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The Transparency Law’s insufficiency for Data Journalism’s practices in Spain

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Abstract

Incorporating elements of the transparency’s culture of the Big Data era in journalism has become into what is known as Data Journalism (DJ). **Objectives:** Since it depends on institutions outside journalism, we seek to determine to what extent the Spanish Transparency Law has affected the development of DJ and how this professional sector has responded to these affections. **Methodology.** We examined what elements of the Law affects DJ with in-depth interviews to data journalists. Through a Content Analysis in medias with data units, we determined how this sector has replied to these elements that affects them. **Results and Conclusions.** DJ in Spain hasn’t reach its potential because of the insufficiency of the Law and its breach, which is why journalists have placed Transparency in the Public Agenda as a main theme.

Keywords

Data journalism; transparency; Big Data; data bases; public agenda; Spain.

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Translation by **Leonardo La Rosa Barrolleta**
(Academic translator, Master in Applied Research to Mass Media and PhD Student)

1. Introduction. Data Journalism and Transparency

Transparency is usually associated to the need of society to know the rules, regulations and procedures of different aspects of the State, thriving to the governments obligation to account for their acts to the citizens in societies where exists the right of access to public information. Although European nation-states already had a regulation of the right of access to public information – since 1776 in Sweden, 1951 in Finland and 1992 in Spain with its Administrative Procedure Act–, if we take into account the legal definition of Transparency as the duty of all public powers to account for their acts and explain them in a reasoned and reasonable way (Arenilla, 2011), in the context of our Network society, it is not until the Regulation (EC) No 1049/2001 of European Parliament and of the Council of 30 May 2001 (European Parliament, 2001) that we can talk about Transparency Laws in the EU.

This perspective reflects views and practices of a culture where there are trusting relationships between who asks or demands transparency and who gives it, characteristics of a social practice guided by honesty and accessibility to all related information. Is a current Transparency culture of the Network society that Himanen (2001) relates to the hacker work ethic when he says that money is no longer an incentive, and profit is measured in goals such as social value generated by the work undertaken, transparency and free access to the created work. Thus, groups linked to the digital activism and transparency have helped transform the way to understand a portion of Journalism, specifically Investigative Journalism (IJ), by incorporating many elements of the transparency culture and the Big Data era into their practices. The result is what is known today as Data Journalism (DJ).

Some Spanish authors (Chaparro-Domínguez, 2013; López & Martínez, 2014) speak about DJ as the evolution of Precision Journalism (PJ) without mentioning the Computer Assisted Reporting (CAR), while others consider PJ and CAR the same journalistic practice (Bounegru, 2012; Elías, 2014). This is because Philip Meyer, the so called father of PJ, relied on computers to carry out his innovative journalistic pieces in the sixties and seventies, which led the Spanish professor –principal translator of Meyer’s work to Spanish and first academic scholar studying PJ in Spain– Jose Luis Dader (1997), to ensure that the PJ is the socio-computer transmission to discover news.

Other scholars (Ferrerias, 2013; Coddington, 2015; Ferreras, 2016) distinguish DJ from PJ and CAR, without delving much into the why. We argue that the difference between the three modes, which share with IJ the focus on creating information instead of the transmission of an information already given, are that DJ is the evolution of CAR, which is in turn the evolution of PJ. This is because they differ in many characteristics of the temporal context in which each of them arose, both technical and cultural.

On the one hand, PJ was born in the US in the sixties with the application of new methods of search and confirmation of news’s data based on the scientific method, being Philip Meyer its main driver. Who coined the term for the first time was Everette Dennis, referring to Meyer and opposed to the literary approach of New Journalism (Galindo Arranz, 2004). However, it was not until Meyer published his work *Precision Journalism: A Reporter's Introduction to Social Science Methods*, in 1973, that the term was internationalized.

On the other hand, CAR emerged in the eighties when the databases were established in the production of news, popularized in the nineties with the creation of the National Institute for Computer-Assisted Reporting in 1989. It differs from the current DJ, among other cultural and technical aspects, in the fact that focused its efforts on search and collect information in a world where information was scarce. In DJ, information on the web is abundant and focus its efforts on data processing rather than finding and gathering information. In addition, we can sense in DJ a transparency culture owns by hacktivists [1] that was not evident in CAR. Given this, this research focus on studying the relationship between the *Law 19/2013 of transparency, access to public information and good governance* [2] (BOE, 2013), and the emergence and further development of DJ in Spain.

After comparing both processes (development of the Transparency Law and DJ in Spain), we observed a correlation between DJ emergence and the publication of the law in this country. Coinciding with the publication of the law, at the end of 2013 the first DJ teams were settled on Spanish newsrooms - as *The Lab* in *Eldiario.es* and the *Data Unit* at *ElConfidencial.com*. Its entry into force in stages prevented the execution of requests for information until December 2014. This opening towards a greater transparency in Spain coincided with the popularization of this journalistic discipline throughout 2015 and the foundation of more DJ teams in others media. As Gaibar (2015) points out, *El Confidencial* was the first Spanish media to have its own data unit in 2013, *El Laboratorio @ECLaboratorio*, followed by the editors of Vocento with its *Media Lab @VocentoLab* (December 2014), *El Mundo* (January 2015) and *La Sexta* (March 2015).

At first glance it might seem that the Transparency Law has boosted DJ in Spain, but, although we cannot deny its impulse, from its inception the law has received much criticism in various media (Ventura, 2013; Anderica, 2013; Infolibre, 2014), being highlighted those concerning the non-inclusion of the law as a fundamental right, the exclusion from access to many types of information and the double administrative silence. Media criticism of the law have passed at the same time as those made by various experts in other forums. Professor Raul Magallón (2013:1) claimed shortly after the adoption of the law, that "we will remain far from the most advanced countries in this field," and Jesus Lizcano Alvarez (2013), president of *Transparency International Spain* and professor of the Universidad Autónoma de Madrid (1991-present), said that despite the important role the law on social improvement, it will not be at all the best possible law, since it contains a number of shortcomings that have not been overcome in its final parliamentary procedure.

