



Promoting and Advancing Media Freedom in Ukraine

Guidelines

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Internews is an international non-profit media development organization with administrative centers in California, Washington DC, and London. Our mission is to empower local media worldwide to give people the news and information they need, the ability to connect, and the means to make their voices heard. Since 1993, Internews has worked in Ukraine with journalists, public officials, civil society activists and citizens to improve the quality and impact of a vibrant, independent news media. Internews is committed to helping develop skills and leadership in Ukrainian media organizations through technical assistance backed by financial support from international donor organizations.

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Preamble to Promoting and Advancing Media Freedom in Ukraine Guidelines

Ukraine is signatory to the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR). As a participating State of the Organization for Security and Cooperation in Europe (OSCE), Ukraine is also politically bound by the set of commitments adopted by this organization in human rights as part of the Helsinki *acquis*. At the national level, the Ukrainian Constitution (Article 34) protects the rights to freedom of expression and freedom of information. In line with the provisions contained in Article 9 of the Constitution, the interpretation and application of such rights should be according to the international legal standards mentioned above, as well as case law of relevant international courts, particularly the European Court of Human Rights (ECtHR) of the Council of Europe (CoE).

International standards in the area of freedom of expression and information are not only established by legal instruments, but also through a series of institutions and bodies with recognized capacity to introduce further *soft law* provisions in this area. This includes relevant bodies of the CoE (Committee of Ministers, Parliamentary Assembly), the OSCE Representative on Freedom of the Media and several human rights organizations within the United Nations, particularly the Special Rapporteur on promotion and protection of the right to freedom of opinion and expression.

Drafting a series of guidelines regarding defense of media freedom in Ukraine should take place within the framework and directives already established by this wide range of international commitments.

Ukraine's international commitments should be interpreted and implemented through the lenses of its national reality. However, international commitments have been designed precisely taking into account they will need to be implemented in every country. While acknowledging the *margin of appreciation* that national authorities retain, international commitments have also established a series of general parameters to avoid denaturalization of international human rights in the name of national priorities, traditions or culture. The Joint Declaration adopted in May 2014 by the UN Special Rapporteur, the OSCE Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, on "Universality and the Right to Freedom" states:

"States have some limited flexibility under international law in deciding whether or not, and if so how, to restrict freedom of expression to protect legitimate aims while respecting the standards set out above, including to reflect their own traditions, culture and values. International law also recognises that different approaches towards restrictions on freedom of expression may be justified by the very different factual situations States may face. Neither of these variations in any way undermines the principle of universality of freedom of expression and restrictions on freedom of expression should never represent an imposition by certain groups of their traditions, culture and values on others. (...)

The right to freedom of expression, which applies regardless of frontiers, protects the Internet, as it does other forms of communication. (...)

Extreme caution should be taken in applying restrictions on freedom of expression to the Internet and other digital technologies, taking into account that such actions in one jurisdiction may affect other jurisdictions."

The Guidelines will be based on the following basic international principles:

- a) Freedom of expression and information are universal essential human rights that protect individuals when holding opinions and receiving and imparting information and ideas of all kinds.
- b) Exercise of such rights is directly connected with the objectives and proper functioning of a pluralistic democracy.
- c) Such rights are protected regardless of borders which means that no restrictions can be solely based on the territorial origin of speech.
- d) Freedom of expression and information as well as other rights protected by international law, are not absolute and therefore may be subject to certain restrictions, conditions and limitations.
- e) International law provides that, in any national facts and circumstances, such constraints are exceptional and must respect requirements, known as the three-part test. This test requires that: 1) any interference must be provided by law, 2) the interference must pursue a legitimate aim included in such a provision, and 3) the restriction must be strictly needed, within the context of a democratic society, to adequately protect one of those objectives, according to the idea of proportionality.

This project builds on efforts by many in Ukraine to calibrate and set rules for media institutions, journalists and other content distributors within a specific and delicate national context. Ukraine is flooded with false information and damaging propaganda, chiefly emanating from the Russian government, as part of a long-lasting armed conflict provoked by the Kremlin. Information becomes a tool of conflict and incitement. Misinformation and propaganda debase journalism and prolong and intensify conflict. This represents a daily complex challenge for both state authorities and the media within a context of problematic content, disseminated through different technological platforms and may originate within or outside Ukrainian borders.

