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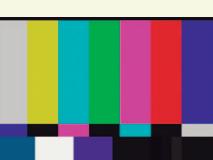








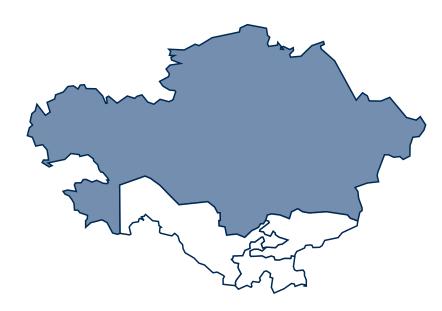
IREX







Declining audiences for state newspapers and broadcasters have led government officials to look at what they can gain from the private media, and what needs to be done to make that possible, a panel member noted. "Government officials themselves are interested in the development of a media market and the liberalization of media laws. Otherwise there will be no income."



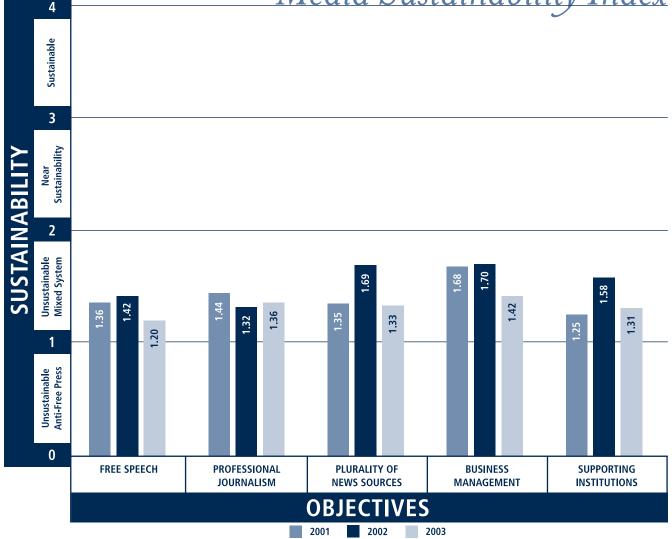
Introduction

he strengthening of the Kazakhstan media during recent years, marked by better professionalism and an increasingly forceful role in civil society, came to a near halt in 2003. The non-state media sector, as well as press freedom more broadly, suffered for its inextricable links with the political agenda of President Nursultan Nazarbayev and his government, according to the Media Sustainability Index (MSI) panel. The contradictions implicit in a media industry operating to some extent by market rules but under a rather totalitarian government became ever more significant during 2003, the panel concluded. Attempts by independent media outlets to report on an investigation of financial irregularities relating to an estimated \$20 billion in oil revenues were met by legal, financial, and physical retaliation from the Nazarbayev regime, panelists said. Websites providing coverage of the scandal were blocked, and increasing numbers of editors and journalists perceived to be affiliated with opposition camps were arrested, attacked, or otherwise pressured. In one high-profile case, Sergei Duvanov, a journalist and human-rights activist, was arrested on what many believe to be trumped-up rape charges in late 2002, the day before his scheduled departure for the United States to deliver a report on human rights in Kazakhstan. According to the Committee to Protect Journalists (CPJ), Duvanov was sentenced in January 2003 to three and one-half years in prison, despite protests that his trial did not follow due process. By the end of 2003, a number of private newspapers-such as Vesti Pavlodara and Delovoye Obozreniye Respublika— and television stations had been shut down as a result of politicized investigations disguised as administrative procedures. And in the legislative arena, a draft media law was released in 2003 that international legal experts predicted would only serve to gag the media further.

It is well established that the Nazarbayev regime has always considered the media to be extremely important. Throughout his terms as president, Nazarbayev and his family have taken unprecedented steps to acquire substantial media holdings while simultaneously targeting private media organizations considered unfriendly to the administration.