Two years later, in July 2015, *Transparency International Spain* published its report "Recommendations and considerations of Transparency International Spain to the regulation on implementing the Transparency Law", where, among other things, criticized the role and dependency of the Transparency and Good Governance Council, the performance of the Transparency Units and the obstacles to the right of access to public information, among which highlighted the "absence of a system of infringements and penalties for non-compliance" and "the regime of negative administrative silence" (Transparency International Spain, 2015).

1.1. Background

The relationship between the transparency culture and journalism predates the invention of the Internet, as well as the use of databases for research on issues of public interest in this context. Michael Schudson (2010) related the use of databases in the production of news with practices of

data gathering and structuring that political observatories launched since the early seventies. Manovich (2001) already claimed that the databases are for the digital age what narrative was for the modern age of the novel and film, so it is not surprising that Schudson (2010:107) related the advance of monitors of government with the "new availability of databases for public-interest research: together, these developments represent just one feature of the future for news". These future of news in 2010 represents today's newsrooms DJ teams, where the databases released by large leaks –as in the case of the Panama papers or the Falciani list– or through open government portals, it is one of the main features of DJ practices.

The relationship between the transparency culture and DJ has been investigated on the one hand by theorists who referred to it as Computational Journalism and considered it the solution to the traditional media crisis, which had diminished investigative journalism (Cohen, Li, Yang & Cong, 2011) and, on the other hand, this relationship has been also investigated by more recent authors for whom the term DJ was already settled (Daniel & Flew, 2010; Gray, Bounegru & Chambers, 2012; Parasié and Dagiral, 2012; Rodríguez-Brito and García-Chico, 2013, Lesage and Hackett, 2014; Appelgren and Nygren, 2014; Fink and Anderson 2014). We share with them that the data used by journalists in their stories are closely linked to the transparency culture.

Parasié and Darigal (2012) state that participation in social movements related to open source communities and open government advocacy of programmers in the newsrooms of Chicago, has influenced the way data tools are to be used in newsrooms. Degand (2013) focuses its research on the role of computer and data scientists in the Belgian newsrooms, whose participation in news production has affected the contents in a collective process where the separation between technicians and journalists is declining. Lesage and Hackett (2014) developed three key dimensions in incorporating data into DJ practices from the theory of mediation: the problem of the scale, transparent work and access to open data. Appelgren and Nygren (2014) assure that access to open data and participation of activists are crucial to DJ development in many countries; and Fink and Anderson (2015) state that are personal beliefs about privacy that determine how data journalists present their stories.

Beyond the studies that have focused their research on the relationship of transparency culture and DJ, some authors assume it as the defining characteristic of DJ. Mark Coddington differs CAR from DJ by saying that " data journalism is characterized by its participatory openness and cross-field hybridity" [3] (2015: 337); while the Professor of Journalism Carlos Elias, said: "The combination of Big Data and Open Data journalism offers a unique opportunity to obtain what best defines the profession: data, facts" (Elias, 2015: 12).

This integration of Big Data and Open Data is part of a DJ definition that we will use as the basis of this research, results of the study of the most important authors who have dealt with defining the term (Gray, Jonathan; Bounegru, Liliana; Chambers 2012; Anton-Bravo, 2013; Rodríguez-Brito & García-Chico 2013, Lesage & Hackett 2014; Coddington, 2015; Elias, 2015). For the construction of this definition we have partitioned DJ into its fundamental aspects, which are backed by a field work with data journalists we made during 2015 and 2016.

“Data Journalism is the journalism proposal that has emerged from the web that shares with precision journalism and CAR a methodological rigor similar to that of the social sciences for data extraction, standardization and processing in order to publish news stories.

Its fundamental difference with these two branches of journalism is in the addition of arising problems and techniques in the context of Big Data, which in turn has led to establish the following aspects:

- 1- its context in the Big Data phenomenon;
- 2- the need for data processing and databases in this context;
- 3- philosophy of open data and transparency from two perspectives:
 - a- from that one necessary by public and private institutions for the correct research in this branch of journalism, and
 - b- from the other one from which the journalist must have as part of its code of ethics;
- 4- data visualization using computer graphics and interactive applications;
- 5- citizen journalism as support in the absence of transparency,
- 6- collective work from two perspectives:
 - a- that one related to citizen journalism and
 - b- the other one related to the collective production of information on a data journalism team." (La Rosa, 2015: 91)

Ferreras Rodriguez (2016), in a recent x-ray of Spain's DJ agrees with us that transparency is related to the sources, as well as the communication of results -or publication- in DJ:

"... There are two types of sources, public and private. They can be accessed through information requests, advanced searches or scraping techniques. It is also possible to obtain data by taking information from APIs or through surveys, online forms or crowdsourcing (...) [data journalists] considered essential to work with multidisciplinary teams: designers, information architects and programmers who along with journalists get to produce pieces based on large volumes of data clearly and effectively. In addition, they argue the desirability of publishing raw data and explain the methods used to promote transparency ". (Ferreras, 2016: 261-262)

Due to the growing interest in the study of transparency culture alongside DJ in various parts of the world, the establishment of DJ as an emerging discipline in Spain and the continuous criticism to Spanish Transparency Law, it's necessary to study the links between DJ practices and the Transparency law in Spain.

1.2. Theoretical framework

This work is based on what Anderson called *computational sociology of computational journalism: politics and public policy*, which studies "public policy decisions that enable or retard the growth of computational journalism" (Anderson 2012: 1011). This political approach of computational sociology in journalism, it's founded on the basis that computational practices depend on a number of social institutions and technological artifacts that lie outside its field, and therefore urges researchers to provide special attention to the ways in which public policies and struggles for data transparency and open government affect journalistic production.

According to Anderson, this approach should not be at a macro or state level, but rather at a bureaucratic and policy initiatives level that can influence the forms of computational journalism and data. For this reason, we have chosen three specific elements of public policies related to the transparency culture and DJ practices in Spain: The Transparency Law in force, the transparency portal of the government and the line that splits transparency from privacy on a public office.

