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UKRAINE

The new Ukrainian government, headed by President Viktor Yanukovich, came to power after the presidential elections in February 2010. Influential international organizations and western governments have criticized the Yanukovich administration repeatedly for curtailing democratic freedoms and civil liberties, applying selective justice, repressing political opponents, raiding businesses, and cracking down on human rights activists and the media. Against this backdrop, fears are rising that not only is Ukraine sliding back towards authoritarianism, but the current administration may be more brutal than that of former President Kuchma. The new government denies such claims, blaming journalists for venality and irresponsibility and accusing the opposition of conspiracy.

The opposition characterizes the government's activities as a bulldozer attack on democracy. However, the president's success has proven that democracy in Ukraine has been a colossus with feet of clay, and that apparent progress in 2005 to 2009 was illusory. During that period, those in power failed to build strong political institutions and traditions and instead compromised with courts, bought journalists, and refused to launch public broadcasting.

According to Oleksiy Pogorelov, general director of the Ukrainian Association of Press Publishers (UAPP), the change of power in early 2010 brought a return to older methods and officials dedicated to controlling the release of information with careful dosing, and preventing publication of undesirable facts. As before, law enforcement bodies and other authorities fail to react to misdeeds brought to light by investigative journalism.

Manipulated, stifled television constitutes the major source of news for 70 percent of the population. In 2010, Freedom House downgraded Ukraine's status to "partially free," from to "free" in 2009. Major Ukrainian channels Inter, TRK Ukraina, and Pershyi Nacionalnyi ignored the study, which described narrowing political pluralism on these channels. Almost all other channels that did report on the study ignored the fact that Freedom House pinned much of the blame on Yanukovich.

Panelist Kostyantyn Kvurt, board chair of Internews-Ukraine, noted that Ukraine's imperfect attempt at democracy lacked the scaffolding of systematic changes, and rendered freedom of speech fragile regardless of who wins presidential elections. There were litmus tests signaling an authoritarian approach—such as several cases on the obstruction of professional activities of journalists, which were demonstratively investigated but closed. Kvurt added that the 2010 change in power was a trial of Ukrainian media's commitment to freedom and will to stand up for the public interest. The majority of media failed, but the resistance of some strong journalists, NGOs, and the international community played a positive role. Opinion polls reveal that Ukrainians are aware of the threats to the freedom of speech. Another sign of hope is that a growing number of citizens, currently estimated at 25 to 30 percent, are discovering truth and pluralism in the online press.

UKRAINE AT A GLANCE

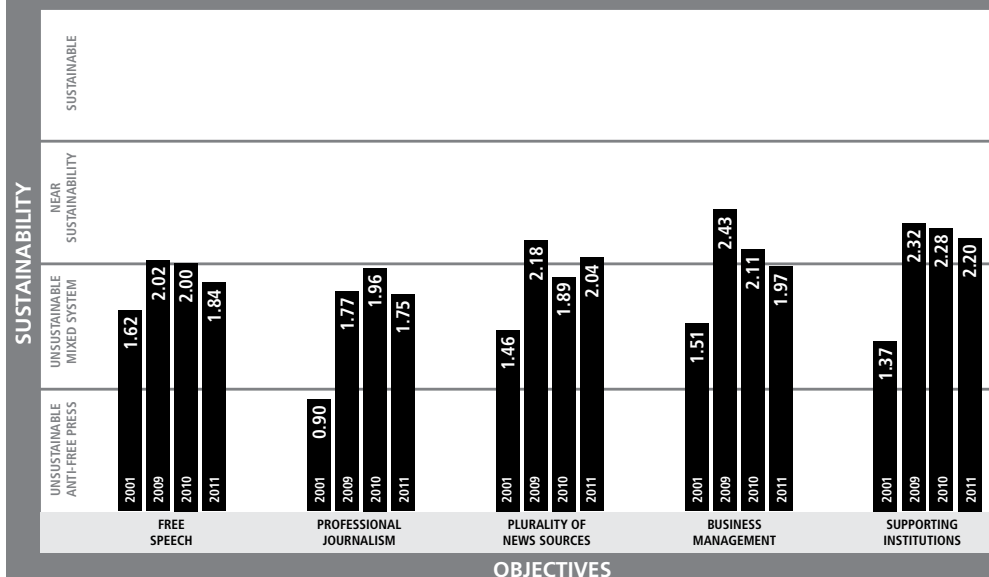
GENERAL

- > **Population:** 45,415,596 (July 2010 est., *CIA World Factbook*)
- > **Capital city:** Kyiv
- > **Ethnic groups (% of population):** Ukrainian 77.8%, Russian 17.3%, Belarusian 0.6%, Moldovan 0.5%, Crimean Tatar 0.5%, Bulgarian 0.4%, Hungarian 0.3%, Romanian 0.3%, Polish 0.3%, Jewish 0.2%, other 1.8% (2001 census)
- > **Religions (% of population):** Ukrainian Orthodox - Kyiv Patriarchate 50.4%, Ukrainian Orthodox - Moscow Patriarchate 26.1%, Ukrainian Greek Catholic 8%, Ukrainian Autocephalous Orthodox 7.2%, Roman Catholic 2.2%, Protestant 2.2%, Jewish 0.6%, other 3.2% (2006 est., *CIA World Factbook*)
- > **Languages (% of population):** Ukrainian (official) 67%, Russian 24%, other 9% (includes small Romanian-, Polish-, and Hungarian-speaking minorities) (*CIA World Factbook*)
- > **GNI (2009-Atlas):** \$128.92 billion (World Bank Development Indicators, 2010)
- > **GNI per capita (2009-PPP):** \$6,180 (World Bank Development Indicators, 2010)
- > **Literacy rate:** 99.4% (male 99.7%, female 99.2%) (2001 census)
- > **President or top authority:** President Viktor Yanukovich (since February 25, 2010)

MEDIA-SPECIFIC

- > **Number of print outlets, radio stations, television stations:** 27,969 publications (only 4,200 of which publish regularly) including 12 major daily newspapers; 524 radio stations; 647 television stations (most local) (State Committee on Television and Radio, comin.kmu.gov.ua)
- > **Newspaper circulation statistics:** The top three dailies are *Robocha gazeta* (founded by the Cabinet of Ministers), *Segodnya* (private), and *Fakty I Kommentarii* (private) (exact figures are unavailable, but panelists estimate that circulations for these publications range from 100,000 to 400,000)
- > **Broadcast ratings:** top television stations: TRK Ukraina, Studio 1+1, ICTV, STB, and Novyi Kanal (all private); top network radio stations: Hit FM, Radio Shanson, Russkoe radio (all private) (MMI)
- > **Annual advertising revenue in media sector:** television: \$335 million, print: \$276 million, radio: \$25 million, Internet: \$35 million (Ukrainian Advertising Coalition)
- > **News agencies:** Interfax (private), UNIAN (private), Ukrainski Novyny (private), Ligabiznesinform (private), DINAU-Ukrinform (state-owned)
- > **Internet usage:** 12.9 million (InMind)

MEDIA SUSTAINABILITY INDEX: UKRAINE



Scores for all years may be found online at http://www.irex.org/system/files/EE_msiscodes.xls

Unsustainable, Anti-Free Press (0-1):

Country does not meet or only minimally meets objectives. Government and laws actively hinder free media development, professionalism is low, and media-industry activity is minimal.

Unsustainable Mixed System (1-2):

Country minimally meets objectives, with segments of the legal system and government opposed to a free media system. Evident progress in free-press advocacy, increased professionalism, and new media businesses may be too recent to judge sustainability.

Near Sustainability (2-3):

Country has progressed in meeting multiple objectives, with legal norms, professionalism, and the business environment supportive of independent media. Advances have survived changes in government and have been codified in law and practice. However, more time may be needed to ensure that change is enduring and that increased professionalism and the media business environment are sustainable.

Sustainable (3-4):

Country has media that are considered generally professional, free, and sustainable, or to be approaching these objectives. Systems supporting independent media have survived multiple governments, economic fluctuations, and changes in public opinion or social conventions.

OBJECTIVE 1: FREEDOM OF SPEECH

Ukraine Objective Score: 1.84

The panelists scored Objective 1 lower this year, primarily due to lower scores for indicators 3 (media market entry) and 7 (access to information). Aggravations persist with indicators 2 (licensing), 4 (attacks and crimes against journalists), and 5 (legal protections of editorial independence for state media). Along with indicator 7, these all scored more than a half-point lower than the objective score. As with last year, indicator 8 (media use of foreign and domestic news sources) and indicator 9 (free entry into the journalism profession) outscored the objective average, this time by more than a point each.

For many years, Ukraine has enjoyed rather developed media legislation, but for an equally long time, panelists have stressed that enforcement of these laws remains problematic. According to Oleg Khomenok, a media adviser of the Internews Network U-Media project, the problem of law enforcement has intensified and those in power either violate the law or turn a blind eye to violations.