Kazakhstan

Media Sustainability Index



Objective Scoring

The averages of all the indicators are averaged to obtain a single, overall score for each objective. Objective scores are averaged to provide an overall score for the country. IREX interprets the overall scores as follows:

- 3 and above: Sustainable and free independent media
- 2-3: Independent media approaching sustainability
- 1–2: Significant progress remains to be made; society or government is not fully supportive
- **0–1:** Country meets few indicators; government and society actively oppose change

Indicator Scoring

Each indicator is scored using the following system:

- **0** = Country does not meet indicator; government or social forces may actively oppose its implementation
- **1** = Country minimally meets aspects of the indicator; forces may not actively oppose its implementation, but business environment may not support it and government or profession do not fully and actively support change
- Country has begun to meet many aspects of the indicator, but progress may be too recent to judge or still dependent on current government or political forces
- 3 = Country meets most aspects of the indicator; implementation of the indicator has occurred over several years and/or through changes in government, indicating likely sustainability
- 4 = Country meets the aspects of the indicator; implementation has remained intact over multiple changes in government, economic fluctuations, changes in public opinion, and/or changing social conventions

Indeed, in an April 2003 speech at the Eurasian Media Forum, the president made his views clear on the limits to freedom of speech: "In a poor society, torn by social antagonisms, it is impossible to attain the model of a liberal and pluralistic press." The president continued: "A weak civil society confronted by social and political pressures is turning the media into an instrument of social disintegration. It is also necessary to clearly define the responsibility of the media in violating the law. Society needs freedom of speech, and not freedom of libel and disinformation." ¹

The president's political advisor Ermukhamet Ertysbayev, in an interview with the independent Assandi Times, published on April 27, 2003, indicated he considered closing independent newspapers a possibility for the government. "The field of newspapers can be narrowed if opposition newspapers continue to adhere to their position that media should not be the means of information, but rather the means for a political struggle," he said. "When I read an issue of Assandi Times or SolDat, there is no information there, but there are lots of negative materials about Kazakhstan. These articles have the sole purpose of shaping public opinion in their image in order to rearrange the political system of the country, remove the president from power, and cause a number of other political cataclysms." In the view of the MSI participants, such statements foretold a renewed attack on press freedoms in Kazakhstan and a general lowering of the panel's evaluation of the country's progress toward a sustainable independent media.

Objective 1: Free Speech Kazakhstan Objective Score: 1.20/4.00

The Constitution of the Republic of Kazakhstan and the current mass media law guarantee freedom of speech and prohibit censorship. Unfortunately, other legislation and law-enforcement practices are not adequate to ensure these principles are upheld. The current criminal code contains six articles that define the liability of journalists for infringement of personal nonproperty rights, including libel. The civil code requires journalists to prove their innocence in the event of libel charges, and there is no limit on potential fines. Moreover, media outlets that employ these journalists are held liable for so-called moral damages. The administrative code, meanwhile, stipulates that entire press runs can be confiscated for violating the rules regarding declaring the number of copies printed, the names of the media company's directors, and other details in each edition of the newspaper. "Media laws do exist, but they are mainly for regulation and are of a restrictive nature—and only the parts concerning restrictions are "Media laws do exist, but they are mainly for regulation and are of a restrictive nature and only the parts concerning restrictions are complied with fully."

complied with fully," said a panel member. The panelist also noted that the general public is not particularly concerned about free-speech issues, attacks on journalists, or establishing a viable independent press.

The government drafted a new media law in 2003 and pushed it through the lower house of parlia-

Legal and social norms protect and promote free speech and access to public information				
FREE SPEECH INDICATORS		Legal/social protections of free speech exist and are enforced.		
		Licensing of broadcast media is fair, competitive, and apolitical.		
		Market entry and tax structure for media are fair and comparable to other industries.		
	•	Crimes against journalists or media outlets are prosecuted vigorously, but occurrences of such crimes are rare.		
	•	State or public media do not receive preferential legal treatment, and law guarantees editorial independence.		
	•	Libel is a civil law issue; public officials are held to higher standards, and the offended party must prove falsity and malice.		
	•	Public information is easily accessible; right of access to information is equally enforced for all media and journalists.		
		Media outlets have unrestricted access to infor- mation; this is equally enforced for all media and journalists.		
		Entry into the journalism profession is free, and government imposes no licensing, restrictions, or special rights for journalists.		

