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# Fair Treatment and Informed Choice for Contributors of User-Generated Video

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**Abstract**

When a member of the public makes a video and sends it to a broadcaster, in the hopes it will be used in professional content, are they making an informed choice regarding their own rights and those of third parties whose activity is featured? Are professionals inadvertently exploiting contributors or treating them unfairly, and are the terms and conditions that contributors are asked to agree to reasonable? This position paper reports on discussions with potential UGV contributors and uncovers low expectations in terms of communication with and acknowledgement from professionals, and of low levels of understanding of the, often complex, issues around rights.

**Author Keywords**

User-Generated Video (UGV); ethics; informed choice.

**ACM Classification Keywords**

h.5.m. Information Interface and Presentation (e.g. HCI) Miscellaneous.

**Introduction**

Equipped with cameras on their smartphones, members of the public are increasingly able to shoot video at almost any time; capturing their unique perspectives of many live events, such as sport and music festivals. This user-generated video (UGV) is an attractive and

valuable resource for the professional broadcasters that cover such events. More and more often, we are seeing producers engaging with their audience by making specific request for people to contribute their UGV for inclusion in professional content.

The European project COGNITUS<sup>1</sup> is examining a number of the issues and opportunities presented by integrating UGV in professional video coverage of large-scale events. These include the need to motivate and develop contributors, and manage the professional-contributor relationship, so that good quality material is made available. Within the scope of COGNITUS, there are two significant sets of potential issues arising from the capability of contributors to make informed choices, given the likelihood of their relative lack of experience, in comparison to a professional organisation with editorial experience. These are important to address for ethical reasons, and in order to maintain a functional process for supplying this valuable UGV.

Specifically, there may be a risk of unintentional exploitation of contributors by a professional broadcaster or producer adopting a policy whereby users cede ownership of their material at the point of submission. In order to make an informed choice about this, contributors need to understand the implications of such an approach and to have realistic knowledge and expectation of fair treatment for their creative contribution. Having contributors unnecessarily surrender their rights is not likely to be either helpful or sustainable for a long-term contribution relationship.

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1 <http://cognitus-h2020.eu/>

Of equal concern is the potential exposure of UGV contributors to the risk of unwittingly infringing the rights of others, including those of the third parties who might appear in their footage. The standard practice of having contributors agree to legal terms and conditions (T&Cs) that include a declaration that they have the right (in intellectual property terms) to submit the material minimises the professional broadcaster's exposure to this copyright risk. However, it is very likely that, in general given the potential complexity of intellectual property rights, contributors would not be making an informed choice, and would potentially expose themselves to some liability, in agreeing to such T&Cs. We argue that these issues should be investigated and, ideally, mitigated them as part of the research agenda in this UGV domain, and as part of the COGNITUS project.

### **Ownership Principles for UGV Contributors**

#### *Fundamentals*

At the proposal stage, the COGNITUS project highlighted that the considerations that may be broadly considered to part of the ethics of the public video contribution model represented an important opportunity for innovation activities within this domain; integration of UGV material in professional content. The proposal argues:

*"As a nascent activity, developing ethical practices associated with the contribution of crowdsourced video is an opportunity for innovation that will be part of this project. [...] the consortium will conduct participatory design activities with potential contributors of crowdsourced video to develop an appropriate ethical framework."*

This statement recognises that the development of best practice in this area is an outstanding task. The use of consultative contributor-centred design practice as a methodology to invent the necessary features is important. An overall aim of fair treatment, including rights, reward, data protection and informed choice, is much more likely to be achieved under these principles.

#### *Contributor Insights*

Two semi-structured discussion groups were arranged with potential UGV contributors. A pair of researchers facilitated discussion with either three or four participants, each of whom had been specifically recruited as a regular attendee of festival-style events, who uses the video function on their smartphone. In both groups, participants showed significant naivety regarding and uncertainty regarding their rights and what their expectation should be when contributing video to a professional production organisation. Participants were consistently unsure about what content they were permitted to share, who owns that material once contributed, and how (and where) their content might then be published or retained.

Notably, contributors had low expectations in terms any communication or reward they should expect from the professionals. Most believed that they should be informed if their material was used in professional content, and all that their contribution should be acknowledged and credited. Only one participant believed contributors should have expectation of financial reward. In all other cases, when probed, the most that contributors felt that a professional broadcaster might reward them with in the case of their UGV being used were 'freebies', including event tickets or exclusive digital material. This was despite a strong

appreciation amongst our contributor-participants that the video material contributed by people like them was a valuable resource for the broadcasters and their audiences. Perhaps more concerningly, participants recognised that the overwhelming majority of UGV content that they contributed would never be used—for a range of qualitative and quantitative reasons—and in those circumstances they had no expectation of reward, recognition, acknowledgment or, indeed, any communication at all.

#### *Fair Treatment?*

Clearly, the insights described above represent only a small amount of empirical discussion with potential contributors, and thus any results are anecdotal in nature. Nevertheless, the expectations and even aspirations expressed by our participants, if translated into requirements for a schema of UGC contribution, would fall substantially short of principles of ethical exploitation of public contribution of their material. Beyond concerns of fairness, it must be doubtful that an approach that failed to provide any feedback or acknowledgment in response to the vast majority of contributions (and only basic non-tangible recognition of 'successful' contributors) could be sustainable.