In September 2010, the Ukrainian NGO Democratic Initiatives Foundation conducted a poll of 29 reputable journalists and scored the level of freedom of speech at 4.3 out of a scale of 10. The foundation's March 2004 poll resulted in a score of 2.4 for freedom of speech, and its March 2005 poll resulted in a score of 7.¹

The think tank Razumkov Center interviewed 2,000 citizens in October 2010, reporting that 56.5 percent of Ukrainians acknowledge political censorship in the country, and rating the freedom of speech overall level at 3.27 out of 5. Nearly 30 percent of respondents saw the revocation of frequencies from television stations TBI and Kanal 5 as political pressure on oppositional channels. More than a quarter acknowledged the protection of business interests of television owners close to the power, and nearly 12 percent were aware of licensing law violations.

In April 2011, a presidential decree dismissed the national commission on strengthening freedom of speech and the development of the information industry. Initially, the commission was tasked with developing proposals for Ukraine's compliance with Council of Europe, OSCE membership obligations, and potential EU membership, and it had continued functioning as an experts' association. Concerns also grew about the improper influence of

the Ukrainian Security Service (SBU), headed by Valeriy Khoroshkovskiy, a media owner holding 30 percent of the television market share. He was also a member of the Highest Council of Justice, raising concerns about conflicts of interest in the appointment of judges—as emphasized in Resolutions of the Council of Europe Assembly (No. 1755 of October 4) and the European Parliament (November 25). His holding, Inter Media Group, initiated action, resulting in the controversial decision to revoke frequencies from TBI and Kanal 5.

Over the course of 2010, a number of reputable international organizations, including Reporters sans Frontières, International Press Institute, International Federation of Journalists, Association of European Journalists, Article XIX, Human Rights Watch, the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, and the OSCE Representative on Media Freedom, along with the US and EU governments, addressed the Ukrainian government or published statements regarding their concern over the decline of freedoms in Ukraine. In May 2010, journalists and media activists established a public movement, Stop Censorship, in response to a report on censorship authored by journalists from major channels (1+1 and STB). Stop Censorship, with about 570 signatories, lobbies for freedom of speech, professional journalism standards, and the rights of journalists, in addition to fighting censorship. The activists conducted a number of remarkable public acts, including

LEGAL AND SOCIAL NORMS PROTECT AND PROMOTE FREE SPEECH AND ACCESS TO PUBLIC INFORMATION.

FREE-SPEECH INDICATORS:

- > Legal and social protections of free speech exist and are enforced.
- > Licensing or registration of media protects a public interest and is fair, competitive, and apolitical.
- > Market entry and tax structure for media are fair and comparable to other industries.
- > Crimes against media professionals, citizen reporters, and media outlets are prosecuted vigorously, but occurrences of such crimes are rare.
- > The law protects the editorial independence of state or public media.
- > Libel is a civil law issue, public officials are held to higher standards, offended party must prove falsity and malice.
- > Public information is easily available; right of access to information is equally enforced for all media, journalists, and citizens.
- > Media outlets' access to and use of local and international news and news sources is not restricted by law.
- > Entry into the journalism profession is free and government imposes no licensing, restrictions, or special rights for journalists.

¹ Democratic Initiatives Foundation poll, in Ukrainian, with photos is available on the Democratic Initiatives Foundation website: <http://dif.org.ua/ua/events/jowrj0gj0>

meeting with the head of the SBU and issuing regular public statements on violations.

Nataliya Lygachova, board chair of Telekrytyka, said that society does not understand the importance of free speech and democracy as a tool to protect its economic and political rights. Media laws in Ukraine are rather progressive, she noted, but politicians have sufficient possibilities to evade them. For example, in the formation of the new National Council on Television and Radio Broadcasting, members of parliament from the ruling coalition ignored a number of legal provisions on membership eligibility.

Media lawyer Lyudmyla Pankratova emphasized that although the law contains minimal provisions to protect journalists from having to reveal sources, such attempts to force journalists to disclose their sources has increased. In at least two cases, journalists from *Rivnenska Gazeta* and *Kyiv Post* refused to disclose their sources, through the aid of lawyers. In the *Kyiv Post* case, journalist Yuriy Onyshkiv interviewed by phone the ex-Minister of Economics Bohdan Danylyshyn (who had fled from persecution and was hiding abroad) and published a story. Later Onyshkiv was interrogated by the General Prosecutors' office regarding his sources of information for the fugitive's whereabouts. A media lawyer accompanied Onyshkiv to the interrogation, and Onyshkiv signed a confidentiality agreement, so the details of the interrogation are not known. Later, Danylyshyn was detained by Czech police, but a Czech court granted him political asylum.

According to Lygachova, the system of licensing television and radio frequencies—as well as digital broadcasting—is not transparent. Although an appeals process exists, the courts are influenced by political forces and pressured by law enforcement bodies headed by powerful media owners. Kvurt noted that if previously the licensing of broadcasters more or less protected public interests, now it is absolutely politically motivated. In addition, the system is tainted by a conflict of interest, as a majority of votes in the National Council on Television and Radio Broadcasting belong to people connected with Khoroshkovskiy's Inter Media Group Ltd. channels.

The Ukrainian media covered widely a case in which the licenses to expand TBi broadcasting were withdrawn in favor of Inter Media Group Ltd. That decision drew statements from many international organizations as well, including Article XIX. In January 2010, the National Council for Broadcasting awarded two independent broadcasters, TBi and Kanal 5, extra frequencies. Three channels from Inter Media

Group appealed the decision in mid-summer 2010, on the grounds that the National Council for Broadcasting lacked the proper quorum for the vote. In response to the appeal, courts ruled not only to revoke TBi and Kanal 5's extra frequencies, but further annulled the initial frequencies given to TBi in 2009. As a result, the revocation of frequencies reduced the audience share of both companies, damaging their economic standings. Consequently, TBi broadcasts only on satellite and cable. On January 26, 2011, the Highest Administrative Court upheld the rulings of previous courts.²

On the eve of this court hearing, Article XIX expressed its concern about the failure of the Ukrainian courts to take into account the freedom of expression aspects of the case. Article XIX suggested that the interference may have been politically motivated, and aimed at downgrading the media influence of both broadcasters, noting: "There have been allegations that the head of the SBU, Valeriy Khoroshkovskiy, had orchestrated the case against TBi and Kanal 5 as it has been noted that he has corporate interests in the revocation of the frequencies. The Khoroshkovskiy family owns Inter Media Group, which was a contestant for the frequencies and who disputed their allocation. Inter Media Group is the biggest broadcasting player in Ukraine. It supports the current president and the ruling Party of Regions, according to many national and international observers. Noting that Kanal 5 and TBi are claimed by Ukrainian media watchdog Telekrytyka to be the only remaining television channels with independent and fair television news coverage, it is reasonable to suspect that authorities are restricting their operations."³

Earlier, the General Prosecutors' office opened a criminal case against several members of the National Council for Broadcasting, responsible for awarding additional frequencies to Kanal 5 and TBi in January 2010. TBi commented, "Opening this criminal case by the General Prosecutor's office in the interest of Khoroshkovskiy's channels is a direct manifestation of censorship and political persecution of the members of independent regulating body, and also betrays signs of corruption."

Viktor Danylov, director of Rivne-1 TV and head of the publishing house OGO in Rivne, also mentioned that the government made several attempts to refuse license extensions to regional broadcasters, because their national network partners are out of favor.

Kvurt said that it is nearly impossible to enter the television market without proper political partners. Politics and business interests drive the process, and the accelerating concentration

² "Ukraine: Independent Broadcasters under Threat." Article XIX, January 25, 2011.

³ Ibid, Article XIX.

of capital and resources in the hands of a few business groups does not bode well for newcomers. New frequencies will not be distributed until 2015, and licenses granted earlier will be canceled gradually. On the print media side, publications must register but the process is rather liberal—and moreover, not properly regulated, according to Danylov. The Ministry of Justice registers almost all publications, despite similar titles and trademarks—and court decisions to close these “clones” are not enforced.

Top officials have attempted to introduce registration of Internet media outlets. In mid-summer 2010, the government presented parliament with a draft law, No. 6603, regarding registration of electronic news agencies. So far, such attempts have not led to action. According to Tetyana Rikhtun, head of Sebastopol Information and Press Center, on the one hand, it could be taken as a positive sign that registration of online media is not required; but on the other hand, this means that Internet journalists cannot meet the rules of accreditation—limiting their access to information, even during official state visits. In this way, authorities can limit popular Internet media outlets from publishing and spreading negative information across Ukraine and beyond its borders.

