



The Paris Attacks and Eyewitness Media

Legal and Ethical Issues for International News Providers

Report on Forum

20 March 2015

**The Open University, Camden Town, London
The Paris Attacks and Eyewitness Media**

The Forum

In March 2015 The Open University and Eyewitness Media Hub hosted a closed forum for invited journalists to discuss the main challenges of using eyewitness media during breaking news events. With a central focus on the Paris attacks in January 2015, the event was conducted under the Chatham House Rule. Participants were encouraged to share the ethical, legal and logistical issues that they encountered when handling photographs and videos sourced from the social web. The report offers a summary of key themes that emerged from the discussions that took place during the event. It includes recommendations made by participants on ways to tackle some of the challenges that were discussed. The views expressed and recommendations suggested are those of the participants not of Eyewitness Media Hub or The Open University.

A Working Definition of Eyewitness Media

Eyewitness media is an emergent and evolving phenomenon and therefore this working definition is not fixed. By eyewitness media, we refer to original photographs, audio clips or videos that are not posed or scripted, which are deemed to be valuable by news organisations who seek to distribute them via their own channels. It is often, but not always captured incidentally by a passerby or a person present at an unexpected event. This is usually someone unrelated to a newsroom although there have been instances where off-duty journalists have captured eyewitness footage. Eyewitness images and videos tend to be uploaded to social media, although in some instances footage is sent directly to a newsroom.

Acknowledgements

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Follow up

Please send any comments, suggested amendments, omissions and further recommendations to marie.gillespie@open.ac.uk and jenni@emhub.co

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EXECUTIVE SUMMARY

- The majority of participants claimed that negotiating the legal and ethical issues presented by social media were of vital importance for contemporary news cultures given that traditional filters were being challenged.
- They reported that many news organisations don't have a clear policy for how eyewitness media should be handled and practice varies a great deal as these issues can be very difficult to navigate
- They identified a widespread disconnect across news organisations between editorial policy and newsroom practices, as well as between the attitudes of the senior management and frontline staff.
- These gaps, it was argued, need to close if eyewitness media integration in the newsroom is to take place in a productive way that benefits audiences and the culture of news production.
- Journalists are increasingly referring to and sourcing images and reports from the social web in an effort to stay relevant and up to date so these matters are becoming more urgent.
- Many stated that their colleagues were aware of legal frameworks, for example, the UK fair dealing defence for the purpose of reporting current events, but some were unclear about the detail.
- News organisations sometimes cite each other as a source, highlighting the need for a better understanding across the industry about the "chain of liability" that occurs in snowballing use of eyewitness media.
- Crediting sources in the case of the Paris Attacks could have very easily compromised their safety and their right to privacy therefore there are trade-offs between legal and ethical issues.
- Some eyewitnesses to the Paris Attacks reported feeling aggrieved at the onslaught of attention from particular journalists.
- Some felt that it was unrealistic to achieve informed consent when breaking news events occur due to the pressures of reporting in real time.
- It is important to extend a duty of care to online sources, treating them in the same way as any other witness
- There is a broad assumption that verifying eyewitness media takes time and a specific set of skills that some newsrooms are not in a position to resource.
- Most participants confirmed that they adhered to editorial policy regarding the decision to feature the moment of death, but opinion differed between newsrooms about whether to edit, pixelate or show the event in full behind a graphic content warning.

RECOMMENDATIONS

- Produce and publish a code of ethics/statement of principles for using eyewitness media featuring digital signatures of participating newsrooms.
- Facilitate a sustainable 'pool' for newsrooms to collaborate on verification and seeking permission.
- Standardise rules of engagement with eyewitnesses.
- Educate eyewitness about their rights and the benefits and repercussions of posting newsworthy photographs and videos to social platforms.
- Raise awareness of the distressing impact of handling graphic content and implement procedures for identifying and treating the signs of vicarious trauma.
- Encourage more senior management to participate in these discussions.
- Facilitate a conversation between newsrooms and social platforms to address issues of permission, verification and presenting graphic content.
- Spend more time hearing from uploaders as a way to review best practice.
- Share best practice across geographies and cultures regarding expectations for use of eyewitness media.
- Produce a quick guide for staff who don't newsgather online on a daily basis
- Conduct research into how the audience views the ways in which eyewitness media is handled.
- Explore ways to verify and use content sourced from private messaging apps.
- Develop cross-institutional software tools to analyse/measure verification.
- Hold regular meet- ups to discuss these issues.

KEY THEMES

1. Sourcing Eyewitness Media

It was acknowledged that this was a chaotic and intense story to cover. Some journalists knew the victims of the Charlie Hebdo killings personally and a number reflected on pervasive feelings of apprehension and confusion in their newsrooms.