¹ http://www.eamedia.org/kns/kns1.php

"Now tenders are conducted all the time. Even if they have been secretly awarded beforehand, out of four to five frequencies, you can definitely win one to two." ment despite deep concerns voiced by human-rights organizations, whose evaluations show the legislation does not comply with international standards for freespeech guarantees. At the time of the MSI panel discussion, this draft

legislation had not yet become law. The draft extends considerably the regulatory powers of the Ministry of Information, giving it control over nearly every facet of the media sector and the authority to suspend or revoke media operating licenses. In addition, the procedures for registration, licensing, and accreditation fall within the purview of state authorities rather than independent commissions, giving the government additional levers with which to control the media. International observers also have raised concern about the use of vague terms such as "propaganda," "agitation," and "state secrets" that could open journalists to arbitrary prosecutions.

Currently there are no legal provisions ensuring a level playing field for state-owned and independent media, the panel noted. The selective enforcement of existing media laws generally means that government outlets can do as they please while non-state media are potentially subject to the consequences of being accused of violations. While there are no official privileges for state media, there are advantages in practice that suggest the media market appears liberalized but does not in fact function freely. For example, according to a panel member, the state exercises tight control on licensing to control entry to the media industry and uses contacts within state companies and businesses to pressure independent-minded outlets.

The government has introduced preferred taxation policies for media. Taxation benefits for the media have been in existence since 2000. For example, all television stations and print media are exempt from the value-added tax (VAT). While this exemption officially runs out in January 2005, it could be extended beyond that date.

Registration of media organizations is very difficult. The Ministry of Information delays action on registration applications for periods longer than the mandated 15 business days, without any consequences. In one case, the limited-liability newspaper company Tema-TJ (Ural'sk) waited for a response to its first application for 84 days before being rejected. By early 2004, the company was still waiting for a response to its second application for registration filed on September 29, 2003. Ministry of Information officials neither refuse nor authorize registrations, and feel no obligation to explain their delay or inaction.

Broadcast licenses are issued by the Ministry of Information, but also must be signed by the Ministry of Transport and Communications. The licensing process is controlled by a specially created commission of state officials and representatives from public organizations. While the law provides for the fair distribution of licenses, in practice the process is unclear. Panelists agreed that licenses are often issued selectively, based largely on applicants' political influence and that of any opponents to the issuance of the license. However, one panelist offered another view, saying that although the licensing process is not 100 percent fair, "there are broadcasters that have obtained licenses without any political support." The panel member said the situation had improved from two to three years ago, when few if any frequencies were being distributed. "Now tenders are conducted all the time. Even if they have been secretly awarded beforehand, out of four to five frequencies, you can definitely win one to two," the panelist said.

The government has used its power to pressure and even close media outlets. When several television and radio stations began supporting opposition political forces, they were shut down. In some cases, the owners were forced to sell the outlets or simply hand them over to someone else. When the government closed the weekly Delovoye Obozreniye Respublika in 2002 for printing opinions critical of the authorities-its offices had earlier been set on fire-the editor-in-chief, Irina Petrushova, created the Assandi Times, according to the Committee to Protect Journalists (CPJ), an international advocacy group. Petrushova, who fled the country in 2002 after she was targeted with death threats and lawsuits, now edits her newspaper from Russia. CPJ noted that in July, an Almaty district court decided a libel case against Assandi Times and awarded Nazarbayev's son-in-law Rakhat Aliev \$2,000 after he protested an April article alleging he had used his political connections against business competitors.