On a similar way, we wanted to flip Anderson's approach on which politics and public policies affect computational journalism development, by also finding out how the transparency culture related to the DJ practices is influencing or trying to influence the politics and public policies related to its development. Approaching the object of study in this way will allow us to obtain a more complete picture of how DJ has been influenced by the Transparency Law passed in Spain in 2013. This will result in the application of a combined research methodology.

1.3. Objectives and research questions

The main objectives of this study are, on the one hand to determine how the Law 19/2013 and the transparency portal of the Spanish government have affected DJ; and on the other hand, to analyze how the news sector has responded in his discourse to public opinion, to the way these three elements help or hinder DJ development. Therefore, we are interested in exploring the relationship between the transparency culture and DJ, and to achieve these objectives we have formulated the following initial research questions:

- Does the Transparency Law and the transparency portal helped improving DJ practices in Spain?
- Are the law and the portal enough to thrive news production in DJ?
- Are there inconsistencies between the Transparency Law and the Organic Law of Personal Data Protection (LOPD) affecting DJ practices?

From the results around these three research questions we could formulate the one that follows; while it depends on the answers given in the preceding.

- How are used these three elements which affect DJ practices in the data journalists discourse facing public opinion?

2. Methodology

Since this research is divided into two parts, the sample and the analysis both reflect a methodology that combines qualitative and quantitative analysis. On the one hand, to analyze how the Law 19/2013, the transparency portal of the Spanish government and the separation of the privacy of a public officer to the transparency regarding its office have influenced DJ practices in Spain, we've made six semi-structured in-depth interviews to data journalists at *Eldiario.es*, *Elconfidencial.com* and the *Spanish Center for Research and Data Journalism (CEPID)*.

On the other hand, to find out in which ways these three elements are used in the discourse of data journalists facing public opinion, we have chosen a Content Analysis based on Agenda Setting and Framing Theory. From Agenda Setting we have taken the influence media have to establish which events, themes and people are important, to see how far they have tried to position transparency as a

relevant theme, while from Framing Theory we have incorporated the way that the journalist presents this theme.

2.1. In-depth interviews

Although today many newsroom and agencies in Spain have incorporated DJ teams, very few have a solid experience in this emerging field. These specialists have found their natural space of development, precisely, in the so called digital-native media, which now are strongly getting in the so called Spanish media ecosystem:

“First, El Confidencial, leading digital-native media in Spain and now fully consolidated, and then the projects that have emerged from the referenced biennium, coincident with the economic crisis, were consolidating a new media ecosystem in Spain on which it has strongly incorporated... Eldiario.es” (González-Esteban 2014:161)

At *Eldiario.es* and *Elconfidencial.com*, Spanish reference of digital-natives media, you can account for the existence of DJ teams from at least the last quarter of 2013. Under the umbrella of their journalistic labs, both media have had a significant presence in the most important DJ annual forum of the Spanish capital, organized by the *MediaLab-Prado*, hence that part of the sample of the interviewed data journalists are from those media. From *Eldiario.es* the multimedia responsible Belén Picazo was interviewed, as well as the head of technological development David Ruiz; from *Elconfidencial.com* were interviewed the reporter, computer graphics artist and data analyst, Jesus Escudero, and the data journalist Adrian Blanco, both from *Elconfidencial.Lab Data Unit*. This lab is responsible for media technology and innovation on this digital-native media, to which is attached the *Data Unit*, the DJ team.

The rest of the data journalists interviewed belonged to the *Spanish Center for Research and Data Journalism* (CEPID): [3] his editor, Frank Belyeu and the access to information responsible of the team, Javier Galán. CEPID is not a native-digital media but a S.R.L. (Spanish acronym for limited liability company) that offers services related to DJ. In its website (<http://cepid.es>) seven DJ pieces of their own has been published, although those are not the only ones, since, for example, on march 25, 2015, one of their research was published by *Elconfidencial.com*: “More than 90 enterprises were broke after receiving 4.5 million” [4] (Belyeu, Frank; Galán, Javier & Pejenaute, Leyre, 2015), which was part of a project selected by the *Medialab-Prado* on the *2nd Data Journalism Workshop: Tracking Public Money*.

The six journalists interviewed are a representative sample of this sector in Spain: all have extensive experience in DJ practices and they all are very familiar with the transparency culture related to organizations that are pushing for greater openness of public data in Spain.

The type of interview chosen was semi-structured in depth. To do this we have relied on the stages of an interview investigation of Kvale (1996), choosing the nonscheduled standard interview and the analysis and interpretation of these by the phenomenological research method of Giorgi (1985), which through the natural unit of meaning extracts the meaning condensation of the interviews, obtaining a compendium of meanings expressed by the interviewee into shorter formulations (Kvale, 1996:192).

2.2. Content Analysis

Considering that "media exerts a powerful cognitive influence " (Igartua & Humanes, 2004:243-245), we will discuss how the Spanish media have tried to convince the Spanish audience that transparency is an important issue. This perspective from Agenda Setting is not intended to measure the effects of the message on the Spanish audience, but to see how this theme has been positioned by media with data units. Thus, quantification of articles on this topic would be supported by the following premise:

"People tend to include or to exclude from their own knowledge what the media included or excluded from their own content. The public tends to assign to what includes an importance that reflects the emphasis given by the media to events, problems, people" (Shaw, 1979: 96-105).

For this reason and because in the first part of our study we analyze the politics and public policies that affect computational journalism from the Transparency Law and the transparency portal perspective, articles quantification will be done through a systematic hemerographic search. As it was essential for the study to obtain a sample whenever data journalists already know for sure from their practices how the transparency portal worked in relation to requests for public information, the date of the content analysis was limited to after December 10, 2014, when the Transparency Law of December 9, 2013 came into force. Given that transparency has been part of the campaign for general elections in Spain in 2015 and the law had been into force for a year on December 10, 2015, we have limited the sample to articles between August 4 and December 10, 2015.

