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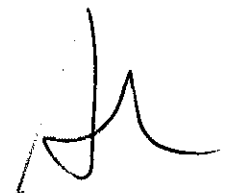
Esteemed
Right of Reply Ltd
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to the kind attention of Mr Alfredo Villa
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I have been requested to express a third opinion, general and comprehensive, following the ones dated 9th December 2016 and 15th February 2018, about the potentialities of implementation of the instrument named “*Right of reply*” (hereinafter even “ROR”).

Therefore, this opinion will be structured as follows:

1. the first part shall be devoted to what ROR is and what it is doing;
2. the second part shall envisage the main problems for editors and publishers of online newspapers and blogs;
3. the third part shall display how most of those problems are faced and solved by ROR instruments;
4. the fourth part will explain how all this is going to help editors and publisher of online newspapers and blogs, with some legal reference;



5. the fifth part will conclude on why this is working legally and editors / publishers of online newspaper and blogs could use ROR as a default system to offer to people cited in their newspaper / blog the possibility to reply.

To the purposes of this opinion, they will be assumed as already known all premises and statements made and recalled within the two previous opinions, such as the accurate deepening about the constitutional and civil protection granted to the personal rights to expression and to protection / disposal of personal reputation and, more generally, of personality, according to opinions by Mrs Francesca Paruzzo; the fundamentals and the protection instruments of the right to personal identity; the discipline (applicable since 25th May 2018) brought by EU regulation n. 2016/679 (“Regulation”), which replaces the personal data protection rules of directive CE 95/46; the guidelines developed in practice; the territorial limits of the Regulation; the Italian legal instruments and the role played by the Privacy Guarantor Authority; all the case law recalled, from sentence “Google Spain” to the most recent decisions.

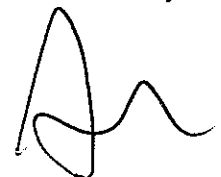
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1. What is Right of Reply.

Right of Reply is a pay by subscription service, system and technology which provides a rapid, effective, definitive, and legally sound solutions to a particularly sensitive problem: preservation of one’s good reputation and preventing the negative effect on a person’s reputation when he or she becomes the target of various forms of web content, whether it be in the form of articles, images, videos, blog comments, web forums etc., which can be damaging to one’s character. Affected persons have historically found that it is difficult to practically impossible to respond and/or obtain redress for these personal attacks.

Right of Reply believes that is the only service available which is a patented methodology to effectively safeguard an individual’s personal rights. Right of Reply’s technology serves to provide protection for personal identity and one’s right to freedom of expression without attack and to promote the collective right of access to complete and updated information on the web regarding specific persons.

Although there are a variety of more or less specific laws which currently regulate and protect these personal rights, it is evident that those rules have only partially solved the problem. For the most part, these rules effectively only apply to registered media, whereas on the web there exists the ability to publish content of every type without any



kind of regulation or control. Such content is available to anyone and can be found easily by simply clicking on a search engine. It is accessed without any kind of filter or commentary, and it will remain on the web forever, unless it is removed as a result of specific action for which the outcome is generally uncertain and always costs time and money. The content is often anonymous, making it difficult to discover who to contact in order to demand that the content be either corrected or deleted. Defending one's personal reputation is undeniably time-consuming and costly, with the burden on the affected person to prove to the relevant authorities that he or she has indeed been damaged. It is often difficult and frustrating to pursue these remedies as a substantial period of time generally passes from the moment an attack is published on the web to the moment it becomes possible (if such is even the case) for the victim to publish a rebuttal.

Unfortunately, in most cases, the legitimate response never has the same weight or ranking in search engines as the original damaging or inaccurate content. People generally find that since news which is negative, prejudicial and scandalous, or which is presumed to be such, is most often the most frequently accessed and therefore receives wider distribution and a more prominent position. Rebuttals are rarely viewed by anyone and will remain on the last pages of an extensive search. Rebuttals are most often not linked to the original content that it was intended to rebut. In most cases, even when a reply is published it is always in a different "*timeframe*" and with a different "*prominence*" from the content to which it is intended to respond. This disparity in timing and prominence currently seems to have no solution.

