MEDIA
COUNCIL OF KENYA

GUIDE ON THE USE OF SOCIAL MEDIA AND THE INTERNET FOR MEDIA PRACTICE IN KENYA

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CEO'S FOREWORD

Social media has become a powerful tool for journalists and media organisations. While these platforms offer unprecedented opportunities for gathering and disseminating information, they also present significant ethical challenges.

This guide outlines essential principles for journalists, media enterprises, and media practitioners to navigate the complexities of using social media responsibly.

Our goal is to ensure that journalists uphold the highest ethical standards while leveraging the power of these platforms to inform and empower the public. The core principles outlined in this guide emphasise accuracy, fairness, privacy, and verification.

We encourage journalists to critically evaluate information obtained online before publication, to be transparent about their sources, and to prioritise user-generated content that is well-attributed and ethically obtained.

Furthermore, the guide addresses emerging issues like protecting children's safety online, respecting copyright, and handling synthetic media responsibly. We also address the importance of managing online comments effectively while upholding the principles of freedom of expression and avoiding the spread of harmful content.

As the media landscape continues to evolve, so will the challenges and opportunities presented by social media and the internet.

This guide thus serves as a foundation for ethical practice, but it is not exhaustive. We encourage all stakeholders in the media industry to embrace continuous learning and adapt their practices to the ever-changing digital landscape. By prioritising ethical conduct and responsible use of these powerful tools, journalists can continue to play a vital role in informing the public and strengthening our democracy.

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ACKNOWLEDGEMENT

ACRONYMS AND ABBREVIATIONS

AI - Artificial Intelligence

UGC - User Generated Content

CoI   - Conflict of Interest

NGO - Non-Governmental Organisation

DEFINITION OF TERMS

Artificial Intelligence is the simulation of human intelligence in machines that are programmed to think and learn like humans.

Cybersecurity is the practice of protecting computer systems, networks and digital data from theft, damage, and unauthorised access.

Data is information which:

   a) Is processed using equipment operating automatically in response to instructions given for that purpose;

b) Is recorded with the intention that it should be processed using such equipment;

c) Is recorded as part of a relevant filing system;

d) Where it does not fall under paragraphs (a), (b), or (c), forms part of an accessible record; or

e) Is recorded information held by a public entity and does not fall within any of paragraphs (a) to (d) as defined under the Data Protection Act No. 24 of 2019.

Media includes both electronic and print media engaged in any production for circulation to the public, but does not include book publishing as defined under the Media Council Act, No. 46 of 2013.

Orphan Works are works that are protected by copyright, but the author cannot be identified or found.

Privacy is the right to freedom from intrusion into one's personal matters or information.

Social media refers to Internet-based platforms which allow for interactions between individuals or the broadcast of content to the wider world and which are far more interactive than traditional broadcast media.

Synthetic content is content prepared using artificial intelligence.

User Generated Content - Is information in the form of text, videos, images, reviews, e.t.c., created/packaged by individuals who are not journalists or media enterprise

1. INTRODUCTION

Social media has over the years become a useful and powerful tool for gathering and disseminating information. Journalism in the digital age has posed ethical issues to journalists, media enterprises, and media practitioners. The benefits of social media are immense, but the platforms continue to present many challenges to journalism. These are online harassment and bullying, cyber-crimes, erosion of traditional journalistic standards, copyright infringement, publication of unverified information, malinformation, misinformation, disinformation, use of manipulated content, conflict of interest and personal online activities that can erode professional credibility.

2. PURPOSE AND SCOPE

This guide provides principles that journalists, media practitioners and media enterprises should adhere to while using social media. These principles include accuracy & fairness, privacy, verification of information, conflict of interest and user-generated content. It also gives recommendations on emerging issues that journalists, media practitioners and media enterprises face in their use of social media.

3. CONTEXT

This guide is anchored on various laws, policies and guidelines that govern media practice in Kenya and globally. These include:

The Constitution of Kenya, which provides key provisions relevant to media practice. It affirms:

- The right to privacy, in Article 31;
- The right to freedom of expression, in Article 33;
- The right to freedom of media, in Article 34; and
- The right to Access to information, in Article 35.

Data Protection Act - regulates the processing of personal data in Kenya. It creates the office of the Data Commissioner and gives effect to the constitutional right to

privacy in Article 31. It applies to both government and private actors who collect, process and store personal data.

Media Council of Kenya Act 2013 - gives effect to Article 34 of the Constitution on freedom and independence of the media. It creates the Media Council of Kenya whose core mandate is promoting and protecting the freedom and independence of the media. Schedule II of the Act provides for the **Code of Conduct for the Practice of Journalism in Kenya, which** provides for ethical standards that govern the conduct and practice of all media practitioners in Kenya, including the use of social media.