Media outlets face the same market entry and commercial regulations as other businesses. The adoption of a new tax code, set to go into effect in 2011, did not improve the tax administration system. The VAT exemption for part of newspaper operations grants minor savings, but the separate accounting required adds to the workload. The panelists stressed that state financing of municipal and state media creates unequal market conditions, with some outlets paying taxes while their competitors are financed from taxpayer’s money. In addition to affecting editorial independence, subsidized media outlets can afford to lower advertising prices, hurting the profits of independent outlets. The government grants certain privileges to subscription publications delivered by the post office, but only high-circulation publications benefit.

Attacks on journalists grew, and did not lead to adequate investigations or prosecution, said Pankratova. Ukrainian journalists face many challenges gaining justice in the courts. Kvurt noted that society does not display outrage regarding crimes against journalists, as authorities do not properly investigate crimes against any citizens. According to Khomenok, from time to time, officials pay lip service to the protection of journalists’ rights, as in statements made by Hanna Herman, deputy head of the presidential administration. However, there is general negligence of human rights, and law enforcement bodies fail to protect human rights, laws, or the state.

Viktoriya Syumar, executive director of the Institute of Mass Information, agreed that violations of journalists’ rights increased in 2010, hindering their work, and that most attacks were connected with officials and their guards. Some of the most serious cases include Sergiy Andrushko and Sergiy Kutrakov, the disappearance of Vasyl Klymentiev, and the beating of the Kanal 5 crew. In addition to these cases, many more took place in the regions. Lygachova stressed that criminal cases under Article 171 (on “prevention of professional activities of journalists”) of the Criminal Code of Ukraine are almost never brought to court—and few of the cases that make it to the courts are brought to a fair conclusion. Usually, court decisions protect officials, law enforcement representatives, and businesses close to the government.

In April 2010, Berkut (special militia division) guards pushed Novyi Kanal journalist Sergiy Kutrakov out of a Ukrainian House exhibition, after he attempted to record a fight between exhibition organizers and representatives of the Svoboda association. Kutrakov filed a suit, but the courts rejected it. Berkut representatives then filed a suit against Kutrakov, accusing him of hooliganism. However, the Berkut claim dissolved in procedures, and did not lead to any consequences for Kutrakov. In another case, in June 2010, a presidential guard attacked STB journalist Sergiy Andrushko at the Agro-2010 exhibition. Law enforcement bodies refused to file a criminal case, and Andrushko is still fighting to prove in courts that the attack hampered his professional activities. Earlier, in April 2010, a city administration official threw Andrushko’s microphone into a trash bin.

In July 2010, Ukrainian blogger Oleg Shynkarenko was invited to SBU to discuss his blog; the authorities considered his threatening language criticizing the president’s neglect of the Ukrainian language to be a threat to a state official. The security officials released Shynkarenko after he promised in writing to refrain from threatening and criticizing the government “in a brutal way.” He also claimed that some posts disappeared from his blog. The media community took notice of this case, as it indicates that SBU or other authorities trace blogs and might interfere with the work of bloggers more in the future.

Other cases include the August 2010 disappearance of Vasyl Klymentiev, editor-in-chief of *Novyi Styl* (*New Style*) in Kharkiv. Although questions swirl over whether he could be considered a journalist following professional standards, the failure to investigate his disappearance is of concern to the media community. Also of concern, in December 2010 the well-known journalist Mustafa Nayem was detained and taken to the police department because, by official explanation, “he has an oriental face.” On the same day,

militia members asked for identification documents and searched the property of the *Korrespondent* editor-in-chief Vitaliy Sych, without providing a reason. In November 2010, the prime minister's guards refused to let Kanal 5 journalists film his meeting with protesting entrepreneurs, and damaged a camera.

Other outlets are subjected to more subtle, yet relentless, forms of pressure. Since spring of 2010, tremendous pressure has been exerted on Crimea's Chernomorskaya TV, which belongs to MP Andriy Senchenko, a member of former Prime Minister Yulia Tymoshenko's party. The channel has withstood inspections from all possible authorities: the tax police, the state department fighting economic crimes, the price control committee, prosecutors, SBU, and an anti-monopoly committee.

Following up on cases from 2009, UNIAN news agency photo reporter Vitaliy Danylchenko was beaten at a brandy factory in Kherson oblast in September 2009. The perpetrator was fined a small sum, while in 2010, Danylchenko lost his claims that the incident violated Article 171 of the Criminal Code, meant to guard against stopping journalists from conducting their professional activities. However, Danylov mentioned one successful case in Rivne, where, following public pressure and a pile of evidence, a fair sentence is expected for Anatoly Pekhotin for threatening Rivne journalist Vlad Isayev with a gun in 2009.

Finally, in December 2010, the General Prosecutor's office completed its investigation of the high-profile murder of journalist Georgiy Gongadze in September 2000. The investigation concluded that General Oleksiy Pukach (who was detained in 2009) killed Gongadze by the order of then-Minister of Interior Yuriy Kravchenko (who died under mysterious circumstances in 2005). Reporters Sans Frontières expressed its frustration over the investigation, noting, "From the outset, the entire investigation seems to have been designed to avoid implicating senior officials and politicians, and now the focus is on putting all the blame on Yuriy Kravchenko,"⁴ despite the fact that other officials were implicated as well.

By and large, state and municipal media managers are appointed on the basis of politics and loyalty. Television and radio companies are required to adopt editorial statutes and submit them to the National Council for Broadcasting, but the statutes are just a formality. In print media also, statutes are more or less common. These statutes shiningly uphold editorial independence, objectivity, and equal access of political groups during elections, but in reality they are

not upheld; 90 percent of the council members are media managers and owners. Furthermore, government funding is not distributed transparently. State media employees enjoy civil servant status, with higher pensions. Journalists with the leading state media outlets are granted other privileges as well, such as inclusion into the journalism pools for Ukraine's top officials.

Syumar noted several examples of illegal dismissal of managers of state and municipal media during the last year, revealing the intentions of local governments to control the media through loyal appointees. *Kyiv Post* journalist Vlad Lavrov stated that state and municipal media depend almost completely on funding provided by the authorities, and critical coverage of the government is practically absent. Lavrov's regional and municipal colleagues give him the impression that their mission is making a governor or a mayor look good.

Ukraine has not established public broadcasting yet, and a provision on state television supervisory board appointments has not been fulfilled. In March 2010, the Cabinet of Ministers appointed new management of the National Television Company of Ukraine (NTCU)—breaching the existing law that calls for the supervisory board to make appointments. The NTCU general director is Ehor Benkendorf, an experienced manager with profound commercial television experience, primarily from Inter. One of his deputies, Valid Arfush—a Ukrainian media manager who served as an adviser to Hanna Herman, current deputy head of the president's administration—promised to make the channel a mouthpiece of the government's achievements. At that time, Lygachova assumed that the channel might turn pro-presidential, and that it might be included informally in Inter Media Group—but in any case, it would not become truly public. With ties to the presidential administration, Khoroshkovskiy exerts influence on the channel as well. Although its position in the marketplace is growing, its news programs have been labeled the epicenter of manipulative information from the governing authorities. According to monitoring of the eight major channels, it shows the greatest signs of *zakazukha*, or censorship. In January 2011, media reports named the NTCU's Pershyi Nacionalnyi channel the first anti-public media outlet. Launch of a Ukrainian Euronews program at Pershyi Nacionalnyi is planned for 2011.

Libel has been considered a civil law issue since 2001; however, the burden of proof rests with defendants. Pankratova expressed concern over the growing number of lawsuits and current court practices. Due to the rotation of judges, many of them are inexperienced in the peculiarities of libel cases and the application of the European Court on Human Rights practices. Despite a Supreme Court resolution

⁴ "Those behind Georgiy Gongadze's murder still unpunished 10 years later." Reporters Sans Frontières, February 10, 2011. <http://en.rsf.org/ukraine-those-behind-georgiy-gongadze-s-10-02-2011,39521.html>

that public figures claims must have a higher burden of proof, courts usually fail to apply this principle, and are reluctant to reduce large sums of damage. Yevgen Rybka, editor of the news agency LigaBiznesInform, added that judges are more controlled by political interests following court reform, and the Highest Council of Justice has become a punitive body—so the media may expect to lose more lawsuits.

In a high-profile libel case in October 2010, Member of Parliament Yuriy Boot won a lawsuit against Olga Snicarchuk and Kanal 5 for calling him an “apostate.” The court awarded him UAH 20,000 (\$2,550), although he initially requested UAH 100,000 (\$12,750). Boot came under fire by his parliamentary colleagues over his lawsuit; in attempt to embarrass him, other MPs made a show of collecting money for him at the parliament, and some deputies wanted to exclude him from a justice committee. Finally, under this pressure, he withdrew his claims.