The speed and volume of reports that emerged on social media presented immediate challenges regarding verification and securing consent from eyewitnesses. Finding eyewitness photographs and videos was fairly easy using geo-location and keyword searches.

Some tensions were noted regarding conflicting attitudes towards the value of information found on social media. A key theme across the discussions was the widespread disconnect between editorial policy and newsroom practices, as well as between senior management and frontline journalistic staff.

Senior managers and journalists who use social media less frequently for newsgathering expressed wariness about the value of eyewitness media and displayed a lack of trust in its potential to complement traditional sources. It was felt that career early journalists were often the most adept in deploying eyewitness media but would benefit from the support of more experienced colleagues to help them navigate some of the complex legal and ethical considerations.

In the case of the Paris Attacks, it was acknowledged that while professional news crews could gather better and richer footage, even journalists at the scene found themselves referring to and sourcing images and reports from Twitter in an effort to stay relevant and up to date.

Greater recognition of the increasing dependence on eyewitness media for news reporting and the challenges it presents would benefit all.

2. Seeking Permission

There were conflicting opinions regarding the importance of seeking permission to use content found on social media prior to broadcast or publication. Many participants were aware of the UK Fair Dealing Defence for the purpose of reporting current events, but some were unclear about the detail.

Several vocal participants strongly argued that being the first to report a story and inform the public of a grave incident, especially in cases like the Paris Attacks, outweighs the potential penalty of a copyright claim. The dilemmas of responding to commercial pressures while remaining ethical were central to the continuing discussions. Running footage without permission is often an important consideration but it does not deter usage of eyewitness media.

The legal complexity of relying on the UK Fair Dealing Defence when using a video that was originally posted 'privately' on Facebook to a relatively small number of

friends but was later shared widely across social media platforms without the owner's consent was discussed in detail.

The enduring significance and vital role of news agencies in confirming that content is cleared to use was stressed. Feedback from those participants working in news agencies confirmed that they gain written consent, although this can be extremely difficult to secure and requires the utmost sensitivity and patience. When news breaks online, agencies are under even greater pressure because eyewitness media is already available to their subscribers.

From the newsroom perspective, it was thought that social media specialists were getting more recognition for the role they play in sourcing and verifying eyewitness media. There have been many instances where such content has added authenticity and context to a story, highlighting a need to formalise processes and increase training.

3. Crediting the Source

In order for the fair dealing defence to apply, the content owner would have to be credited, but some newsrooms admitted that they were much more diligent about crediting sources online than in broadcasts on screen. The pressures of 'keeping up with the story' prevented producers from waiting for a source to be contacted and verified.

There was broad agreement that newsrooms looked to each other for direction during breaking news events, often citing another news organisation as the source rather than the actual eyewitness. This highlights the need for a better understanding across the industry about the *chain of liability*.

The ethics of crediting sources in some situations was also brought into question. In the case of the Paris Attacks, this could have very easily compromised the safety of eyewitnesses and their right to privacy. Therefore, there are trade-offs between the legal and ethical aspects of using eyewitness media that have to be very carefully negotiated on a case-by-case basis.

4. Informed Consent

Securing informed consent can take time. Some felt that it was unrealistic to achieve informed consent when breaking news events occur due to the pressures of reporting in real time. Making contact via the social platform on which an eyewitness originally shares their images has become widely accepted practice. However, participants were very concerned about the deluge of identical requests sent in a very short space of time to the same person. They were also wary of conducting exchanges with eyewitnesses on public social media channels because of how they might be perceived by the recipient and other users. Contacting a source on social media rather than in person limits the opportunity to build a relationship and gather additional, contextual information, but it is considered to be

the most efficient way of alerting someone that their images may be used, regardless of whether permission is granted.

Twitter requests featuring complex legal jargon can be intimidating and participants were in agreement that a more sensitive, human approach was required especially at times when the eyewitnesses themselves were in shock and experiencing trauma as a result of what they had witnessed.

In the case of the Paris Attacks, journalists contacted key eyewitnesses on all of their social media accounts, but also via email and telephone, at their homes and places of work. This prompted a number of ethical discussions around the shift in newsgathering practices in the digital age where most people have a significant online footprint.

In some cases, the eyewitnesses reported feeling very aggrieved at the onslaught of attention from journalists and at how their footage was used. Clearly, there are important ethical issues surrounding the treatment of eyewitnesses, which were thoroughly aired on the day. The participants strongly urged that a charter or agreed code of good practice was required to standardise processes.

5. Verifying Eyewitness Media

The participants in attendance were generally well versed in the necessary processes relating to verifying content sourced from the social web. However, many confirmed that they were the exception to the rule amongst their colleagues. This is due to a widespread assumption that verification takes time and a specific set of skills, which some participants felt their newsrooms are not in a position to resource.