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2. Problems for editors and publishers of online newspapers and blogs.

This section will outline the main problems for editors and publishers of online newspapers and blogs; which can be legal problems or just "bothering" or "threaten of a legal problem" and all this is noise is costly, time consuming and affecting editors' and publishers' reputation.

These problems are mainly based on three types of complaints made against those subjects, which can be summarized as follows:

- "*you did not allow me to reply*";
- "*the reply was posted late and with not the same relevance*";



- *“the wording of my reply and the reply published misinterpreted my words and thinking”.*

Under a legal point of view, and following the most accredited guidelines about the limits to the right of chronicle (truth, continence and relevance), the matter is about civil and criminal responsibility from possible violation perpetrated through publication (production and/or provision) of certain news or contents bears only onto authors and editors who publish (journalists, bloggers, newspapers, websites, etc.). This kind of responsibility does not affect search engines, being pacific that they simply facilitate the finding of information produced and made available by other subjects.

A different scenery concerns the right to be forgotten, and then to the removal of contents no more relevant, actual, etc., which bears on all the players involved in the process of information diffusion, and therefore also on search engines, whose role is undoubtedly relevant. For the latter, responsibility is to be intended as duty to remove some URL links from the lists of search results, both at a local level and, increasingly, on a world scale.

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3. Right of Reply instruments. How they work. How they solve these problems.

As stated above, Right of Reply, through a series of proprietary registered patented technologies and applications, has developed a simple, effective, inexpensive solution which enables subscribers – using a personal Right of Reply page – to:

- consistently be informed of any web content (including but not limited to articles, images, videos, blogs, forums or the like which mention or quote them in any way, through the “**All About Me**” tool;
- consistently have all such content available on a single page that is promptly and automatically updated;
- make use of the patented “**Check The Text**” tool which runs a proprietary algorithm which analyzes content using the following parameters:
 - o content circulation
 - o content accuracy
 - o damage assessment
 - o most used word cloud;



- as a result, subscribers can obtain at a single glance an unbiased and objective evaluation of the web content that affects them;
- have the ability to respond to negative content by writing a reply in the same web content with a personal version of the facts behind the negative post, be it an article, image, video, blog, forum etc., using the **"My Truth"** tool;
 - set up a web content review which enables subscribers not only to receive every item of content which concerns them but also to respond immediately whenever and wherever they think it necessary, and thereby have the ability to contextualize that content with their own version of the facts;
 - make available all the web content which relates to them along with their own comments through the specific Right of Reply social network;
 - place at the disposal of every possible Right of Reply search engine user not only all of the content available on the web which concerns them, but also their own responses to that same content;
 - access every other search engine, through the patented **"Response Availability Asterisk"** tool, to advise viewers of a specific item of web content that there is also available the subscriber's own response to the content which has been accessed by the viewer. In this manner, next to every link on the web which contains the negative matter there will be a Right of Reply asterisk which signals to anyone accessing the negative matter that there is also a response from the person mentioned in the content available on that link;
 - the ability, through the patented **"Announce It To All"** tool, to alert anyone who in the past has viewed the content, that a response is now available from the person who was the subject of the specific content they have viewed;

Furthermore, any web user, if searching a person on his Right of Reply page, is enabled to:

- use the Right of Reply search engine to find all of the content available on the web concerning a specific person or company;
- obtain a rapid, unbiased and impartial analysis of the nature of an item of web content in order to view it with objectivity and clarity;
- be able to know and read from a single page not only everything that is available on the web concerning a specific person, but also to view that same person's specific replies, comments, opinions or version of the facts regarding the same content. This is done by simply logging onto the Right of Reply search engine and selecting the specific person's Right of Reply page.



- know whether a link found on another search engine regarding a specific person or company is supplemented by a response from that same person, through the presence of a Response Availability Asterisk;
- be notified whenever a response to an item of content viewed in the past on Right of Reply becomes available, through an Announce It To All tag.