The state at times impedes journalists' access to information, and government officials track journalists' activities, permitting only loyal ones access to official material. Journalists who question these arrangements or criticize the government in other ways can be imprisoned, beaten, or forced into exile. In April, Maksim Erokhin, the editor of the independent *Rabat* newspaper who wrote about illegal villas allegedly built by government officials, was beaten unconscious by attackers, according to CPJ. In October, several men beat Andrei Doronin, a correspondent for the independent Almaty daily *Ekspress-K*. He was warned to leave the media industry after writing articles about illegal vodka production, the organization said. As a rule, these crimes against journalists do not engender public outrage—and no perpetrators are ever found.

As the government realizes that information is becoming increasingly accessible—in Almaty alone, for example, more than 100,000 families can afford cable television—it seeks additional ways of controlling its sources. This appeared especially true as the 2004 parliamentary elections approached. The state administration founded its own media outlets—media nongovernmental organizations (NGOs) and trade organizations such as the Congress of Journalists, the Association of TV and Radio Broadcasters, and a media training center. President Nazarbayev's daughter, Dariga, head of the powerful Khabar Media Holding Co., chaired the pro-government Congress of Journalists.

Declining audiences for state newspapers and broadcasters have led government officials to look at what they can gain from the private media, and what needs to be done to make that possible, a panel member noted. "Government officials themselves are interested in the development of a media market and the liberalization of media laws. Otherwise there will be no income."

Access to international news is not limited, but financial constraints mean that not every company or media manager could provide Internet access for their employees. In addition, there were repeated reports of blocked access to websites through the main, state-run Internet service provider. The journalism profession is open and is not restricted by licensing requirements or qualification exams.

Objective 2: Professional Journalism Kazakhstan Objective Score: 1.36/4.00

The panelists agreed that there are no broadly accepted journalistic standards in Kazakhstan, either because journalists have not adopted an ethics code or because the pressures at their media outlets do not allow them to implement one. In a study conducted by the International Foundation for the Protection of Freedom of Speech "Adil Soz" and the Organization for the Security and Cooperation in Europe (OSCE), nearly 85 percent of journalists responding said "yes" to the question: "Are there any topics that you consider to be dangerous?" More than half of those surveyed answered affirmatively when asked, "Did you ever experience pressure while reporting?" More than half of those surveyed answered affirmatively when asked, "Did you ever experience pressure while reporting?"

"Opposing points of view are not always represented in media articles," one panel member said. "Practically all media have 'restricted' topics." Many journalists lack the sources, time, and experience to expend much effort on verifying information. Political news reflects the affiliations of the media outlet owners, and objectivity is relegated to relatively neutral subjects. At both state-run and private newspapers, journalists say that they are not only allowed but even encouraged to produce made-to-order articles.

However, pockets of professionalism and skilled specialized reporting do exist at some media outlets. Panelists pointed out that a growing number of private

Journalism meets professional standards of

quality				
IRS		Reporting is fair, objective, and well sourced.		
INDICATO		Journalists follow recognized and accepted ethical standards.		
		Journalists and editors do not practice self-censorship.		
ISM		Journalists cover key events and issues.		
PROFESSIONAL JOURNALISM INDICATORS		Pay levels for journalists and other media professionals are sufficiently high to discourage corruption.		
		Entertainment programming does not eclipse news and information programming.		
		Technical facilities and equipment for gathering, producing, and distributing news are modern and efficient.		
PROFE		Quality niche reporting and programming exists (investigative, economics/business, local, political).		

"Opposing points of view are not always represented in media articles," one panel member said. "Practically all media have 'restricted' topics." media are focusing on producing their own news and information programming. One panel member spoke of her experience: "At my television channel, I can say that information is frequently verified and objective, and is

based on trustworthy sources. Errors do occur in materials, like surnames, first names, and positions. (But) violations of ethical standards are extremely rare."