Lavrov said that journalists are threatened commonly with lawsuits, but most of them are solved pre-trial. He said that he is more concerned with the almost-weekly pressure from the richest Ukrainians and their foreign lawyers. They are turning to the London court system, which has gained a reputation for libel tourism. In 2008, Rinat Akhmetov sued the Obozrevatel website in a London court in this manner. Another Ukrainian famous for libel tourism is Dmytro Firtash, an oligarch who filed libel claims in London against *Kyiv Post* (a public media company) in mid-December 2010 for portraying him as corrupt to the British community. *Kyiv Post* was compelled to undertake the untraditional measure of blocking UK users’ access to its website. However, in February 2011, a London High Court judge dismissed the case.

In December 2010, a local court in Lviv banned the ZIK channel investigative program *Who Lives There*, based on an episode that looked at the head of local railway—but that the court never even watched. The official claimed that he did not give consent for ZIK to collect and spread information about him and his family.

However, as evidence that it is still possible to fight for justice within the current system, Danylov mentioned another case. In 2010, Danylov’s media outlet reached an amicable settlement with the regional governor, following a dispute that started back in 2009 and nearly destroyed that outlet along with some other regional media.

Pogorelov noted that in the last few years, the National Expert Commission on Issues of Protecting Social Morale, which often avoided pre-trial mediation and went straight to courts, has won plenty of lawsuits on moral issues against the media. According to a December 9, 2010 presidential decree, the commission will be liquidated soon, but another

body might take over its mission. Under a flag of fighting pornography and related issues, it is very easy to silence unpleasant media or artists, noted the panelists. Essentially, the law on protecting social morale condones censorship, which is banned in Ukraine. Another provision aiming to fight pornography, Law No. 404, entered into force in early 2010. It compels Internet providers to keep data on all clients’ identification and connections and to ban access to certain websites if they contain forbidden content.

Regarding access to official information, the panelists were unanimous that average citizens face more complications than media members. Journalists are more likely to be successful in this respect, although often they do get the runaround. Rybka commented that access to public information became noticeably more challenging in the past year. Even very basic requests, which a few years ago could be obtained by phone calls, now often require journalists to submit written requests to the press office—costing them a tremendous amount of time.

Syumar added that communication with state officials has become more limited. In particular, President Yanukovich gave only one press conference. His press office does its best to minimize opportunities for independent journalists to ask questions, from refusing accreditation to establishing limits for questions. Sometimes Internet journalists or NGO representative face difficulties also in getting accredited for certain events. Rykhtun said that officials surround themselves with professional press officers and lawyers that do their best to deflect requests from journalists, giving them non-answers that can hardly be used. She said also that access to governmental bodies has returned to pre-2004 norms in some instances, with city council sessions—by law open to citizens—requiring journalists to be accredited.

Along with the amendments to the Law on Information, the new Law on Access to Public Information was adopted on January 13, 2011. If the president signs these, they will come into force in the spring of 2011. A pool of civil society organizations developed the new law and experts from the Council of Europe evaluated the draft. The adopted version was virtually unchanged, except for eliminating a provision giving the Parliamentary Ombudsman for Human Rights oversight of access to public information.

The main achievements in the new law on access to information include an expanded list of authorities and other sources obliged to disclose public information; a reduction of the average term of reply to five days (with certain alternatives), rather than 30 days; citizen’s choice for any form of request (verbal, written, email, etc.), and; the stipulation that a cause for the request need not be given. Additionally, the new law provides that certain information

must be released immediately online, and certain data cannot be classified as confidential. Lawsuits for non-compliance with the law can be filed according to the Administrative Justice Code, under which defendants must prove their actions, while plaintiffs need only prove that the request was made and that the requested data was unavailable. The data provided under this law is not subject to approval, as a face-to-face interview would be. However, the authorities' internal correspondence and drafts of decisions are not subject to disclosure, either before or after an official decision is adopted—as is typical in European practice.

The amended law on information now provides for cancellation of foreign journalist obligatory accreditation with the Ministry of Foreign Affairs, and it unifies rights for journalists of all types of media—although confusion remains over which documents will be required to prove a journalist's status.

According to the panelists, the worst change in the information law is that it leaves open the possibility that the media could be sued for moral damages. As media lawyer Tetyana Kotuzhynska wrote in *Dzerkalo Tyzhnya*, "The positive changes in the new edition of the law of information are very few, but the threat to pay moral damages for criticizing some official or politician is 100 percent." She believes that these provisions will make officials—who account for about 60 percent of plaintiffs in lawsuits against media—more likely to file lawsuits.

According to Pankratova, the Resolution of the Cabinet of Ministers of Ukraine of 2002 called for governmental websites to present public information, reports on activities, and official decisions. Although substantial state funding was provided for this purpose, official websites are still lacking much required data.

On the other hand, the Law on Protection of Personal Data, adopted in June 2010, came into force on January 1, 2011. It allows for the collection of open source data about a person but forbids its publication without prior written consent. Although the law cites public interest in the availability of socially important information as an excuse for publishing data, and claims to not limit journalists' professional activities, its ambiguity still threatens media with the possibility of stopping any publication. According to the Ukrainian Helsinki Human Rights Union, it ties journalists' hands and is a step toward limiting freedom of speech and access to information.

Access to and use of local and international news sources is not restricted.

Entry into the journalism profession is free; a journalism degree is not required. However, accreditation procedures apply and can be limiting. Because online media outlets are

not subject to registration, in some cases Internet journalists cannot provide the proper papers to apply for accreditation or else they are required to supply extra evidence.

OBJECTIVE 2: PROFESSIONAL JOURNALISM

Ukraine Objective Score: 1.75

With intensifying political and economic pressures, censorship and self-censorship have grown. Although the media sector shows no direct evidence of overt censorship, media owners deploy forms that are more subtle yet still serious. In general, journalism remains a poorly compensated, low-prestige field, with rather frequent turnover. Personnel cuts and the need to reduce costs contributed further to lowered journalism standards in the past year.

The fall in score came mostly because of lower scores for indicators 1 (objective and well sourced reporting) and 4 (coverage of key events). A rise in indicator 7 (modern equipment and facilities) offset other declines somewhat and also scored more than a point higher than the objective score. Most other indicators scored near the objective score, although indicator 3 (self-censorship) lagged by more than half a point.

The NGO Telekrytyka has been monitoring professional standards at major television channels since 2002, using six criteria (balance, promptness, reference to sources, factuality, accuracy, and fullness). Most of the channels score less than 3 out of a possible 6. As a rule, violations of standards went by a sine wave pattern, with peaks on the eve of elections and slopes in "peaceful" periods. According to Otar Dovzhenko, a Telekrytyka journalist, the sine curve went up steeply during 2010. He commented on the continued interference with professional practices. "Violations observed now are consequences of the centralized information policy as well as politically motivated self-censorship," he said. "In that sense, journalists and their managers receive directives on maintaining a certain positive attitude towards the government. This self-censorship...is extremely dangerous and ties journalists' hands." He added that another dangerous symptom is the growing repression of important information, and named Inter, ICTV, and Pershyi Nacionalnyi as the key culprits in that respect—with Kanal 5 and STB notable exceptions.

Kvurt agreed that monitoring of the leading media shows a decrease in adherence to key standards of journalism, including balance, context, consultation with experts (especially in economic and political matters), and coverage of socially important events. According to Pogorelov, the low profitability of media business in the post-economic crisis period influences media managers heavily: they have to

secure short-term profits and forget about strategies for three years or beyond. This approach, in turn, leads to a greater readiness to publish *jeansa* (paid-for positive news coverage), and it also drives media outlets to select topics and genres that are best-selling and increase ratings or audiences.

Too frequently, journalists rely on secondary sources. Lavrov noted the absence of fact checking, as well. On the one hand, outlets have cut their staffs, and the remaining employees are overworked as a result. On the other hand, society does not appear to demand balanced, quality news. Lavrov has found that in hiring journalists, about two-thirds of the CVs he reviews simultaneously trumpet journalism and advertising copywriting skills. Often, even the test articles that applicants submit contain plagiarism, and many applicants fail to interview the sources or verify the information that they receive. Khomenok stressed that many experienced journalists have left the profession, and newcomers are extremely inexperienced and unskilled. If they do not have a press release to which they can refer, they may be unaware of what it is going on at all, let alone strive to undertake deeper background research or conduct provocative interviews. Danylov agreed that generally standards are low, but he said that some quality regional media still follow the standards of balanced reporting.

Regarding professional standards in online journalism, Rikhtun said that although the Internet may be considered a source of independent news, it might be too easy to launch a website and promote a certain viewpoint. Many online outlets tend to retell news already aired or published by others.

JOURNALISM MEETS PROFESSIONAL STANDARDS OF QUALITY.

