



Big Data, Big Problem? Liability of automated „journalists” under the defamation law in the context of data journalism

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Data journalism is a great aid to journalists around the world in the creation of their articles or visualisations. The New York Times and The Guardian have been benefiting from this technological development. Despite the advantages of using algorithms in journalistic work, Professor Calo of University of Washington School of Law warns that it will be difficult to predict the results of the final work of even small algorithms. If we add to that the never ending time constraints in the newsroom, which sometimes looks more like an emergency room in a hospital, double-checking algorithmic or algorithm-assisted work will be a challenging task in practice.

The liability of an author of a journalistic work for defamatory statements is actionable after it has been released to the general public. In the case of defamation, there are a number of defences, for instance by proving that the statement was true, by qualified privilege or fair comment. Generally, intermediaries such Google, Twitter or Facebook are not liable for defamation unless they are aware of the defamatory statements. However, in cases where computer algorithms play a crucial role in autocompleting the search field in the Google search engine, Google's innocence is not as straightforward. Having said that, Michael Trkulja of Australia won a case against Google for linking his name in Google search to the gangster Tony Mokbel. Similarly, in Japan Google lost a case of linking the claimant's name to a crime he did not commit. Google's main argument was that the autocompletion is made by algorithms and human beings do not double-check it.

As the final journalistic work would be a human-computer cooperation, where some parts are performed by algorithms, the causes behind the abovementioned liability for defamation cannot really be ascertained. In the worst case scenario, press companies may be sued as they are exercising control over the work of their employees, however the more popular data journalism becomes, the bigger the need will be to estimate the input of „algorithms” in preparing journalistic pieces and their legal liability.