As we intended to find out how the media with data journalists are positioning the transparency theme, it was considered to make a comparison with a high circulation national media without a data unit in its editorial structure. For this reason, we have chosen *El País* as part of the sample. [5]

Part of the theoretical basis of the analysis of our sample is in the separation of articles by journalistic genres, which split from two macro-genres: information and opinion. The following table shows the authors on which we have relied for genres separation.

INFORMATION MACRO-GENRES	OPINION MACRO-GENRES
<p>News: "informational units that respond to a tangible reality" (Bastenier, 2009:82) without the journalist interpretation.</p> <p>Report: work of the reporter, who not only identifies it, but also describes and classifies it and can even interprets the story (Bastenier, 2009).</p> <p>Chronicle: "the presence of the journalist in the place of the scene is essential" (Moreno, 2010:141), because it allows interpretation and assessment elements over informational data.</p> <p>Interview: report's subgenre that Bastenier (2009: 198-199)</p>	<p>Editorial / Opinion piece: the discourse is evaluative instead of informational, because the author analyses the causes and consequences of a particular</p>

defines as “one-person report”.	event (Clauso, 2010).
Review: its characteristic is disseminate news about a public event that also involves an assessment of its relevant. (Guanipa, 2013).	

Table 1. Self-elaborated.

Another way in which Framing theory has affected our content analysis has to do with the implications that this framework has on the collocation of news events. According to Juan Jose Igartua, these would be the focusing of a theme in a certain way and the setting of an agenda of attributes, the choosing of certain words to make a discourse, the manipulation of the salience of certain features and the development of a central-organizing idea to build the informative story (Igartua, 2006). In this we base our analytical methodology to categorize the themes and sub-themes of the sample. In addition to classifying the applied genres, we take into account the authorship of the texts and sources cited to extract "reproducible and valid inferences that can be applied to their context" (Krippendorf, 1990: 28).

3. Results

The results will be presented in two parts below: field work or interview in-depth results, and content analysis results.

3.1. In-depth interviews results

3.1.1. The Transparency Law and transparency portal are insufficient

From the answers of almost all interviewees, the Transparency Law and the government transparency portal do not help what they should DJ practices and, in some cases, they even make difficult the journalistic research as a whole. For data journalist of *Eldiario.es*, Belén Picazo, "the current Transparency Law is totally inadequate ... you can ask for information, but they take a lot of time to respond", point of view shared with the responsible for access to information of *CEPID*, Javier Galan, who said that "the Spanish Transparency Law is suitable in mechanisms and deadlines, but in practice it is not being implemented properly: no deadlines are met, I've checked".

The editor of *CEPID* goes beyond this by explaining the reasons for these failures: "Regarding the Transparency Law, in the draft, it was going to be good, as in the UK, but now has become something that almost has no sense ... When any request for information might be refused by a simple administrative procedure, this implies that the law will not yield fruits". The data journalist of *Elcofidencial.com*, Adrian Blanco, said that the law "is clearly insufficient. Quite deficient because it takes them a month to answer, and silence can be a response". His work colleague, Jesus Escudero, argues that is not so much a problem of faults of the law but of transparency culture: "When it comes to investigative journalism, I still see a lot of fear by the administration to disclose such public data. They try to make excuses of inadmissibility orders or limits ... limits should be the exception and not the rule, but in the public administration is the rule".

All these answers indicate that there are two main problems on the transparency law and the transparency portal on DJ practices in Spain: 1. the delay in answering requests of information that they choose to respond; 2- refusals to answer the many requests for public information. This can be concatenated perfectly with the following statement of Belén Picazo: "We could say that there is no

open data or open governance that are really important, because in the end what they publish are obvious things ... in the end what they are doing is hindering the data journalist's work". This point of view is shared by the software developer David Ruiz, who said that "the transparency portal is certainly insufficient ... The portal itself focuses on information that is not logical to have, because the information already is in many places. What they have to do is to improve those other sites". This is a standpoint that contrasts with what Javier Galan expressed when he said that "the portal is suitable. It does not give problems, is explained properly".

The editor of *CEPID* agrees with the standpoint that argues that the law and the portal are insufficient: "It is a first step, very, very far from what it has to become ... I think it's a simple electoral act: the transparency of the government is fully insufficient". This point of view is shared by Jesus Escudero: "It is good that for the first time there is a transparency law, which has advantages, but on the other hand it has drawbacks ... you cannot access e-mails, information: private data are on their minds when deny information". This last fact has major importance: the separation between transparency and the privacy of a public officer in DJ practices.

3.1.2. In Spain the subordination of the privacy of a public officer to the transparency law is not fulfilled

Belén Picazo calls for data openness by public offices and assures that "there is some information that is true that can be more informative or give a context, as long as individual's privacy is respected". Javier Galán believes that "it is necessary to separate private life from a public officer's performance: I would like to know the schedule, meetings and remuneration of a public officer, and this should be ok by the public servant". This aversion to public office reluctance to publish information was shared by David Ruiz when he said that "if you want to access to public things you must be willing to make some concessions regarding your privacy." Frank Belyeu exposed what he sees as the red line that should separates the privacy of a public officer and the transparency they should practice: "All public officers, especially administrative, must be subject to an absolute public scrutiny ... all public offices, all which can handle public money it must be transparent: that is the red line, public money".

Adrian Blanco from *Elconfidencial.com* says that "when the information is denied, they hide behind the data protection law of Spain" while Jesus Escudero cites a document signed by the Transparency Council and the Spanish Data Protection Agency, establishing the criterion that "senior officials, personal data must be subject to the Transparency Law. Another thing is that the law is fulfilled or not". He also clarifies that it should be like that, at least in the case of deputies of general managers and senior positions: "Another question is whether these private data must be extended to all public servants".