PROFESSIONAL JOURNALISM INDICATORS:

- > Reporting is fair, objective, and well-sourced.
- > Journalists follow recognized and accepted ethical standards.
- > Journalists and editors do not practice self-censorship.
- > Journalists cover key events and issues.
- > Pay levels for journalists and other media professionals are sufficiently high to discourage corruption and retain qualified personnel within the media profession.
- > Entertainment programming does not eclipse news and information programming.
- > Facilities and equipment for gathering, producing, and distributing news are modern and efficient.
- > Quality niche reporting and programming exist (investigative, economics/business, local, political).

Ukraine's ethical media standards correspond to standards accepted internationally. All major channels have very solid ethical codes that they usually publish online, and many strive to spread standards at training events. A few years ago, several Internet publications formed a convention to help promote ethical standards on the Internet. The panelists pointed to many examples of journalists working hard to follow ethical standards despite pressure from managers to compromise their ethics. However, sooner or later, they tend to be fired or decide to leave their jobs. Kvurt said that ethical standards are not supported institutionally, and the industry quickly gets rid of those determined to uphold standards at the expense of the media house's business or political interests. Yuri Lukanov, head of the Kyiv Independent Media Trade Union, said that those who openly ignore standards are working in the president's pool of journalists, while those following standards are sacked.

The panelists discussed some of the questionable practices they see. For example, almost every media outlet has separate price lists for print stories and broadcast pieces. Rikhtun mentioned that although newspaper articles might contain small markers signaling paid-for stories, such stories are harder to recognize in online media. The same is true for pieces that state officials' commission. Rybka said that the 2010 elections demonstrated that the print sector has a lot of *jeansa* publications.

Self-censorship exists and is on the rise, even in online media—considered the freest platform. Blogger Oleg Shynkarenko's interrogation proved that the SBU monitors the Internet, although the extent of its reach is not known. According to Sergeev, the political situation contributes to self-censorship, but Lavrov cited the lack of job security for journalists as a major cause as well. Most journalists are not staff members, and usually they are paid under the table. Often outlets hire them as private entrepreneurs or under agreements for an author's fee, accompanied by a disclaimer exempting publishers from liability for any damages that might be claimed for the story. After the presidential elections, the question "are we going to cover this?" was heard more often in the newsroom. Danylov agreed that sometimes media fail to cover issues that might be discussed in every marketplace of the city, just to avoid unpleasant consequences. Sergeev said, however, that if a story is newsworthy, the anticipation of making a splash will override the instinct to self-censor.

Pankratova provided the example of a professional investigative journalist in Kremenchug that has begun to weigh every word, running her work by a lawyer, when she writes about a local mayor. Khomenok added that the regions have seen several quiet or scandalous dismissals of journalists,

and these cases showed their colleagues how they should behave if they want to keep their jobs. In fall 2010, regional media covered local elections weakly, primarily in order to evade political problems. According to Rikhtun, in state and municipal media, self-censorship reaches to the level of editorial policy. She noted that a deputy editor that worked at a private regional television station for five years was fired because she signed a “Stop Censorship” petition.

Regarding the media’s reach in covering major news and events, Pankratova pointed to Telekrytyka’s monitoring of major television channels—which confirmed that major media outlets ignore or stifle many socially important topics. For these issues, only the 25 to 30 percent of Ukrainians using the Internet can find the truth through information agencies and other websites. According to Syumar, forbidden topics and personalities inconvenient for the government have emerged. Prosecution of the opposition, dramatic differences in medical care allocation for government ministers versus regular citizens, human rights activists, news on unemployment, and other social problems are some of the topics that the eight major television channels avoid unanimously. (Sometimes STB and Kanal 5 are exceptions to this rule.) Television journalists on the panel complained about the media’s failure to cover critiques on new governmental appointees and Kharkiv agreements on the Russian fleet and gas prices. One journalist was told to show positive features and not analyze them. On the business side, no Ukrainian print outlets covered the huge recall of Toyota cars in the United States, because at that time, Toyota was signing lucrative contracts for advertising in Ukraine.

During the panel discussions, Kvurt stated that media outlets not only silence many issues but deliberately manipulate the news: for example, Russian political technologist Igor Shuvalov edits stories and interviews online at three major channels (Inter, Pershyi Nacionalnyi, and ICTV). As a result, socially important topics are either not covered or covered in a distorted way. In another example, Inter channel reported that entrepreneurs protesting the tax code left Maydan voluntarily, while in fact their encampment was dismantled with the aid of law enforcement bodies. Important topics such as the new tax code were mentioned almost every day in 2010 in the news—but the media shied away from providing details about the ensuing protests by entrepreneurs and the problems that the new rules caused. Similarly, the media always covered more positively the various international statements critical of the Ukrainian government. Khomenok pointed out, however, that the development of new media offers a way to shatter the silence on some of these topics; for example, millions watched the video streaming of the entrepreneurs protesting the tax code.

The compensation level for journalists is extremely low—as low as secretarial jobs in the business sector. According to Lavrov, this explains the lack of highly qualified journalists. Generally, reporters and editors do not make lots of money, but they make more than teachers and some other professionals. As civil servants, municipal and state media employees enjoy the privilege of a lucrative pension.

However, according to Danylov, the economic crisis led to 50 to 70 percent cuts in revenues for regional broadcasters, and with advertising budgets still low, broadcasters cannot afford to increase pay for journalists. In this climate, keeping qualified personnel is a difficult challenge. Kvurt stressed that to reduce costs, management gets rid of the most expensive employees and hires cheaper, less diligent journalists who think less of mission and fulfill orders. Over the last few years, corruption in the media sector moved from the level of journalists who would take money for stories to the upper level of owners and management.

The panelists tended to agree that entertainment programming is increasing, although the media sector has separate news channels and plenty of news sources. About nine nationwide channels have regular news programs, at least six have weekly talk shows dedicated to political and social issues, and two to three channels are dedicated to news only. Although television proffers much more entertainment programming than print or online outlets do, Ukrainians still seem to have enough news sources. Khomenok and Rybkat, however, noted that a number of pseudo-investigative television programs have a more entertainment tone, to the discredit of the genre.

In terms of access to modern facilities and equipment, the panelists agreed that proper technical facilities are available and rather affordable, even for the regions. The only limiting factor is cost, but technologies are becoming cheaper.

According to the panelists, niche reporting is insufficient. Although journalists cover various topics, they usually lack sufficient expertise to cover topics properly and in depth, and they make poor use of experts. Reasons cited include the need to reduce costs, and; the growing workload that prevents journalists from spending resources, either on time-consuming investigations or deeper digging into the beat. Sometimes owners are afraid of consequences, or journalists themselves do not want to bother. Pankratova stressed that many investigative centers and journalists are supported by donor funds, and the quality of investigations increases at the regional level, as donors are more likely to influence the situation at the local level. Ukraine has several regional bureaus of investigative reporters.

According to Pogorelov, a wide variety of topical publications are available. Lavrov noted that media houses pay more attention to economic journalism than other niche areas, as many publishers believe that a high-quality economic section can attract advertisers. He mentioned, however, that the Ukraine has a total absence of consumer issues coverage, such as *Consumer Reports* provides in the United States or *Stiftung Warentest* in Germany.

OBJECTIVE 3: PLURALITY OF NEWS

Ukraine Objective Score: 2.04

Diverse news sources are available to citizens. Uncovering the truth, however, may require digging it up from several sources, primarily Internet media. In addition, the choice is much poorer in small towns, and there is a digital gap between large cities and rural areas. Most of the population uses television as a news source, and 25 to 30 percent use the Internet to obtain news.

The rise in this objective's score is due generally to the development of new media, which provide more diverse and independent information sources. Specifically, indicators 4 (news agencies) and 5 (private media produce their own news) received higher scores, to lead the growth in score. There were some differences in where scores fell, however. Indicator 3 (state media are non-partisan) fell short of the objective score by more than a point, while indicator 6 (transparency and concentration of media ownership) lagged by more than half a point. Indicators 1 (plurality of sources and perspectives), 2 (citizen access to media), and 4 all scored more than half a point more than the objective score.

According to a December 2010 poll of 2,076 people by Research & Branding Group, 56 percent of Ukrainians trust Ukrainian media, 60 percent value stability more than freedom of speech, 51 percent believe that free speech is threatened, and 53 percent believe that Ukrainian media are free. The poll showed that television is the main source of news for 69 percent of Ukrainians, and the Internet for 15.5 percent.

According to InMind research undertaken for the Internet Association of Ukraine, Internet penetration in October 2010 reached 33 percent (i.e., one third of adults in Ukraine are Internet users). There are 12.9 million regular Internet users aged 15+ years old, and 8.3 million of them live in cities of more than 50,000 inhabitants. About 4.6 million live in smaller cities and villages. About 8.7 million Ukrainians use the Internet almost every day, and a majority of Ukrainian users access the Internet from their home computers. About 3.35 million people use broadband Internet. Ukraine shows

the fastest growth rate of internal traffic, and places fifth in Europe in this indicator.