Journalists say they frequently are forced to resort to self-censorship, produce coverage tailored to the demands of interest groups, or otherwise act against their consciences in order to keep their jobs. Journalists may not be allowed to cover vital events for fear of the backlash from the government or their own editors. Newspaper owners issue strict directives to their editors and journalists as to what they cannot write or talk about. For example, the monitoring of free-speech issues in Kazakhstan done by the International Foundation for the Protection of Freedom of Speech "Adil Soz" showed that the owner of the newspaper Talap expressly forbade his journalists from writing about the activities of the opposition political party Democratic Choice of Kazakhstan (DVK). News related to prominent opposition figures such as former Prime Minister Akezhan Kazhegeldin, DVK leader Mukhtar Abliazov, or journalist and human-rights activist Sergei Duvanov was also taboo.

Some panelists felt that the absence of freedom of speech had a greater affect on a journalist's decision to remain in media than did the low wages. Others, however, mentioned that low pay led journalists to take more profitable offers from public relations agencies and press services. Some provincial media outlets pay less than the average wage level, but wages are reasonable at selected national mass media, where they may reach \$400 to \$500 monthly. A panelist noted other differences at the betterresourced national media: "The relative development of the market lets the media introduce new information technologies. The media are starting to pay fairly high salaries to their leading journalists and specialists. The competition in the market among the media themselves promotes the development of professionalism." The lack of specialized niche reporting is especially evident at provincial publications and broadcasters with small staffs. Regional independent media are also particularly vulnerable to pressures from various local, regional, and federal government authorities. These provincial outlets also are less likely to have advanced technical capacity. However, at least a few editors from urban areas far from the administrative and commercial capitals report that this distance appears to allow them to operate in a business-like manner within a relatively unrestrictive environment, although they are always aware that they may come under pressure.

Objective 3: Plurality of News Sources Kazakhstan Objective Score: 1.33/4.00

Access to information is limited by poverty and by government restrictions. State-run media generally cover only government-sanctioned issues, while private outlets answer to the interests of owners—many of whom may be government-connected—or face risks when they broaden their coverage.

The business interests that control the leading media outlets have little transparency. These factors result in declining public trust in the media.

Multiple news sources provide citizens with reliable and objective news

PLURALITY OF NEWS SOURCES INDICATORS		A plurality of affordable public and private news sources (e.g., print, broadcast, Internet) exists.
		Citizens' access to domestic or international media is not restricted.
		State or public media reflect the views of the entire political spectrum, are nonpartisan, and serve the public interest.
		Independent news agencies gather and distrib- ute news for print and broadcast media.
	•	Independent broadcast media produce their own news programs.
		Transparency of media ownership allows consumers to judge objectivity of news; media ownership is not concentrated in a few conglomerates.
		A broad spectrum of social interests are reflected and represented in the media, includ- ing minority-language information sources.

"In Kazakhstan, private media are developing rapidly," said one panel member. "There are a lot more of them now, and they are more energetic and professional than the state-run media."

The majority of Kazakhstanis who are media consumers live in major cities. There, most can afford to buy private media publications, and some can pay for Internet service and cable television available on more than 30 networks. According to Kazakhtele-

com, the state Internet service provider, approximately 10 percent of the population uses the Internet. However, in small towns and villages, very few can afford to buy newspapers and therefore get most of their information from the reports carried by the state television and radio stations. Access to Western publications is very limited due to the language barrier, and this precludes the government from needing to restrict these foreign information sources.

State-run media give clear preference to government opinions and policies, without reflecting the entire political spectrum. "Access to opposition websites has been restricted," said one panelist. "The news agency services of Interfax and www.kazaag.kz do not always present information about events in Kazakhstan. They 'hush it up.' For the most part, that applies to topics related to dissidence or the opposition."

Some independent media, however, do produce their own news programs with a relatively broad scope. They also use news agencies even though such services are expensive. "In Kazakhstan, private media are developing rapidly," said one panel member. "There are a lot more of them now, and they are more energetic and professional than the state-run media."