Resourcing problems were mentioned frequently, with one participant explaining that small teams are now required to cover twenty-four hour news in several languages on multiple platforms.

Several participants voiced concern that so many journalists were duplicating the same processes of verification and seeking permission, which is inefficient and unnecessary. Sometimes hundreds of journalists attempt to contact a handful of key witnesses in a short space of time leading to feelings of resentment among eyewitnesses.

In the context outlined above, verification has become another essential service provided by the news agencies. Clients will regularly find eyewitness media online and then ask an agency to verify it.

Examples of journalists trusting content that had already been widely shared on social media was raised as a concern. It was stressed that journalists should avoid the assumption that their industry peers have conducted the necessary checks before linking to eyewitness media themselves. Many participants had not considered that reports tweeted by individual journalists could conflict or compromise the official output of their employer. Senior participants admitted that

they did not monitor the social media activity of their staff. Attempts to develop a consistent approach to uses of eyewitness media should be taken on board by senior managers.

6. Ethics and Safety

It was widely agreed that it was important to extend a duty of care to online sources, treating them in the same way as any other witness. However, the primacy of this particular story meant that in some cases it was not possible to follow preferred practices.

A serious challenge centred around whether crediting a source could place that person in danger or leave them vulnerable to reproach. It was also suggested that it was better to not credit, than to credit the wrong person or upset a person who would have preferred to remain anonymous.

Participants were conflicted about the ethics relating to embedding content directly from social media platforms. It was described as a way to “wash hands of responsibility” despite being the most legally appropriate way to navigate and/or bypass issues of copyright and crediting. This is due to the information that travels with the embedded content, such as the name and social profile of the eyewitness, and in some cases, their location data.

Ideas were shared around ways to educate audiences about the dangers and possible repercussions of capturing eyewitness footage, whilst still encouraging contributions.

7. Reporting Graphic Content

Interesting comparisons were made regarding the decision to publish one particularly graphic video – the shooting of the police officer, with representatives from French newsrooms highlighting the sensitivities regarding home audiences. They also acknowledged a responsibility in terms of how their actions could influence the way the story was reported internationally.

Concerns were raised about inline photo and instant play video features on Twitter, Facebook and Instagram, leaving users with no choice about what they view.

Few participants were aware of editorial guidelines relating to posting graphic or upsetting content on official social media accounts but some raised concerns about how to protect younger viewers who are more likely to discover news online.

Most participants confirmed that they adhered to editorial policy regarding the decision to feature the moment of death, but opinion differed between newsrooms about whether to edit, pixelate or show the event in full behind a graphic content warning.

A duty of care to the audience was acknowledged but some felt there was a fine balance between patronising and protecting audiences.

Competition was cited as an unpleasant but necessary consideration. Graphic warning notices might actually encourage clicks, and decisions by newsrooms to show upsetting imagery might act as a prompt for others to do the same. The issue of shelf life was also discussed since graphic content may be necessary to report a story but is difficult to justify weeks or months after an event takes place.

One significant issue raised was the different ways that newsrooms approach how to share the responsibility of viewing graphic material sourced online. In some cases, there were no procedures in place to protect staff but it was widely agreed that management must be made aware of the problem.

It was suggested that there is a danger of desensitisation, but also an element of bravado. Some of the most active staff may need protecting from themselves.

REACTIONS TO THE EVENT

“More sessions please – Excellent”

“This event was absolutely fascinating, educational and enjoyable. I got a real sense of community, a willingness to share both experiences and mistakes. I think this should just be the start. As the acceptance of eyewitness media grows in the newsroom, it is imperative that handling the complex ethical and legal issues surrounding eyewitness media becomes something that the entire newsroom becomes more comfortable with. So, more research, more discussion.”

“My personal experiences have fundamentally changed how I approach the use of UGC. I find it very valuable to hear the experiences of others, particularly specific examples, as they make me consider how I would have approached that situation. Can we have an anonymous forum to share experiences and ask others what they would have done?”

“Seriously, I should be thanking you for a fascinating exchange. It’s always important to get a sense of how much we do NOT know and be challenged. The biggest change in my lifetime of journalism is unequivocally the onslaught of UGC and I must admit, I’m still trying to understand how it has changed the way we do our job.”

“Many thanks for a very stimulating day and I look forward to more occasions like this – maybe you could come to do a workshop inside our newsroom?”

“Everyone who has attended today has to nominate a person to attend a future session. Either someone they consider to be a ‘Barrier’ to UGC progress or a member of senior management who doesn’t quite ‘get it’ yet.

“Training, training, training. Most people in my newsroom have no idea on legalities, copyright, ethics re. UGC etc. Without effective training/conversations they will remain in the dark”.

“The most useful professional day of the past 12 months. Thank you”.