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4. Legal ground of ROR instruments. Utility for editors, publishers and search engines.

The rights which justify and give specific, binding and practical application and legal value to the innovative solutions offered by Right of Reply are essentially the following (see opinions by Mrs Francesca Paruzzo for further details):

- the constitutional fundamental guarantees of the right to personal identity and to freedom of thought and expression;
- personality rights which concern individual him or herself and his or her moral and social life; these rights are protected from wrongful external interference;
- the right to be represented by a truthful identity and the right to respect for one's reputation;
- the right and the need to operate an effective balance between the collective right to know and the right of individuals to have their own truth known;
- the right of every person to not have his / her intellectual, political, social, religious, ideological, and professional property altered, distorted, sullied or contested;
- the right to a digital identity; this can be intended as the identity created through use of digital technology, and in particular through the several internet applications which spread information very quickly and efficiently, but often lacking any control by the data subject, who could even be unaware of data treatments; therefore, digital identity is strictly bound to personal identity, since the former frequently describes and represents the latter;
- the right to privacy, which is not only concerned with the confidentiality of information, but also, once an information is published, its truthfulness;
- the right to freedom of thought and expression, grounded, *inter alia*, on Art. 19 of the UN Universal Declaration of Human Rights which implements the right to "*seek, receive and impart information and ideas through any media and regardless of frontiers*", as well as Art. 10 of the European Convention on Human



- Rights and Art. 11 of the EU Charter of Fundamental Rights; it is certainly one of the highest among fundamental rights, one of the inviolable rights of humankind;
- the right to information, which entails the possibility to make evaluations from different points of view;
 - the right to be forgotten, granting that some information, if potentially harmful and no more relevant, is no longer accessible to everybody; since the internet contains a quantity of data practically infinite, and grants perpetual and continuous access to any information at any moment, it gives many occasions of de-contextualization of news and information still accessible but no longer tied to its original source or to a subsequent evolution of the data-frame; in this scenery, the right to be forgotten is aimed to protect the sphere of individuals and their personal identity against publication which could compromise their image, identity or quality of life over time.

Right of Reply instruments seem likely to grant these rights of personality, helping in different ways the various players of the information traffic. In particular, Right of Reply could be able to:

- balance, optimize and exercise constitutional rights to freedom of expression of various people, eliminating the conflict with the right to personal identity, and protecting both of them simultaneously;
- provide a practical solution to the inefficacy, inefficiency and ineffectiveness of the present legislative protections to these rights;
- avoid any limitation to the right to spread information, allowing the data subject to exercise his / her own freedom of expression of opinion and defending personal identity;
- give equal position and time-frame to a content and to its direct response, granting the same formal dignity and ranking to both contents and responses;
- grant to affected individuals the ability to monitor online contents mentioning them, with a continuous possibility of updating, so that their identity is always faithfully represented.

Advantages for search engines utilizing Right of Reply could be, for instance:

- to provide a useful additional service for their users;
- to be able to enforce important rights such as the right to respond, the right to privacy, the right to plurality of information, the right of expression, etc., by



enabling the presence of Right of Reply tools, banners and responses on their search engines;

- to avoid legal actions, or various claim, by those who feel they have been damaged because search engines provide access to any content, even not being responsible for the contents themselves;
- consequently, to safeguard and improve their own reputation and public image, for assuming a sort of "*search engine's social responsibility*".

As regards the responsibility of search engines – that, as said, are often called to remove some URLs from the lists of search results – the use of Right of Reply could radically eliminate, in several cases, the need for delinking, since in this context the instrument allows to juxtapose to the eventual defamatory content proper recalls to a different and more complete, or however "personalized", version of the same facts.

Even the more delicate position of editors, bloggers and publishers of online newspapers would undoubtedly be enhanced through the use of ROR instruments. As set forth above, they are directly responsible for the published contents.