3.1.3. DJ status in Spain still is incipient due to failures in transparency

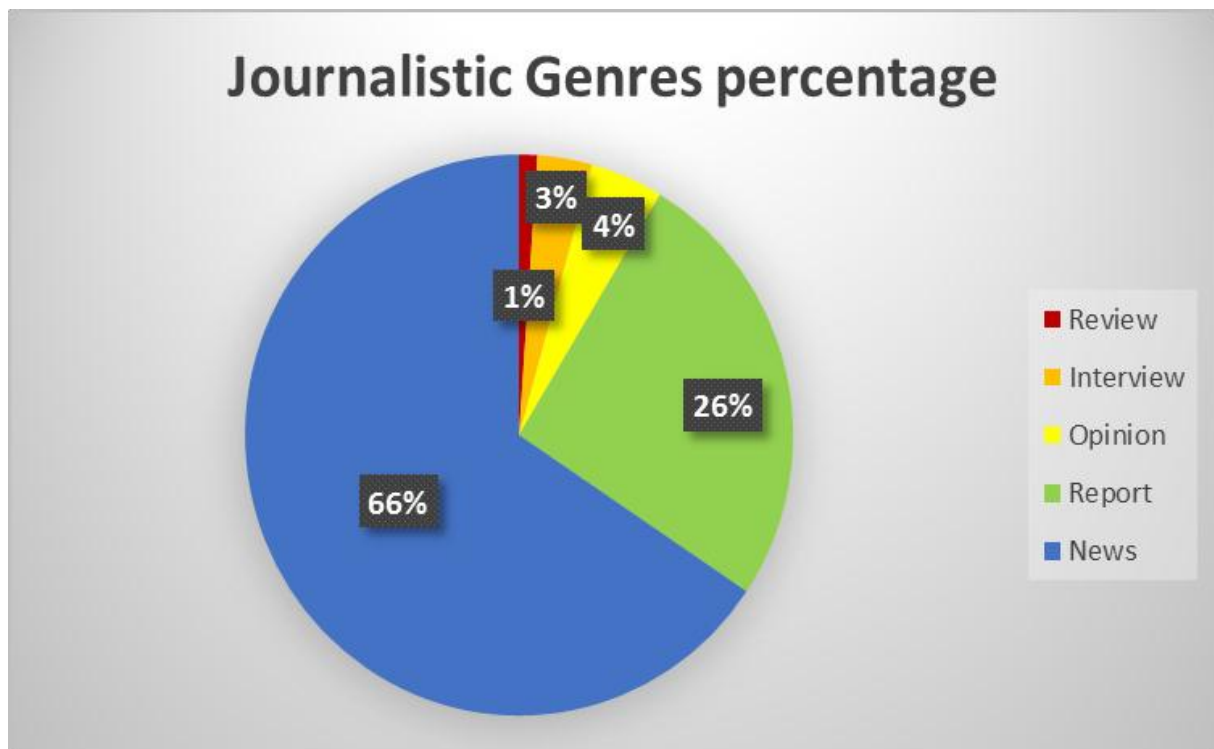
Three of the interviewees consider that transparency faults in Spain have negatively affected DJ. Belén Picazo pointed out that "if we were to foster more *Open Data Governing* we could do a better DJ now" because "government data and official sources are not open and therefore there are gaps in DJ, not in its treatment but in the information supply. There are things that cannot be investigated because there is no database or any source to publish that information". From his part, Frank Belyeu said: "DJ has gaps due to lack of data: I think there's not gaps on DJ behalf... Spain is very late with

this." At this point, it was Jesus Escudero who went a step further by comparing the Spanish situation with other scenarios: "We are still in early stages of exploiting public data, either surveys, the INE [National Institute of Statistics] or Eurostats. Instead, many of the DJ reports in the Anglo-Saxon media were born from requests for public information that is not published in any database or large Leaks".

3.2. Content analysis results.

3.2.1. Prevails News articles and interested replica of the sources

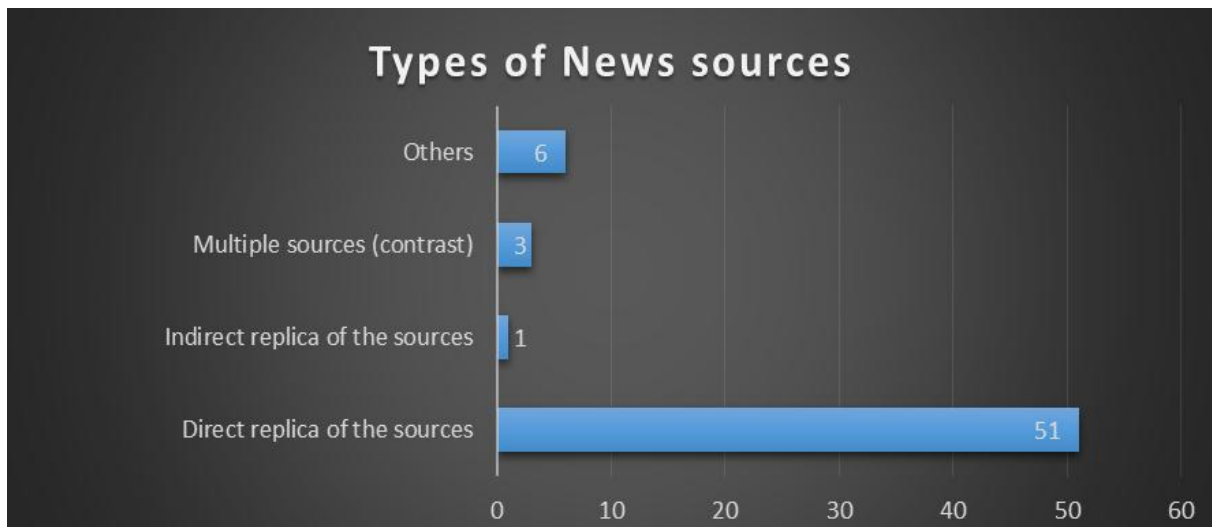
Figure 1. Journalistic Genres percentage



Out of the 93 articles analyzed, there are 61 News, 24 Reports, 4 Opinion articles, 3 Interviews and 1 Review of a book. From the 61 News, 27 comes from agencies and 9 from the media itself 9. 51 News used as a direct source a public institution or political party representatives, or official statements from these institutions. In addition, among the 61 News, one used as indirect sources representatives of political parties from a television program. This left only a total of 9 News that not reproduced faithfully interested opinions of the sources themselves. (Figure 2).