According to Pogorelov, citizens have no technical limits to finding news. The main limitation to citizen access to diverse, in-depth, and/or specific information is the quality of media. A citizen can access information and media, but quality and depth vary, and price for them may become limiting. Kvurt agreed that generally the country has enough news sources, but he underlined a lack of proficiency in foreign languages as an added barrier for some. Also, the number of publications did not decrease, but the number of dailies published was reduced across Ukraine.

Additionally, Kvurt stressed that it is necessary to admit that Ukraine has a digital gap: in rural areas and small towns, people primarily enjoy limited television and few newspapers; in larger cities, many more opportunities are available. Khomenok mentioned that in Crimea, people might be on a waiting list for a couple of years to get broadband Internet access, due to the Ukrtelekom monopoly. The law places no restrictions on access, though there were a few examples of semi-oppositional channels having difficulties getting on cable providers.

Usage of social networks, especially among younger people, is growing rapidly. During the last three years, more than 80 percent of Ukrainian users joined the Russian social networks Odnoklassniki and VKontakte. Facebook's Ukrainian users reached 1 million in January 2011—up from 200,000 in

MULTIPLE NEWS SOURCES PROVIDE CITIZENS WITH RELIABLE, OBJECTIVE NEWS.

PLURALITY OF NEWS SOURCES INDICATORS:

- > Plurality of public and private news sources (e.g., print, broadcast, internet, mobile) exists and offer multiple viewpoints.
- > Citizens' access to domestic or international media is not restricted by law, economics, or other means.
- > State or public media reflect the views of the political spectrum, are non-partisan, and serve the public interest.
- > Independent news agencies gather and distribute news for media outlets.
- > Private media produce their own news.
- > Transparency of media ownership allows consumers to judge the 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, including minority-language information sources.
- > The media provide news coverage and information about local, national, and international issues.

January 2010. By the end of 2011, Facebook may number among the three most visited websites, along with Google and VKontakte. Ukrainians have 5.9 million VKontakte accounts and 100,000 Twitter accounts. According to Yandex, Ukraine had 700,000 blogs in 2010—100,000 of them active. It represents a 40 percent growth of the blogosphere over the previous year. Among the 10 most visited websites in 2010, only one is Ukrainian (www.ukr.net); others are international or Russian. One of the most popular independent news sources, *Ukrainska Pravda*, draws 200,000 online readers a day.

In light of these trends, many publications stopped in 2010 or plan to stop their print versions and focus on the Internet. Television also started to use new technologies. Channel TV 24 was one of the first to release an iPhone application to allow viewers to watch its programs on smartphones.

Access to foreign media is generally not limited, aside from language barriers and the costs, and low availability outside of cities. However, Rikhtun mentioned instances in which municipal utilities ordered citizens to dismantle satellite dishes. Allegedly, the municipal authorities favored local cable operators who were having difficulty increasing subscribers. Russian-language sources are the most common foreign sources available; but according to Kvurt, this is more a danger for national informational security than an advantage.

State and municipal media, with a few exceptions, serve the interests of the ruling power primarily. Danylov emphasized that with the change of power, within one day state media immediately attuned to new priorities. Media outlets funded from the state budget focus most of their efforts on covering the authorities. In terms of other news, by and large, state-sponsored news programs are dull and distant from people's needs. Kvurt stated that the country has no truly public media, and despite the diversity of various private media outlets, they cannot assume the role that a truly public media should play.

The major Ukrainian news agencies are the private UNIAN, Interfax, *Ukrainski Novyny*, *LigaBiznesInform*, RBC-Ukraine (Ukrainian agency of the Russian *RosBiznesKonsulting Group*), and state-owned *Ukrinform*. Rybka noted that apparently, two major news agencies—*Ukrainski Novyny* (belonging to Khoroshkovskiy) and *Interfax* (with a history of friendliness to the government)—are favored and receive exclusive news from the government. Their employees are included in the pools of top officials, and drink coffee in reception areas waiting for the news to be released to them. He added that the sector has problems with protection of intellectual property: published reports are taken from news agencies and not cited properly.

Danylov said that regional media cannot afford foreign news agencies and even some Ukrainian agencies. On the other hand, a local regional agency cannot find clients among local media capable of paying a modest fee. Pankratova mentioned that very often, smaller newspapers ignore the news agencies' copyrights. Panelists also mentioned that Ukrainians and Ukrainian media often use foreign publications translated by Russian services such as inosmi.ru and inopressa.ru, which might select foreign news according to their agendas.

Private media produce their own news, and local news is the foundation for regional media. According to the panelists, usually the leading private media produce superior coverage; they are more modern and better equipped to respond to audience needs. There are strong online media outlets that produce their own content, and they host many bloggers. However, blogs tend to be more about opinion and analysis rather than simply news.

Ukrainian law includes no requirements to disclose media ownership, and often the true owners are hidden under numerous foreign companies. In some cases, people can find this data from alternative sources of news in the Internet. For the average citizen, it is not obvious who owns or controls blogs or other online media. According to Syumar, transparency of ownership and the progressive monopolization of television are still problems. For example, nine television channels belong to Khoroshkovskiy, and; three major television channels belong to Viktor Pinchuk, son-in-law of ex-president Kuchma. Other major media owners include oligarchs Renat Akhmetov and Ihor Kolomoiskyi.

Thus, media ownership is concentrated in the hands of large Ukrainian businessmen close to politics, and foreign investments are almost absent. Some Russian companies have Ukrainian media interests: for instance, Russian ORT owns a 29 percent stake in the UA Inter Media Group; RBC news agency has daughter company in Ukraine, and; the newspaper *Kommersant* is in circulation. *Korrespondent* weekly is owned by a US citizen, and *Kyiv Post* is owned by transnational Istil group. In a recent report on legal limitations for investing across borders, the World Bank Group evaluated the Ukrainian media sector as low as 15 percent. The telecommunications sector is also subject to limits in direct foreign investments.

A broad spectrum of social interests are reflected and represented in the media, but according to the panelists, the media neglect some topics and coverage does not always meet expectations for quality. Ethnicity, social convention, and religion are covered fairly well, because they are important to the agenda of Ukrainian society. For instance, a sample issue of the national weekly *Ukrainiskiy Tyzhden* contained a story on a conflict between orthodox churches in

Ukraine, one on Crimea in general, and one questioning the policy toward Crimean Tatars.

Ukraine has no community media in the true sense, but local and regional media do cover a rather broad spectrum of social interests—and according to the panelists, private media usually do this better than state-owned or municipal outlets. Media do not frequently cover the topics of gender and sexual orientation, however.

Generally, media cover local, national, and international issues. Nationwide media do cover regions when important events take place, and many media outlets that are trying to attract a wider audience include special sections on certain geographic areas. At the regional level, media cover local, national, and international news, although the quality of coverage depends on the outlet. At a more local level (usually municipal media), the quality and range of coverage is very poor, due to self-censorship, low professional standards, and the lack of financing. According to Kvurt, Ukrainian media coverage of international news may appear sufficient at first glance, but upon closer inspection, it is often rather superficial.

OBJECTIVE 4: BUSINESS MANAGEMENT

Ukraine Objective Score: 1.97

The decline in this objective resulted from lower panelist scores for indicators 4 (advertising revenue compared to other revenue sources), 5 (government distortion of the media market), and 7 (audience and circulation statistics). Indicator 5 was the only indicator to score substantially different than the objective score, lagging by more than half a point. To some, indicator 5's lower score is due to the rewording of this indicator, which was intended to focus panelists' attention on the government's impact on the media market as a whole, beyond subsidies.

While profitable, well-managed, and professional media businesses exist, many media are just mouthpieces of political and business interests. State and municipal media financing of such outlets, and the lack of transparency in spending, create unfair competition. According to Khomenok, a narrow segment of successful and well-managed media fight for survival amid unfair competition in a non-transparent and corrupt market. Kyiv-based journalist Lavrov agreed that just a handful of Ukrainian media outlets, especially in print media, are self-sufficient and operate purely as businesses. As a result, private media have to rely on subsidies from their owners. Syumar accepted that media business management is rather efficient at many outlets, but that does not guarantee

their independence. The panelists spoke of instances of economic pressure on media outlets; for instance, *Ukrainskyi Tyzhden*, a weekly that is critical of the government, was rejected from distribution on airlines, despite an agreement that it had forged.

Kvurt noted that since 2005, national television has been a highly profitable business, but with problems of corruption, a concentration of large shares of media in few hands, non-transparency, and an absence of a sense of social responsibility to fulfill media's watchdog role and cover socially important issues objectively. Most state and municipal media managers do not view their outlets as businesses, and in serving the interests of their founders and patrons, they disregard efficiency in spending taxpayers' money.