In this field, the efficacy of the services offered by Right of Reply, in terms of proper application and accessibility to individuals and to the public, of the legal protections to right of free expression and personal data treatment, with balance between authors / intermediaries and cited subjects seems innate in the instrument itself which, as a peculiar mean of information, is theoretically apt to allow the widest protection of personal identity, counteracting effectively eventual news, publications and, in general, contents which may appear detrimental to others' identity¹.

Benefits and protections – under a legal point of view – for the publishers (newspapers, websites, social networks) and who reports in lists or rankings (search engines) a specific content, in case it offers to the cited subjects the possibility to express themselves, or to respond through the instruments offered by Right of Reply could be summarized in the elision (or relevant reduction) of the harmful impact of an eventual inaccurate news or of a content detrimental for the image / identity of the cited person. Obviously, this does not mean that the use of Right of Reply is likely to exclude *a priori* possible moral or reputational damages (with the inherent responsibilities) from

¹ It is still worthy to remind that efficacy of protection is strictly bond to the legal possibility to impose to all players the use of information instruments of this type; problem already faced within the previous opinion, to which reference is made.



defamatory or anyhow harmful publications; simply, it is plausible to suppose that a real-time reply through Right of Reply, in the great majority of cases, would reduce a lot the noxious effects of such publications. Therefore, in that case the authors / editors responsible for the publication could incur in less serious responsibilities, at least under the compensatory profile. Moreover, they would be much less exposed to the risk of possible orders for removal, correction or updating of the news / contents, since the possibility of the subject's reply visible on the website itself, with adequate prominence, could satisfy the instances of rectification / update / removal typical of a unilateral message.

Definitely, in case editors, bloggers and publishers adopt ROR instruments on their websites, they would likely take advantage from:

- offering to people cited in the newspaper or blog the possibility to give a response having the same timing and the same relevance as the published content, with no length limits, through Right of Reply answering service;
- consequently, reducing the risk of legal litigation (however, covered by Right of Reply);
- in case of litigation, possibility to reduce the amount of damages;
- reducing the inherent, indirect costs (time, bothering, etc.);
- increasing the newspaper reputation because is offering a fair and thoughtful information service.

All this can be achieved with the patent pending tools created by Right of Reply.

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5. Conclusion.

In light of all the above, it is now possible to take conclusions on why this is working legally and editors/publisher of online newspaper and blogs could use ROR as a default system to offer to people cited in their newspaper / blog the possibility to reply.

With the widespread use of Right of Reply, the respective responsibilities of the various players (for producing potentially harmful contents, and for making them available on the web) would not be eliminated, naturally, but certainly they would be very attenuated, since many problems and demand for protection grounding the "right to be forgotten", or the right to personal / digital identity would be faced in a more smart



and effective manner, thanks to the contextuality between potentially harmful news / content and reply by the data subject, with the same formal dignity.

The aforesaid benefits are naturally abstract forecasts, being pacific that the eventual harmfulness / offensiveness / (un)correctness of an information and the inherent responsibilities, and the possible effects of a contextual reply can be evaluated only on a case by case basis.

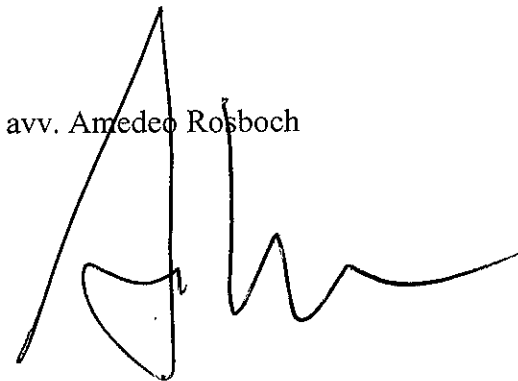
In this perspective, it seems certainly convenient for online newspapers and search engines to adopt the instruments offered by Right of Reply, in order to reduce the risk of claims for damages and/or maybe avoid the obligation to remove results or to update news.

* * *

I hope that this further contribution could be helpful and adequate in this intricate matter, and I remain available for any further need or clarification.

Best regards.

avv. Amedeo Rosboch

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a series of connected loops and a long horizontal stroke extending to the right.