In fact, one panel member noted, the general disinterest in "official" media on the part of readers and viewers has led those in power to consider the potential in "private" outlets. "The ratings of state-run television and radio stations are very low, as are state newspaper circulation numbers. The situation is becoming interesting, as the authorities themselves are turning to the private media," the panelist said.

Media organizations that may receive government contract work can only develop their programs in the official language of the state, Kazakh. Media are available in the languages of national minorities as permitted by law, but the scope of their coverage is limited.

Objective 4: Business Management Kazakhstan Objective Score: 1.42/4.00

Panelists agreed that independent media outlets in Kazakhstan cannot be fully financially independent, no matter how well the business is managed. Since such media outlets are generally critical of government policies, and often report on human-rights violations, they are in a difficult financial position. Private companies are simply afraid to use them as venues for advertising. Printing plants, both private and state, and distributors may be afraid to handle publications considered to be "opposition," or they are sometimes ordered not to print or disseminate certain publications. For example, the state-owned distribution enterprise Kazbaspasoz was required to cancel its 2004 contract with the private *Assandi Times* by order of the secret service, according to an editor there.

"Independent media are quoted higher prices for printed products, or are denied printing altogether, as was the case with *Assandi Times*," said one panel member. "The situation is the same with distributors,

Independent media are well-managed businesses, allowing editorial independence Media outlets and supporting firms operate as efficient, professional, and profit-generating **BUSINESS MANAGEMENT INDICATORS** businesses. Media receive revenue from a multitude of sources. Advertising agencies and related industries support an advertising market. Advertising revenue as a percentage of total revenue is in line with accepted standards at commercial outlets. Independent media do not receive government subsidies. Market research is used to formulate strategic plans, enhance advertising revenue, and tailor products to the needs and interests of audiences Broadcast ratings and circulation figures are reliably and independently produced.

"Independent media are quoted higher prices for printed products, or are denied printing altogether, as was the case with Assandi Times," said one panel member. "The situation is the same with distributors, who can be intimidated and forced to deny service to media. For example, in the last three weeks our newspaper has been withdrawn from the distributors, or bought up in bulk by policemen and people in civilian clothes."

who can be intimidated and forced to deny service to media. For example, in the last three weeks our newspaper has been withdrawn from the distributors, or bought up in bulk by policemen and people in civilian clothes."

Although media outlets are not officially subsidized, the government maintains control through a favorable tender system in which state-run media or pro-government private media usually win the bids for coverage of official news. When independent media do win tenders, they are subject to the influence of the authorities. If the outlets are "disagreeable," the authorities may not

allow them to compete for the next tender.

Smaller media outlets may be subsidized by private entrepreneurs who do not see the companies as media businesses, but rather as their own platform for wielding power.

Advertising agencies work mainly with large-scale clients such as media conglomerates. Regional media create their own advertising services, and both types of advertising mechanisms can be quite effective in some cities. However, businesses loyal to the authorities control the leading advertising agencies, resulting in a greater flow of advertising revenue to government-affiliated media and outlets run by loyal business interests. Even advertisements from Western media sources such as the BBC or Voice of America appear first in the staterun media, and not in the private media, according to panelists. In the cities, advertising amounts on average of 20 to 30 percent of revenues for a media outlet, panel members estimated.

Advertising is almost the only source of income for many regional television and radio stations. The advertising market in Kazakhstan is developing rapidly and is fairly sizeable by Central Asian standards—\$120 million a year, according to the panel members. The regional advertising market supports about 50 television stations and 30 radio stations in Kazakhstan. Advertising revenues may provide enough for a media outlet's operating costs, but not enough for any expansion or new business development. The percentage of advertising revenues in overall budgets is 10 to 12 percent for television, and 5 percent for newspapers. Much of the rest of independent media outlets' budgets comes from "donor" support.