### **Third Party Rights**

#### *Complexity and Risk*

Submission processes for UGV generally require the contributor to agree to Terms and Conditions (T&Cs) that make specific reference to potential infringement of the rights of people appearing in the video, and other third parties. Contributors generally must make a declaration that they have the legal right to submit the material without infringing others' intellectual property and having obtained appropriate permissions.

For example, YouTube (UK version)<sup>2</sup> currently publishes the following clause in its T&Cs:

*"You agree that Content you submit to the Service will not contain any third party copyright material, or material that is subject to other third party proprietary rights (including rights of privacy or rights of publicity), unless you have a formal licence or permission from the rightful owner, or are otherwise legally entitled, to post the material in question."*

Although, thankfully, some professional organisations that solicit UGV from the public do supplement these legal declarations with more accessible text describing their requirements and contributors' responsibilities, it can be argued strongly that the subtlety of the third-party rights situations that contributors are likely to encounter make it hard to presume that all users are agreeing to these T&Cs in an informed manner. As a rule, professional producers will understand very well the potentially high risk of serious implications of infringing third party rights in particular contexts. As such, this T&Cs approach—whilst sensible—doesn't reduce the overall risk of an infringement, and instead concentrates responsibility and risk with contributors.

Arguably, this has the potential to be both unfair and unreasonable: consider the situation where a member of the public uses her camera to capture a street busker playing a Beatles song. What is the rights position for that video clip? How is the intellectual property distributed between composer, performer and the person that shot the video? Asking contributors to agree to standard T&Cs in such situations requires

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<sup>2</sup> <https://www.youtube.com/static?gl=GB&template=terms>

those members of the public to assess a difficult rights position without access to expert legal resources more available to the broadcaster organisations.

#### *Improved T&Cs as a Research Objective*

Mitigating against this risk and complexity, and against potentially unfair and unrealistic expectations of contributors' awareness, is not an easy task. Nevertheless, the increasing amount of UGV being contributed to professional organisations, and the number of projects—such as COGNITUS—carrying out researches and pilot projects in this domain, create a significant opportunity to inform and improve this situation for the benefit of all parties. Conducting studies and pilots will afford the opportunity to assess the spectrum of contributor awareness of these questions, how much their agreement to associated terms and conditions can be considered reasonable, and provide the basis for proposing new structures and support for professionals and contributors in the future.

#### **User Stories**

In order to help elevate expectations, and to represent a more ambitious enumeration of the responsibilities professional producers might feel towards their UGV contributors, our focus group discussion outputs—together with expert analysis and fundamental principles—have been used to include specific additional requirements into the user stories that we developed for the project following contributor discussions. Examples are highlighted below:

#### *ANNA AT THE PROFESSIONALLY-COVERED CONCERT*

*Anna goes to a concert as part of an arts festival. When booking she received information that—in addition to professional TV coverage—user-generated video is also*

welcome. She has installed the UGV application on her phone and read the brief from the Producer. She uses the app's settings to specify her default conditions for the Producer to use content (including expiry). She shoots several videos during the concert. Immediately afterwards she uses the app to send some of them to the Producer; in each case setting specific usage conditions on a per-clip basis.

*CATHY, CONTRIBUTING MATERIAL 'IN-THE-WILD'*  
Whilst spending several days in the city for the arts festival, Cathy sees posters suggesting that she contributes video clips portraying her unique experiences throughout the festival. She installs and configures the UGV app on her phone and starts shooting and contributing video, noting the app's advice about safety and respecting the rights of the people who might appear in her videos. The app allows her to easily trim and cut the clips she contributes, in order to ensure she is making an informed choice about what she is sharing. It also allows her to set usage conditions on a per clip basis.

*DAN, CONTRIBUTING HIS PREVIOUSLY CAPTURED VIDEOS*  
Dan has never used the UGV app. However, his phone and computer contain a number of videos he shot during his recent time at the festival. He sees a TV programme using user-generated video from the event and installs the app, which allows him to contribute his existing video material, after trimming and setting his desired usage conditions. He is also able to do this on his computer via a web interface.

*ANNA USES HER 'DE-CONTRIBUTE' BUTTON*  
Some months after the festival has finished, Anna decides to execute her right to make her video material

no longer available as a contribution to the professional coverage. She pushes the 'de-contribute' button on her UGV app (an equivalent control is also available on the Producers' website) and her material is deleted from the Producers' systems. Anna understands that her video material cannot be retrospectively removed from previously produced professional content, but knows that it will no longer be used in any subsequent professional material.

## **Conclusion**

This position paper has argued that, in order to meet professional broadcasters' ethical aspirations, treat UGV creators fairly and develop sustainable professional-contributor relationships, contributors need to be supported in making more informed choices. Specifically, contributors should have higher expectations about retaining rights to their own material, being able to make decisions about how it is used and receiving appropriate recognition for their efforts. Professional should also support them in reducing the risk of infringing the rights of any third parties by submitting their UGV material. Critically, we have argued that, as research and development work in this domain—incorporating UGV in professionally-produced content—increases, the community should seize the opportunity to make significant progress in some of these issues.

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