Access to Information Act 2016 - gives life to Article 35 of the Constitution, which guarantees every Kenyan the right to seek access and obtain information that makes it possible for them to enjoy or protect their rights. **Article 35** also provides that every person has the right to request the correction or deletion of untrue or misleading information that affects them. It further provides for the establishment of the **Commission on Administrative Justice**, which facilitates access to information held by public authorities.

Copyright Act No. 12 of 2001 - provides for copyright in literary, musical, artistic, audio-visual works, sound recordings, and broadcasts. It establishes the Kenya Copyright Board, which is responsible for copyright administration and enforcement.

Kenya Information and Communications Act - provides the framework for regulating the communications sector in Kenya, including frequencies for broadcast media. It establishes the Communication Authority which is the regulator of the sector.

UNESCO's *Guidelines for the Governance of Digital Platforms: Safeguarding Freedom of Expression and Access to Information through a Multi-Stakeholder Approach* aim to ensure that freedom of expression, access to information, and exposure to diverse cultural content are fully protected. The guidelines also support efforts by multiple stakeholders to address the challenges of disinformation,

misinformation, and hate speech online.

They urge that independent regulators "should be equipped with the means to enforce international human rights standards in the digital ecosystem".

National Information, Communication and Technology (ICT) Policy: Captures ICT ambitions of Kenyans and corporations and creates a framework for their timely realisation. It calls for rules, structures, principles and policies to ensure that children can use the Internet safely.

Computer Misuse and Cybercrimes Act 2018 - aims to protect the confidentiality, integrity and availability of computer systems, programmes and data as well as facilitate the prevention, detection, investigation, prosecution and punishment of cybercrimes.

4. APPLICATION

This guide applies to journalists, media enterprises and media practitioners in Kenya.

5. ETHICAL GUIDELINES

a. Accuracy and Fairness

To ensure accuracy and fairness are achieved in the use of social media, journalists, media enterprises and media practitioners will: -

    i. Publish information that is factual and fair;

    ii. Verify information obtained from social media before publication;

    iii. Promptly correct inaccurate information by referencing the initial incorrect information;

    iv. Offer an apology for publishing inaccurate reports on social media Ensure that all reports are objective;

    v. Ensure the content of the published material is not misleading; and

    vi. Use clear visuals on social media to minimise misinterpretation of information.

5.2. Privacy

Journalists, media enterprises, and media practitioners will:

a) Assess the public's right to information against an individual's right to privacy.

b) Seek and obtain informed consent from the data subject for their personal information which is either published or yet to be published on social media;

c) Provide context for the information published and clearly explain why the private information is relevant to the media content and how it serves the public interest; and,

d) Adhere to Article 34 of the Constitution of Kenya 2010 and the Data Protection Act No. 24 of 2019 to the extent of limitation of the right to privacy.

5.3. Verification

Journalists, media enterprises, and media practitioners will:

a) Use verification tools to ascertain the originality and authenticity of audio, videos and photographs before use to avoid misinformation or injuring one's reputation.

b) Verify the authenticity of the websites and social media from which information is obtained;

c) Cross-check information with multiple reliable sources before publishing; and

d) Avoid using "allegedly" as a justification for using unverified information.

5.4. User-Generated Content

Journalists, media enterprises, and media practitioners will:

a) Seek consent for using UGC from the owner before publication;

b) Fact-check UGC information obtained from social media

c) Ensure proper attribution of the source and author of information obtained from social media to avoid copyright infringement;

d) Provide context to UGC to avoid misinterpretation. Explain the circumstances surrounding the content to present a complete and more accurate picture;

e) Respect privacy rights and consider the potential impact on individuals featured in UGC;

f) Avoid publishing sensitive personal information without consent;

g) Exercise caution in using UGC that involves sensitive or traumatic events including avoiding sensationalism and prioritising the well-being of those affected;

h) Maintain journalistic independence and impartiality when selecting and presenting UGC;

i) Avoid promoting a particular agenda or bias;

j) Adhere to legal and ethical standards when using UGC. Avoid manipulating or coercing individuals to obtain content, and be transparent about the journalistic intent; and

k) When using UGC, disclose its origin to the audience.