It is noteworthy that *El País* doesn't have any news articles whose source is not an interested political representative - Cristina Cifuentes and Esperanza Aguirre from *PP*, [6] Ignacio Aguado from *Ciudadanos* and Oldón Elorza from *PSOE*-, or a public institution - in this case the *National Commission on Markets and Competition*.

Figure 2. Type of News sources



3.2.2. The News with not interested sources from *Eldiario.es*, *El Mundo* and *El Confidencial.com* used transparency to put pressure on public policies

Of these 9 articles only 4 didn't have its authorship from an agency, among which one from *Eldiario.es* entitled "Transparency Portal of the government gets updated 24 hours after an information from *Eldiario.es*", published on August 11, 2015 and wherein the digital media highlights that thanks to its role of counter-power the government had to comply with the Transparency Law by publishing, in the transparency portal, that four former members of the government left the public service to join the private sector:

“This Sunday we denounced that the Transparency Portal didn't update the data on the control to government officials since January. That is, not keeping up controls on "revolving doors" of government-private sector that requires the Transparency Law. Just 24 hours after our news, the government has reacted and has updated the data". (*Eldiario.es*, 2015)

Eldiario.es uses this article for self-promotion and to make clear that for this media transparency and good governance is fundamental to exert pressure on politics and public policies that affect journalism practices. It used the transparency portal as a source, a common occurrence among the articles that attempt to influence in the politics and public policies outlined above. The other three articles without the authorship of agencies share this characteristic to consider transparency and good governance an essential theme to influence public policies, using also as sources local transparency portals or transparency activist organizations:

Date	Title	Media	Autorship	Source
Oct. 31, 2015	Institutions watchdogs	<i>Eldiario.es</i>	Blanca Blay	<i>Grupo Ciudadano contra la Corrupción</i>

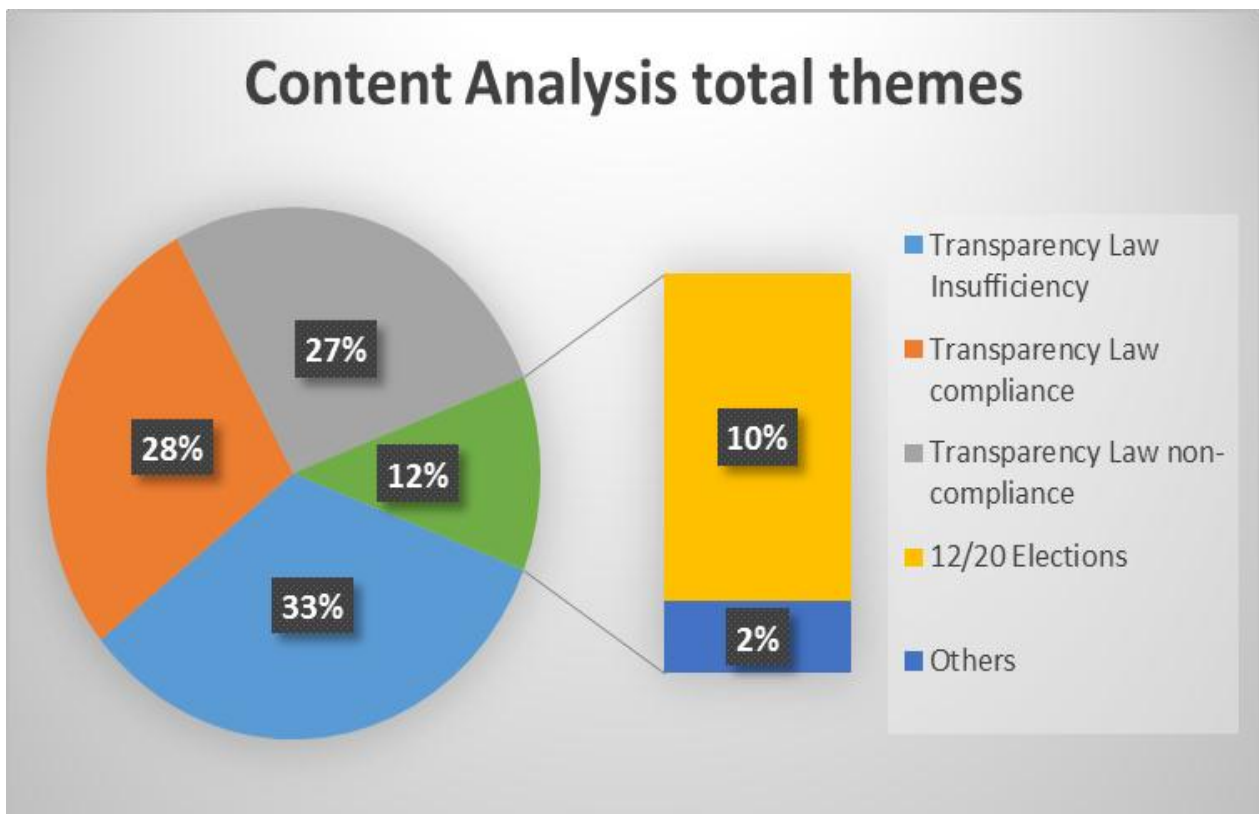
Oct. 28, 2015	Transparency in universities: the public ones improve and the privates are still struggling	<i>Elconfidencial.com</i>	Miguel Ayuso	<i>Fundación Compromiso y Transparencia</i>
Sept- 26, 2015	Councilors incomes will be public	<i>El Mundo</i>	Marta Belber	City Hall of Madrid

Table 2. Self-elaborated

3.2.3. The insufficiency of the Transparency Law, its compliance and non-compliance are the main themes of the sample

Another common point in all this articles are the themes they deal with, being the top three in abundance in the sample the following: *Insufficiency of the Transparency Law* (31 articles), *Transparency Law compliance* (26 articles) and *Transparency Law non-compliance* (25 articles). We should highlight the importance of the theme *12/20 Elections* (9 articles), with most of their content from interested sources - especially political parties - that used the run-up to Catalan elections to expose the insufficiency of the law and its compliance as a political weapon. (Figure 3).