Media receive revenue from multiple sources. Print media earn primarily from advertising, hidden advertising, and subscriptions. Television stations sell advertising and programs and arrange small services such as live broadcasts. State and municipal media do not receive enough state funding, and they try also to earn money in the marketplace. According to Pogorelov, for a long time, primarily only large national and regional media have been building their business professionally. Smaller outlets were not paying enough attention to marketing, research, or the need to diversify revenue sources. Now, more and more businesses build their business on the basis of research, polls, and sales figures. However, not all of them can afford to acquire research data.

There are certain disproportions in the advertising market between television and other media, and between the urban center and the regions. Direct commercial advertising is more

MEDIA ARE WELL-MANAGED ENTERPRISES, ALLOWING EDITORIAL INDEPENDENCE.

BUSINESS MANAGEMENT INDICATORS:

- > Media outlets operate as efficient and self-sustaining enterprises.
- > 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.
- > Government subsidies and advertising are distributed fairly, governed by law, and neither subvert editorial independence nor distort the market.
- > Market research is used to formulate strategic plans, enhance advertising revenue, and tailor the product to the needs and interests of the audience.
- > Broadcast ratings, circulation figures, and internet statistics are reliably and independently produced.

developed in the capital and large cities, while in the regions, classifieds and personal congratulatory notices are the most common form of advertising. Advertising agencies do not want to bother with small commissions from small accounts; therefore, they prefer working with larger media or asking for bribes. Regional television have difficulty competing with national television, as it cannot afford to buy research results or pay the fees to be included in ratings research. However, Sergeev and Danylov confirmed that the situation improved for regional television stations in 2010. Internet advertising grew as well, with advertisers drawn to the inexpensive format.

According to the All-Ukrainian Advertising Coalition, the 2010 media advertising market (television, radio, print, and Internet) totaled UAH 5.706 billion (\$727.1 million), up 28.6 percent in these segments from 2009—and estimates point to possible gains of about 20 percent in 2011. In addition to this figure, political advertising was estimated at about UAH 300 million (\$38.2 million, up one-third from the 2009 figure) with more than 50 percent in television and 30 percent in print media. In hryvnia, the advertising market has just about returned to pre-crisis 2008 figures; however, it has not in US dollars (the US dollar rate for much of 2008 was about 5 UAH, while now it is about 8 UAH).

The 2010 television advertising market reached UAH 2.68 billion (\$342 million), up 34 percent from 2009, with top television advertisers including Procter & Gamble, Henkel, Unilever, Benckiser, Colgate-Palmolive, Kraft Foods, Nestle, L’Oreal, SC Johnson, and GlaxoSmithKline. The share of regional television amounted to just UAH 115 million (\$14.7 million, 15 percent higher than 2009). In 2011, estimates predict that national television stations might add 33 percent to their advertising revenues, while regional television might gain 10 percent.

Print revenues in 2010 increased by 16.8 percent: UAH 2.21 billion (\$281.6 million) compared to the total of UAH 1.892 billion (\$241 million) in 2009. Out of this figure, only 25 percent went to regional publications. In 2011, the print media expects to see a 14 percent increase. The above figures are based on UAPP data, but the Independent Regional Press Publishers Association insisted that regional print media advertising is larger by UAH 280 million (\$35.7 million).

Overall, UAPP reported that the print media earned more than UAH 7 billion (\$892 million) in 2010, with subscriptions accounting for a major part of that sum. This is the first time that the press calculated all revenue sources: advertising, sales, and subscription. Subscriptions accounted for 23 percent of total press revenues in 2008 and 38 percent in 2009, and reached 44 percent in 2010, primarily due to price increases. To make up for the loss in advertising revenue and the

increase of newsprint costs, publishers had been increasing costs gradually since 2008.

Radio advertising reached UAH 200 million (\$25,485,800), and might gain back 14 percent in 2011. Internet advertising grew by 93 percent to UAH 280 million (\$35,680,200), with a forecast of 43 percent growth in 2010; Internet advertising is a leader in growth.

Advertising revenue as a percentage of total revenue is in line with accepted standards, and Kvurt said that he believes that the share of advertising revenue has increased. During Kuchma’s time in office, there was less political advertising, because administrative pressure was used to secure desired coverage. During Yuschenko’s time of pluralism, politicians had to spend more money for coverage. Now, the situation has returned to using less money to obtain favorable coverage.

The share of political money in the market remains substantial, and state subsidies for state and municipal media are not distributed transparently. The amount of funding varies greatly, depending on the relevant local authorities’ decisions, and government funding definitely influences editorial policies and distorts the market. The government also allocates funds for “information coverage” of its activities, and this almost always constitutes advertorials about the government. Authorities do not distribute these funds in a transparent or competitive way. Sometimes they give funds directly to local municipal media, and sometimes they distribute to a pool of local media. There is a mandate that Ukraine’s laws must be published in two governmental newspapers, *Uryadovyi Kurier* and *Holos Ukrainy*, which gives them additional revenue.

Only major media in large cities can afford market research. At about \$3,000 per month, participation in GfK Ukraine market research panels is unrealistic for regional media. Danylov added that since 2008, he had to reduce his marketing department and related expenses substantially, except for certain research conducted in house or by a third party. However, he stressed that quality audience research is not affordable for regional and local media. Furthermore, local advertisers lack awareness of its applications. Sergeev mentioned that once a year, the U-Media project of Internews Network orders research and offers the results to regional media at a reduced cost. Several media in Chernivtsi bought TNS media audience research last year, but only two actually used it. Khomenok emphasized that many media outlets in Crimea do not make use of the research data that is available.

According to Syumar, the media sector has no recognized system of broadcast ratings, circulations, or Internet statistics. Panelists agreed that the GfK panel has certain discrepancies,

but generally it reflects the market. The panelists said that print media continue lying about their circulations, and the industry shows no interest in establishing honest rules.

The Internet is the only medium in Ukraine without established advertising monitoring for the whole sector. The industry players have just started to select contractors and develop their methodologies. According to panelists, tools to measure Internet audiences are neither ideal nor fully reliable. The Ukrainian Association of Internet Advertising contracted Gemius Ukraine and GfK Ukraine to conduct research of Internet users in 2008 through 2010. Gemius plans to launch new tools in 2011 to gain more relevancy. Another source of Internet statistics is Bigmir, which counts browsers that opened websites with a pre-installed Bigmir-meter. The Ukrainian Internet Association, which unites Internet providers primarily, contracted InMind for user-centric research of the Internet audience by offline sampling and further installation of monitoring software on users' PCs.

OBJECTIVE 5: SUPPORTING INSTITUTIONS

Ukraine Objective Score: 2.20

This objective score remained nearly the same as last year, with the slight decrease due mostly to a lower evaluation of indicator 6 (sources of media equipment, newsprint, and printing). Most indicators scored within a half-point of the objective score, although indicator 3 (NGOs) exceeded that margin slightly, while indicator 4 (academic journalism programs) lagged behind by nearly a point.

The industry is represented by major trade associations, including the Industrial Television Committee, the Independent Broadcaster Association (IAB) and Radio Committee in broadcasting; the UAPP and the Association of Independent Regional Publishers of Ukraine (AIRPU) in print media (including their web endeavors), and; the Ukrainian Internet Association, the All-Ukrainian Advertising Coalition, and the Ukrainian Association of Internet Advertising. All of these associations are independent from the government and cooperate with international bodies—for example, both newspaper associations are part of the World Association of Newspapers. AIRPU managed to conduct the second annual All-Ukrainian Newspaper Congress in October 2010, and thanks to its efforts, the congress of the World Association of Newspapers will be held in Kyiv in 2012.

Some panelists had a positive view of the efficiency of trade associations and their contributions to industry development. According to Sergeev and Danylov (IAB and UAPP members), trade associations support members as platforms to exchange

experiences, provide legal and training support, and lobby for industry interests. They collect modest membership fees and draw support from donor funds and money from sponsors. According to Pogorelov, however, efficiency varies among trade and professional organizations, depending on the professionalism of association leaders and the demand from the professional community. Also, coordination of professional communities is rather low, and they have very few professional managers. As a result, some panelists assessed the impact of professional organizations as poor.

Among trade unions, the Kyiv and Zaporizhzhya unions are most active. Modest member fees just cover office and secretarial expenses. Grants from donors allow the unions to react to violations, and in 2010, Kyiv's media trade union won a dozen court cases. Now, the unions are planning to reform the system of member fees. According to Lukanov, however, media trade unions are more or less active in the regions, but function only formally at the national level. Lavrov considers the influence of trade unions rather limited.