In Kazakhstan, market research is conducted on a regular basis, but is limited to a narrow circle of customers. The cost of the research is rather high, so only certain stations can afford the data. Primarily, the television stations that use the market research are from the media group that includes ORT of Kazakhstan, Khabar, Kazakh Telekompany, and National Telekompany, which are owned by the president's daughter, Dariga Nazarbayeva, as well as a few independent stations such as Channel 31.

Circulation and ratings services are only beginning to emerge in Kazakhstan, and their results are so far not complete or fully reliable. Some firms offering these services as well as public opinion polling are considered to be affiliated with political or business interests and to be producing potentially subjective results, according to panel members.

Objective 5: Supporting Institutions Kazakhstan Objective Score: 1.31/4.00

Trade unions, associations, and other supporting institutions for media in Kazakhstan are rather weak. Such organizations exist, but their influence on the government is insignificant—or they may even be government supported. For example, the Congress of Journalists was founded by Dariga Nazarbayeva, the president's daughter and head of a major media holding.

NGOs that advocate for press interests are active and carry a certain amount of weight within the media community—but not with the authorities. The attempts of these NGOs to assess the draft media law and generate debate were largely ignored by the government. However, some panelists noted that the increasing number of NGOs is nonetheless pushing the government to retaliate by creating its own official organizations.

There are no trade unions protecting the interests of media workers. Journalists often appear in court on their own, representing their publications without an attorney.

Of the three associations that supposedly support journalists, one of them, the Association of Television-Radio Producers of Kazakhstan (ATPK) represents the interests of the authorities, while another, the National Association of Television Producers (NAT), is driven by private business interests. The third association, the Association of Publishers, is idle.

The educational opportunities for would-be journalists in Kazakhstan are poor. Graduates of university journalism faculties are not ready to work at media outlets. One panel member noted that there are few teachers with hands-on experience offering courses at the universities, there is little modern equipment on which to learn, and efforts to offer internships at editorial offices have largely failed.

There are various trainings and seminars for developing professional journalism skills conducted by local and international NGOs, but they can only reach a fraction of the practicing media workers. Niche reporting skills are particularly in short supply, a panel member noted, and those journalists who do receive specialized training tend to be snatched away by mar-

Supporting institutions function in the professional interests of independent media

	•
SUPPORTING INSTITUTIONS INDICATORS	Trade associations represent the interests of private media owners and provide member services.
	Professional associations work to protect journalists' rights.
	NGOs support free speech and independent media.
	Quality journalism degree programs that provide substantial practical experience exist.
	Short-term training and in-service training programs allow journalists to upgrade skills or acquire new skills.
	Sources of newsprint and printing facilities are private, apolitical, and unrestricted.
	Channels of media distribution (kiosks, trans- mitters, Internet) are private, apolitical, and unrestricted.

keting departments of banks and other companies or government institutions.

Despite the fact that most of the printing plants and distributors in Kazakhstan have been privatized, the state has managed to maintain its influence on this sector through the government organizations that hold shares in the enterprises. This leads to the denial of printing services or access to the distribution network for certain publications. The largest distributor of print media in Kazakhstan is the national company Kazpochta. It is completely controlled by the government, as is the distribution company Kazakhstan Temir Joly.

Panel members noted, however, that no mater how zealous government attempts to control the media sector might be, it is no longer possible to manage all the printing plants, newsstands, and Internet providers. There are "loopholes." For example, one can easily buy opposition newspapers such as *Assandi Times* and *Epoch* at newsstands. The number of private printing plants is growing, even at the oblast and district centers, and Internet clubs exist in virtually every populated area.

Panel Participants

Telegen Askarov, Epoch weekly

Baldjan Beysembekova, executive director, National Association of TV and Radio Broadcasting of Kazakhstan

Galina Dyrdina, deputy editor-in-chief, Assandi Times

Tamara Kaleyeva, president, Adil Soz, Almaty

Valentina Kulikova

Sofia Mustafayeva, Channel 31

Moderator

Marfua Tokhtakhodjaeva, chairperson, Women's Resource Center

Observers

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