by definition.

Less commonly associated with media ethics is the aforementioned idea of *redemption*. The idea that people should generally be able to put past transgressions behind them and move forward is expressed in the idiomatic idea of “forgive and forget,” and the law in some countries allows people’s criminal records to be expunged after sufficient time has passed (Bennett 2012, 161–195). Laws and regulations in the United States, for example, have embraced the idea of society “forgiving and forgetting” under some circumstances, affording individuals the opportunity to “move on” and get a “second chance” following bankruptcies, juvenile criminal behavior and credit reporting (Blanchette and Johnson 2002, 4; Jones et al. 2012). Ubiquitous search results butt against this principle.

How may these conflicting principles be reconciled? Because this task—weighing conflicting principles against each other—is substantially similar in ethical reflection as in human-rights jurisprudence, it may be helpful to look again at the European Court’s argumentation in the Costeja case.

## Two Important Distinctions

Stripped of legal foundations and arguments, the Grand Chamber’s decision rested on two epistemological distinctions that, in our view, may also help journalists to begin resolving the above-described conflict between principles that tend to foster continuity and those that challenge it.

First, the court drew a clear distinction between truthfulness and “relevance.” While there is no stale-date on accuracy, relevance is situational and, therefore, temporary. Often, this principle is expressed with reference mainly to the passage of time. The idea of newsworthiness itself—starting with the very word “news”—suggests that old stories (yesterday’s news) are less relevant than current ones (Potter 2009, 5). By 2014, the 16-year-old reported facts about Señor Costeja’s financial problems no longer seemed to carry significant public interest. Yet, relevance is not adequately measured in days or years; it may or may not diminish with the passage of time. Were a 40-year-old news report to be discovered, quoting a current political leader as expressing vile racist views, that country’s citizens might well consider the old report “relevant.” Likewise, the Amsterdam Court of Appeal has ruled that negative publicity caused by a criminal offense continues to be “relevant” information even if time elapses (Fouad 2015).

The second important distinction is, as mentioned above, that between the mere availability of information and its being instantly “findable.” A functionally infinite search-facilitator, such as Google, might impose a level of scrutiny over past acts that might go far beyond what a society considers desirable. Salarelli has likened this infinite-search capacity to the role of judge and jury, a role that should be “reconsidered in order to ensure a new balance between the protection of the individual memory and the rights to information for citizens” (Salarelli 2015, 147).

When these distinctions are applied to unpublishing requests, some of the three pro-continuity principles might wane in force.

*Free speech* significantly predates the existence of Google, and a news organization’s freedom to choose what to report and publish also allows it to choose what not to publish—and, by extension, when to hide certain text from search engines for good reason. Even if not easily “findable,” the original report may remain available digitally, either in PDF archives or on stored Web-page archives such as the Wayback Machine at archive.org (Lepore 2015). Thus, the RTBF should not require material to be unpublished from newspapers’ databases.

Turning to *accountability*, the persuasiveness and credibility of a news report is primarily a consideration with a view to contemporaneous readers; as time goes by, the reader will have alternative and, perhaps, more reliable means to get at the truth. Indeed, if the original report, seen in isolation, provides a potentially distorted or inaccurate lens on the whole truth, then the idea of “relevance”—that is, practical usefulness to the reader—would favor the provision of a clearer, contextualized record. It

would be a stretch to rely on the “relevance” principle as an imperative to outright deletion of a news item, but the primary journalistic responsibility of seeking accuracy is widely acknowledged as obliging a news organization to correct the facts in an original item’s digital manifestation. So, at the very least, reports of criminal charges that led to acquittal should be updated, where the accused is identified, in the name of proportionality and context.

The argument for *historical integrity* is harder to shrug off. When the *Toronto Star* unpublished a discredited article about vaccine safety in February 2015, the article did not merely disappear from Google searches (Braganza 2015); it disappeared from full-text library databases as well. The disappearance of a published work from libraries sends a Big Brother-esque chill up the free-information spine, and the test of “relevance” may be fickle: information about a 20-year-old law student’s conduct might seem highly relevant to informed public debate (the most critical purpose of free expression itself) when he is later up for appointment as judge or attorney general.

The arguments above suggest strong justification for adopting a reasonably fluid approach to corrections and clarifications to the published record, with a view to ongoing care for accuracy, contextualization and completeness. But when it comes to unpublishing, as opposed to transparent revision, the difference between availability and “findability” should not be overrated. What is deemed an acceptable level of information’s availability is not static, but changes with time: a credible argument may already be made that if a piece of information does not show up in Google results, it may, for practical purposes, be under lock and key. Also, the act of unpublishing is much more draconian than that of adjusting a Google algorithm: even if an unpublished article, such as the above-mentioned *Toronto Star* front-page story about vaccine safety, survives on a deep-Web archive (Bruser and Maclean 2015), it will only be found by those who know enough to look. It is hard to accept this kind of informational vanishing act without coming close to acceptance of a social “duty to forget.”

With or without a RTBF, then, the idea of unpublishing remains no less complex than the pre-publication balancing acts often involved in responsible journalism itself. Journalists do not merely collect and disseminate information: they are routinely expected to add edificatory and evaluative content encompassing independent discovery, verification and interpretation (Shapiro 2014). It does not seem a stretch to argue that these responsibilities continue after publication in correcting the record. Indeed, there is reason to think that awareness of these continuing responsibilities is growing. In her survey of editors, English (2009) asked under what circumstances a news organization might agree to a request to unpublish information. Responses included content that was inaccurate or unfair (67 percent of respondents), inflammatory or defamatory (49 percent) or improperly attributed (32 percent), and content that “deals with a minor or other protected person” (34 percent), that is likely to interfere with law enforcement (24 percent), or that contains outdated and reputation-damaging information (21 percent).