According to Pankratova, there is no reputable, all-Ukrainian organization protecting journalists' rights. Self-regulating efforts have also failed, as not all journalists recognize the existing Commission of Journalism Ethics. The commission, an NGO uniting a couple thousand members around signing an ethical code, has existed for several years. But its decisions, made by a board of 15 media representatives, lack mechanics of influence; they cannot take a press card away from an unethical journalist, for example. Samar asserted that the

SUPPORTING INSTITUTIONS FUNCTION IN THE PROFESSIONAL INTERESTS OF INDEPENDENT MEDIA.

SUPPORTING INSTITUTIONS INDICATORS:

- > Trade associations represent the interests of media owners and managers and provide member services.
- > Professional associations work to protect journalists' rights and promote quality journalism.
- > NGOs support free speech and independent media.
- > Quality journalism degree programs exist providing substantial practical experience.
- > Short-term training and in-service training institutions and programs allow journalists to upgrade skills or acquire new skills.
- > Sources of media equipment, newsprint, and printing facilities are apolitical, not monopolized, and not restricted.
- > Channels of media distribution (e.g., kiosks, transmitters, cable, internet, mobile) are apolitical, not monopolized, and not restricted.
- > Information and communication technology infrastructure sufficiently meets the needs of media and citizens.

level of journalists' self-organization is low, and trade unions remain ineffective and weak.

The Union of Journalists of Ukraine, a remnant of the Soviet era, remains primarily as a defender of municipal media interests; from time to time, it makes relevant statements about the industry. Its membership has increased over the last years, as it helps to obtain Shengen visas. However, the panelists questioned its financial transparency; it is funded from the state budget and also collects member fees. Panelists also said that the Honored Journalist of Ukraine award is fully discredited, as it is awarded at the president's direction—usually to the people who are the best in fulfilling instructions from above.

Major NGOs supporting the media include the Academy of Ukrainian Press; the Institute of Mass Information, a member of the International Freedom of Expression Exchange; Internews-Ukraine; the Media Law Institute; the Media Lawyers Association; the Regional Press Development Institute; Telekrytyka, and; a regional organization, the Information and the Press Center in Simferopol. They monitor violations, render legal support, provide training in various areas, develop and lobby laws, and conduct media literacy and other projects. The country has various regional press clubs and other NGOs, but the reach of most NGOs tends to be limited to larger cities—very few, if any, are found in rural areas.

According to Kvurt, Ukraine's media NGOs are values-oriented; they defend standards and principles, not the interests of certain members. They influence the situation as far as the resources available to them allow. The state neither helps such organizations nor interferes with their activities.

The legislation surrounding NGOs is, however, imperfect enough that it is a potential threat to NGOs. Furthermore, the tax legislation for NGOs contains some confusing contradictions that the new tax code failed to clear up. However, Kvurt expressed his opinion that any attempts to strengthen the legislative footing of NGOs in the current climate would only aggravate their status. According to Pankratova, there were recent reports on attempts by the SBU to check activities of some organizations working with the International Renaissance Foundation, a group in Vinnitsa focused on protecting human rights.

Panelists said that unfortunately, the School of Digital Future at Kyiv-Mohyla Academy, financed for a few years by Ukrainian billionaire Renat Akhmetov's foundation, represents the only attempt to develop innovation in journalism education. Kyiv-Mohyla Academy's master and doctoral programs in journalism are also practice-oriented. There are 71 journalism departments at universities all over

Ukraine, but the programs and teachers remain inadequate for industry needs, leading Lavrov to say that he would prefer to work with and train young journalists without a formal journalism education. Rikhtun stressed that not only do most teachers in university journalism departments lack practical exposure to journalism, but they are often former or current employees of governmental press offices.

Annually, more than 10,000 students graduate as journalists. Many Ukrainian journalism graduates do not go to work to for media outlets; some go to press offices, while others go on to get higher degrees in a humanitarian field or go another direction. Although Ukrainians have opportunities to study journalism abroad, and such travel is not restricted at all, the option is too expensive for average citizens. Most students able to take advantage of study-abroad programs receive foreign grants—and for a country the size of Ukraine, there are very few grants to study journalism overseas.

Various short-term training courses are available, but probably not for all departments and levels. Danylov stressed that individual media outlets must adopt a longer-term, more systematic approach to staff training. Sergeev mentioned the usefulness of an in-house training program that his outlet uses from time to time. Khomenok stressed that longer-term (15 days for managers and editors; 27 days for journalists) training cycles conducted from 1998 to 2003 made much more of a difference, increasing the critical mass of qualified personnel to compensate for poor academic instruction. Today, most of the programs offered are two-day to three-day workshops. According to Lavrov, NGOs run some useful training programs, but many programs exist only as tools to spend grants from foreign organizations and development programs supporting the media. Furthermore, following the economic crisis, journalists and media professionals have limited ability to pay for extra training remains, and both the opportunity and demand for courses have decreased. Usually journalists cannot afford to pay for training themselves, and employers are sometimes reluctant to invest in staff training, given the high turnover.

Printing facilities are fully de-monopolized. According to Khomenok, every second region has two to four decent printing houses, furnished primarily with second-hand foreign equipment. Service irregularities occur, but not for political reasons. Danylov registered displeasure that the state does not regulate the newsprint supply in Ukraine. The prices go up regularly, due to the non-transparent system of its customs clearance and an alleged deal between suppliers. Newsprint costs 1.5 to 2 times more than the European average, while newspapers are 5 times cheaper in Ukraine than in Europe. Sergeev suspects collusion between suppliers of television and

radio equipment as well; the country has many suppliers, but the costs are also 1.5 to 2 times higher than European norms.

Sergeev also mentioned instances of ungrounded refusals by cable operators to carry some channels. In mountainous areas, he rents tower space from the state RRT concern to mount his transmitters—but he pays as if he rents a full set of equipment. Danylov added that using RRT facilities comes with the danger of sudden price increases, reaching 10 to 15 times.

The distribution situation is fine where a city has two or three competitive distributors, but publishers owning distribution networks often prevent others from distribution. Despite last year's resolution of the Cabinet of Ministers to provide newsstands at the rate of at least one kiosk per 3000 inhabitants, Danylov had difficulty gaining permission from local officials to add a few more kiosks in his city. At the same time, 26 bakery kiosks received permission in one day. Rybka agreed that regional print media outlets have noticeable difficulty getting the land from local governments for kiosks, mainly for political reasons. According to Chernyavskiy, the 2010 profits of press distributors increased by five percent, while sales and subscription prices also increased due to a 40 percent rise in the cost of newsprint. Another restraint to subscription is the poor condition of post boxes, 25 percent of which are broken down.

It is absolutely possible to provide mobile content, but it is rather expensive. Khomenok underlined a barrier for mobile content monetization, noting that all mobile operators take 70 percent of SMS fees. ICT infrastructure is developing and many technical innovations are available in the country. However, there is a gap between large cities and rural areas in the spread of Internet access and other technologies. According to Pogorelov, the absolute and relative cost for Internet, mobile content, and cable television is higher in towns and rural areas than in large cities, and the quality of services is usually lower.

The panelists were also anxious about prospects of digital television—specifically, that regional channels may not receive space if Ukraine does not follow European recommendations about the conversion to digital format. Ukraine has committed to transferring to digital DVB-T format by June 2015. However, the process of introducing digital television in Ukraine is inefficient and slow due to low awareness; a lack of market incentives, and; governmental bodies' low effort to launch the process properly, develop a good plan of transfer, or pave the way legally.

List of Panel Participants

Viktor Danylov, director, TRC Rivne-1; publisher, OGO Publishing House, Rivne

Oleg Khomenok, media advisor, Internews' U-Media project, Kyiv

Kostyantyn Kvurt, chairman of the board, Internews-Ukraine, Kyiv

Vladyslav Lavrov, journalist, *Kyiv Post*, Kyiv

Yuriy Lukanov, journalist; head, Kyiv Independent Media Trade-Union, Kyiv

Lyudmyla Pankratova, media lawyer, Kyiv

Oleksiy Pogorelov, general director, Ukrainian Association of Press Publishers, Kyiv

Tetyana Rikhtun, director, Sebastopol Information and Press Center, Sebastopol

Yevgen Rybka, content editor of the dossier section, *Ligabiznesinform*, Kyiv

Gennadiy Sergeyev, director, TRC Chernivtsi, Chernivtsi

The following participants filled out a questionnaire but could not attend the panel discussion.

Oksana Brovko, executive director, Association of the Independent Regional Publishers of Ukraine, Kyiv

Tetyana Lebedeva, honorary chairman of the Independent Broadcasters Association, Kyiv

Nataliya Lygachova-Chornolutska, chairman of the board, Telekritika NGO, Kyiv

Viktoria Syumar, executive director, Institute of Mass Information, Kyiv

Moderator and Author

Kateryna Laba, executive director, Regional Press Development Institute, Kyiv

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