Figure 3. Content Analysis total themes



Similarly, and somewhat in a contradictory manner, the theme *Transparency Law compliance* was employed by representatives of some of these political parties as a defensive weapon on the run-up to December 20 general elections:

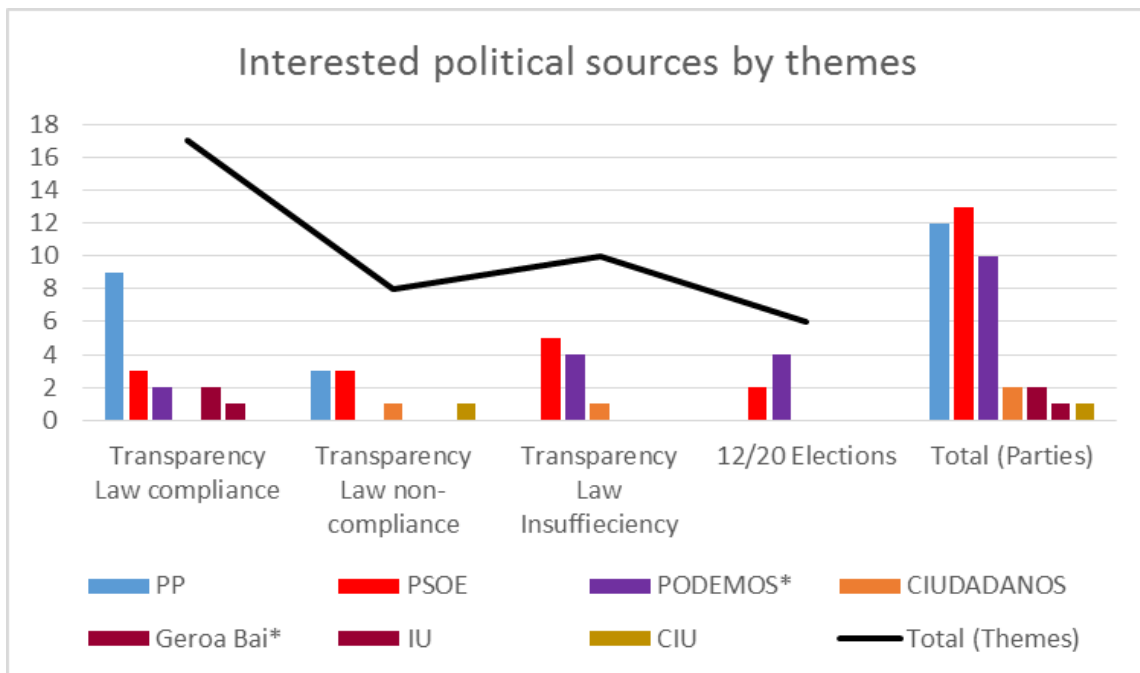
Date – Genre - Media	Title	Theme	Source	Political Party
Nov. 18, 2015 – News – <i>El País</i>	Cifuentes activates the transparency portal (Sánchez, 2015)	Transparency Law compliance	Cristina Cifuentes	
Sep. 08, 2015 – Noticia – <i>Eldiario.es</i>	PP criticizes the Consell for its lack of transparency (Eldiario.es, 2015)	Transparency Law non-compliance	José Juan Zaplana	
Sep. 09, 2015 – Report – <i>Elconfidencial.com</i>	Conthe leave its mark in C's: revolution on the CNMV transform competition	Transparency Law non-compliance	Manuel Conthe	
Oct. 26, 2015 – News – <i>Eldiario.es</i>	The Govern and the City hall coordinates in matters of transparency and citizen participation	Transparency Law compliance	Canarias Government	
Oct. 14, 2015 – News – <i>Eldiario.es</i>	Transparency came into force	Transparency Law compliance	Manuel Alcaraz	
These articles are not part of the theme 12/20 Elections due to the fact that they never referred to them directly, have not always been in the period assigned for the campaign and also, are very similar to other articles within other elections contexts: for example, the Catalan parliamentary elections of September.				

Table 3. Self-elaborated.

3.2.4. Interested political sources positioned Transparency Law from an electioneering and bipartisan perspective

By breaking down the large amount of interested political sources into themes, we noted that most members of the Popular Party (PP) used the fact that the Transparency Law was enacted during their administration to fend off numerous attacks that the rest of the parties made regarding the lack of transparency, often linked to corruption scandals during the studied period. Although almost all of the other parties that are part of this sample tried to project a good law compliance by them to promote themselves, the sum of all of their articles (8) could not equal those of the PP (9).

Figure 4. Interested political sources by themes



Transparency Law Insufficiency was widely used by *PSOE* and *PODEMOS* [7], who reported changes in local transparency laws to even the insufficiency of the national law: a clear attack on the ruling party (PP) while they were promoting themselves.

3.2.5. The lack of a penalty capacity of the Transparency Law and the lack of a regulation on lobbyists are seen as causes of the law insufficiency

Many of the articles that are part of the theme *Transparency Law Insufficiency* revolve around regional and local transparency laws that attempt to compensate for the national law insufficiency with improvements in local laws. A good example of this is seen in the headlines from *Eldiario.es* and *El Mundo* on November 10 about the draft of the *Law of Transparency and Good Government of Castilla-La Mancha*, which demonstrates the lack of capacity to impose penalties and the non-regulation of lobbyists as two of the weakest points of national law.