These journalists are, in effect, asserting for themselves the same claim made by the subjects of journalism who seek greater control over their online identities—the above-mentioned autonomous right to control their professional expressions. But, like the preference for obscurity, the preference to control publication choices is, at best, a circumstance-based right, whose adjudication, as in most matters of ethics and responsible journalism, requires the exercise of judgment rather than blanket solutions.

Moreover, journalists’ exercise of judgment over retrospective publication choices is exercised in a context of content that is incomplete by definition: news is always a contingent, temporally conditioned activity. Any work of journalism is subject to later addition or correction by other journalistic work that may or may not be assigned within or beyond the original news organization, according to highly subjective, even random, decisions on what constitutes “news” on any given day. If weighing harm is already an accepted part of journalistic considerations under some circumstances, then it would be difficult to exempt from further consideration the somewhat arbitrary post-publication routine of deciding what is or is not subject to correction or amplification.

In all these instances, an editor who responsibly considers an unpublishing request may be seen as exercising after publication the same sensibilities that a responsible journalist is likely to exercise beforehand.

### **The Autonomy of News Subjects: Signs of a Shift**

Much of our preceding argument is directly concerned with the ethics of unpublishing, an area of ethical decision-making that, as we have shown, remains especially murky in both principle and practice. But growing awareness of the so-called longtail of news seems likely to influence more than just the adjudication of unpublishing requests. We have observed subtle signs of a resulting change in the exercise of journalists’ ethical discretion *before* publication. In the United States, a recent update of the Society of Professional Journalists’ code calls for journalists to “consider the long-term implications of the extended reach and permanence of publication” (Society of Professional Journalists 2014). Perhaps in part because of the rise in unpublishing requests, and in part because of a sheer common-sensical respect for the power of continued publication, journalists might also be adjusting reporting habits and practices. One investigative journalist described to a journalism class taught by us how he had carefully explained to a woman the possible consequences of broadcasting her on-camera confession of having used cocaine in the presence of her child. In another class for the same group of graduate students, a different reporter said he and a colleague had decided to include a video of a criminal act, showing the face of the alleged perpetrator, but decided against including that person’s full name in the written report. Their grounds for doing so: a face on video will not show up in name-based search results.

It will surely remain unusual for such consideration to be shown to a criminal caught in the act, and the danger of a slippery slope is worth marking. Journalism’s independence is well served by a culture of favoring audiences’ desire for information over potential benefit or harm to people in the news. The risk entailed for reporting culture is, perhaps, an argument for shifting the adjudication of difficult questions from the subjective realm of journalists’ impulses to the public realm of guidelines and debate (Ward 2014). Guidelines based on categories of situation types, as proposed in a more general context by Hartzog and Selinger (2015), may help resolve most matters, while unavoidably leaving others in grayer moral zones. Even within those areas of uncertainty, journalists would probably prefer to see themselves as better placed to make tough judgments than the alternative deciders—courts and governments. In Canada, for example, it would take but a small stroke of Parliament’s pen to amend the Personal Information Protection and Electronic Documents Act (S.C. 2000, c.5), to

remove Section 7(1)(c), which exempts journalistic research from the prohibition on unauthorized collection of private information.

However, it seems inevitable that increased consciousness of news coverage's longevity will foster a willingness by journalists to consider granting to their subjects, as Kenamer and Gillespie have suggested, a similar level of autonomy as is enjoyed by the subjects of scientific research, under guidelines that guard against needless deception and recognize subjects' vulnerability to exploitation (Kenamer 2005; Gillespie 2009). The idea of informed consent is not traditionally part of journalists' parlance, but when the US Society of Professional Journalists updated its ethics guidelines in 2014, it included exhortations to use "use heightened sensitivity when dealing with ... sources or subjects who are inexperienced or unable to give consent," and to "consider the long-term implications of the extended reach and permanence of publication" (Society of Professional Journalists 2014). This suggests an attitude of greater consideration toward ordinary citizens who might not be "equipped with the proper level of media literacy skills in order to manage the responsibility for their own privacy" (Nina and Boers 2013). The authors of a Canadian ethics panel report failed to reach agreement on journalists' obligations when it comes to informed consent, but did conclude that news organizations should offer more guidance to journalists regarding consent protocols (Enkin 2014; Levine et al. 2014). As one of the authors put it:

The truth is that journalists *do* engage in discussions about consequences with potential subjects and sources all the time, but we tend to keep those conversations focused on the potentially positive things that might happen ... Perhaps the time has come to include acknowledgment, in the limited circumstances outlined above, of ... some of the potential risks. (Levine et al. 2014, 14)

On the other hand, it must be conceded that every shift in values carries the possibility of a pendulum swing. It seems possible that the idea of privacy, itself, will change faster than the means of its invasion or protection. The harmful impact of more information might recede even as it becomes more ubiquitous: people might start to take negative reports about fellow human beings with a pinch of salt, or even a touch of forgiveness. It would be nice to believe that such a development lies ahead, but, meanwhile, it seems inevitable that the longtail of news will continue to impose a cautionary pressure on journalists' practice both before and after publication.

## DISCLOSURE STATEMENT

No potential conflict of interest was reported by the authors.

## NOTE

1. In 2016, courts in Belgium and Italy ordered RTBF alterations to news archives, but those rulings currently apply only to their respective jurisdictions (Tomlinson 2016; Matthews 2016).

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