5.5. Conflict of Interest

Media enterprises are encouraged to develop Conflict of Interest policies to guide journalists and media practitioners in the use of social media. The key principles are that journalists and media practitioners should: -

a) Be transparent about their professional affiliations and roles when using social media;

b) Clearly state if they are reporting on a topic or organisation that they have a personal or financial interest in;

c) Avoid sharing opinions or information that could compromise their objectivity on professional matters;

d) Refrain from engaging in advocacy or activism on social media platforms, especially on topics they cover professionally;

e) Avoid expressing personal opinions on controversial issues that may compromise perceived neutrality;

f) Journalists and media practitioners should resist external pressure or influence from advertisers, sponsors, or any other parties that may compromise the integrity of their reporting;

g) Make it clear that journalistic decisions are based on editorial standards, not external interests;

h) Consult with their editors or supervisors when uncertain about whether a social media activity may present a conflict of interest;

i) Not using social media to plagiarise content or ideas from others;

j) Always attribute information and give credit to sources; and

k) Regularly reflect on their social media activities and assess whether they align with ethical journalistic standards.

6. EMERGING ISSUES

a. Prioritising Child Safety on Social Media

Protecting children's best interests on social media is paramount. Therefore, the publication of any content featuring minors requires careful consideration.

As a general rule, consent from a child's parent or guardian should be obtained before publishing images, videos, or information about them. Exceptions may exist only in scenarios where obtaining consent could endanger the child's safety or infringe upon their fundamental rights.

Media practitioners hold a vital responsibility to safeguard children's privacy and dignity. This includes:

i. Avoiding interviews and photography of children without parental/guardian consent;

ii. Seeking permission from school authorities before interviewing or photographing minors within educational settings;

iii. Demonstrating sensitivity and care when publishing any content involving minors, prioritising their privacy and well-being; and

iv. If such content holds public interest, utmost caution must be exercised to protect the child's identity and privacy.

v. A person subject to this Act shall generally not publish or broadcast images or sounds from children without the consent of a parent or guardian.

b. Intellectual property Rights

Consent should be sought from the original author of the works prior to publications. To that effect, journalists, media enterprises and media practitioners are guided as follows:

i. If the work is licensed under a specific Creative Commons license or other open-source license, there should be adherence to the terms of that license;

ii. Attribution should be placed in a location that is easily visible and associated with the work and whenever possible provide a link to the original work;

iii. When sharing content on social media, there will be compliance with the platform's terms of service and attribution guidelines;

iv. When sharing content that may be widely distributed, such as educational materials or public presentations, audiences should be educated about the importance of proper attribution and respecting intellectual property;

v. Use of Digital Rights Management Technologies should strike a balance between protecting creators' rights and ensuring users' fair access to the content;

vi. Use of Orphan Works should consider the need for access to information while protecting the rights of unknown copyright holders;

vii. In the case of Fair Use in Digital Education, there should be a balance of fair uses in the educational context while respecting the rights of the content creator.

c. Synthetic Content

When adopting traditional cultural expressions which are sensitive to a given community culture, there should be consideration of the work of the original creators.

Journalists, media practitioners and media enterprises in their use of synthetic content should:

i.   Inform their audiences that the content has been technically altered for a specific purpose;

ii.   Evaluate the potential harm that may arise from the altered content, particularly if it may contribute to disinformation, panic, or public harm;

iii.   Consider the potential impact on vulnerable populations and individuals who may be disproportionately affected by the altered content;

d. Online comments

Careful consideration of ethical guidelines should be taken when handling online comments, including:

i.   Deletion of comments on their social media platforms.

ii.   Positively critique comments and respond respectfully where needed; and

iii.   Block or delete comments that constitute online bullying, which violates human rights..

e. Limitation of Freedom of Expression

Journalists, media enterprises and media practitioners should uphold the do no harm principle, refraining from engaging in the publication of information which:

i.   Causes bias;

ii.   Is an incitement to violence;

iii.   Propagates gender-based violence.

iv.   Spreads propaganda for war.

v.   Cause a breach of data privacy;

vi.   Is discriminatory;

vii. Is obscene; and

viii. Constitutes hate speech.

f.   Cyber Security

To safeguard the security of social media accounts and platforms, it is recommended that

a) Journalists, media enterprises, and media practitioners should use best cyber security practices that include strong passwords, multi-factor authentication and frequent password changes for their social media accounts.

b) Regularly undertake cybersecurity training.

g.   Use of social media for persons with disability

Journalists, media enterprises, and media practitioners should:-

i.   Optimise their official websites and social media accounts for persons with disability;

ii.   Use simple language;

iii. Avoid phrases or words that reinforce stereotypes or stigmas related to disabilities;

iv.   Integrate sign language where possible;

v.   Add descriptive text and captions;

vi.   Use inclusive images;

vii. Promote diverse voices: and

viii. Stay informed about the evolving best practices for inclusivity.

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