REPORT FROM <i>ELDIARIO.ES</i>	REPORT FROM <i>EL MUNDO</i>
Castilla-La Mancha will fine officers that impede access to public information (Avilés Pozo, 2015)	Page will approve the first law to control and sanction 'lobbies' (Sanz, 2015)

Table 4. Self-elaborated

Among the articles that best relate to the lack of sanctioning capacity of the Transparency Law as the cause of its insufficiency is the report made by the data unit of *Elconfidencial.com* under the title "RTVE eludes the Transparency Council and hidden Eurovision bills", where the coordinator of this unit, Daniele Grasso, stated:

"It is not sustainable that RTVE not know how much of its budget has used to cover the costs of the Festival (...) So clear is the opinion of the Transparency Council on the information that public media *Radio Televisión Española* should provide to a citizen. Details of expenditure requested under the Transparency Law and yet, RTVE doesn't want to reveal. In fact, the network has presented legal proceedings - administrative (...) the Transparency Law understands silence as a refusal. Thereby on July 10, 2015 Parra went to the Transparency and Good Governance Council to file a claim. This independent body is responsible for adopting recommendations so the Transparency Law will not remain unheeded, but has no power to issue sanctions in case of default." (Grasso, 2015)

4. Discussion and conclusions

The Law 19/2013 of transparency, access to public information and good governance, was published by the Official Gazette (BOE) on December 10, 2013. Its entry into force in stages made that not until a year later, since December 10, 2014, anyone could make requests for information or consult public data that the administration made available to the citizens. This has an obvious parallel with DJ emergence in some Spanish media since the end of 2013, its highest development throughout 2014 and its dissemination to other media in 2015. This also coincides with the view of all interviewees about the fact that, in relation to the previous situation, the existence of the law is an improvement in transparency.

This advance over the prior absence of the law is also evident in the fact that the themes *Transparency Law compliance* and *Transparency Law non-compliance* represent more than 50% of the sample. It is also striking that, in these two themes, more than 50% of the articles are based on interested political sources, demonstrating that, through political speeches during the campaign and pre-election campaign, at least three media from the sample - *Elconfidencial.com*, *Eldiario.es* and *El Mundo* – were interested in positioning transparency in the national political language as a way to influence politics and public policies affecting journalism.

This attempt to influence public opinion is evidenced by own news based on non-interested sources, but even more by reports focusing on transparency that use various contrasted sources. This shows that the position of these three media tally with what was said by most interviewees.

As for the insufficiency of the law and the portal, is a position almost unanimous among the interviewees, that we also supported with the themes results of the content analysis: this insufficiency was the most discussed theme in the sample, and its relation with the lack of a penalty capacity of law and the lack of a register of lobbies became evident in the results of this part of the research. This is linked to what data journalists said in the in-depth interviews, because even when Javier Galan said that the transparency portal explains it self very well, he stressed that the problem is that the times of respond are not met, as several analyzed articles from *Eldiario.es* and *Elconfidencial.com* stated.

The latter is because the law and the portal go hand in hand: with an insufficient Transparency Law we cannot expect a transparency portal better than the law from which arises, unless public officers responsible for answering requests of information and the publication of public data have a transparency culture that leads them to supply this law insufficiency: this is not the case in Spain. Therefore, because of a lack on what Escudero called himself "transparency culture", we should amend the law to force officials to comply with the times set out therein, while forcing and not

"urging" public institutions to publish their data: none of this is possible without a law with penalty powers. Hence that Escudero highlighted the administrative litigation that RTVE filed to appeal the call that the Transparency Council made upon it to publish the breakdown of the expenditure of Eurovision 2015.

Without a penalty faculty of law and the current negative administrative silence that rules it, there cannot be an effective opening of data. This directly affects the DJ practices and data journalists corroborate it. It is therefore no coincidence that DJ in Spain continues in an emerging stage despite the boom that had over 2015.

Another point to consider is the imbalance between the protection of personal data of a public official and the Transparency Law. Although in the case of a high public officer, both the Transparency Council and the Spanish Data Protection Agency have agreed that their personal information is subject to the Transparency Law, interviewees offered several examples of negatives on information requests which alluded to the LOPD. [8]

This inconsistency or breach of the law adds to its insufficiency, criticized by experts and agencies, which argues that Spain is several years behind the main English-speaking countries.

This is why we conclude that since DJ emerged in Spain there has been a boom in this discipline directly related to the entry into force of the Transparency Law and the transparency portal operations. However, the insufficiency of the law thanks to the negative administrative silence and its incapacity to impose penalties stalled the growth of this emerging discipline, keeping it in an incipient state. To all this, is added the breach of the law regarding the subordination of the privacy of a senior public officer to the Transparency Law, from which we can ensure that the inconsistencies between this law and the LOPD that both the Transparency Council and the Spanish Data Protection Agency attempted to settle, still apply in the practice because of a lack of transparency culture in the public administration.

A first step to solve all of these obstacles to DJ practices in Spain, would be to give penalties capacities to the law and, therefore, to the Transparency Council. In this way there would be sanctions and penalties to both officers and institutions that violate the Council resolutions, the times established to answer the requests for information and the subordination of the personal data of a senior public officer to the Transparency Law. A second step would be to adequate the law to their Anglo-Saxons counterparts. In the British case and despite the recent Brexit, it is the first country that has followed the EU directive on Extractive Industries, which requires a detailed description of a series of payments made to foreign governments by these companies. Spain should implement this directive that affects public and private companies alike, just to name an example.

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5. Notes

[1] In this study hacktivism is defined as the nonviolent use of illegal or legally ambiguous digital tools in pursuit of political goals that enhance freedom of expression, human rights and ethics of information from the hacker work ethic.

[2] It was published by the Spanish Official Gazette (BOE or *Boletín Oficial del Estado*) on December 10, 2013 and from now on, it will be called in this text Transparency Law.

[3] Spanish acronym of *Centro Español de Periodismo de Investigación y Datos*.

[4] The Spanish original title was “Más de 90 empresas fueron a la quiebra tras recibir 4,5 millones de fondos FEDER”.

[5] Although *El País* has published several “specials”, these pieces have not emerged from the newsroom itself, but through third parties.

[6] From now on, we will refer to as PP Popular Party and not associate this acronym with more precision journalism.

[7] This study has added to the interested sources PODEMOS the confluences *Compromís*, *SíQueEsPot* and *En Comú Podem*.

[8] LOPD stands for “Ley Orgánica de Protección de Datos”, which means Organic Law of Data Protection.

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