In this sense, the guidelines recognize and incorporate the extraordinary aspects of what constitutes an information war as well as a hot

war of bullets and tanks. There is no expressed state of emergency in Ukraine, but state authorities and stakeholders work as if an emergency is at hand. It is also clear the existence of a challenging information asymmetry, as the Russian government has more potent instruments for diffusion of its views at home and abroad. On the other hand, it is also clear the Russian commitment to and respect for international standards is particularly weak, although there is an official discourse (which could be considered propagandistic as well) of adherence to such principles.

International organizations expressed concern not only with regard to the impact of propaganda aimed at destabilizing the country; but, also when Ukrainian authorities avoid decisions that overstep their powers and capacities when restricting or regulating speech. Providing protection to journalists (as well as other speech actors, like nongovernmental organizations) operating in the territory is a particularly sensitive issue. This is particularly true with professionals performing their duties in conflict areas where risks, challenges and implications require a specific and tailored approach.

State authorities have responsibility to protect national security while respecting international standards. They also have the responsibility to preserve and promote a media environment that properly guarantees pluralism, diversity of opinions, open public debate and prevents undue concentration and control of media organizations either by private actors or the state.

Journalists have a special responsibility to perform their activities following the highest professional and legal requirements within a context where militancy inflates any activity. War is a time when patriotism becomes the currency of engaged citizenship and love of country is a significant feature of the day. Journalists, like their fellow citizens, share this feeling. Personal patriotism, however, can be betrayed when journalists are required to manifest their loyalties by misleading viewers and readers on battlefield events or by being pressured to modify their watchdog function. Intense partisanship at home is softened during conflict and neutrality is under siege. The citizenry suffers when it is not receiving a truthful and accurate state of events. A celebration of

patriotism can devolve into a claim for unquestioned support and suppression of necessary criticism.

These guidelines establish principles and orientations to help state, media and other relevant participants in shaping a media environment which fulfills the requirements mentioned above. The objective is not only to mitigate or eliminate the impact of *negative speech*, aimed at distorting the free formation of the public opinion in Ukraine, but also to best promote the free expression and dissemination of information and opinions within the country in order to improve the quality of the overall political system.

There is an understandable desire to identify what constitutes propaganda and how to regulate it. This is an issue that has presented challenges for generations, taking into account the only form of propaganda that is banned by international law is the one labeled as *propaganda for war*. The guidelines seek to do more than invoke the old proverb that the answer to objectionable speech is more speech. Engaging more effectively in the domestic and global struggle for hearts and minds is far more complicated than this. It is not propaganda alone. Propagandists lie and deceive, they take advantage of foreign weaknesses and vulnerabilities, they overtly substitute emotion for reason in the process of convincing publics. In all these areas, a strategic response is necessary. These guidelines seek to help in that process.

The guidelines are based on the international principle that imposing restrictions to free expression is only the last resource to be used by state authorities, in exceptional cases and under restrictive criteria, while they hold important *positive responsibilities* in the area of promotion and protection of free and plural speech.

State responsibility is not incompatible with the question, also raised in the guidelines, of which mechanisms are best to deal with different forms of speech. Therefore, the guidelines also consider different possibilities and the possible parameters to take into account when adopting them.

Statutory regulation is present in almost all media legal systems in the world. It consists of a set of rules defined and implemented by state

organizations to define, promote and delimitate the exercise of rights to freedom of expression and information. In this context, respect of international commitments, particularly with regard to limits and restrictions to freedom of information, is of central importance. Independence of public law enforcement is a relevant international requirement, particularly in audiovisual media services.

Self-regulation is considered to be a useful mechanism to frame and improve speech. Self-regulation is commonly based on the following principles: a) codes of conduct should be the result of a wide consensus of all stakeholders, b) codes of conduct establish ethical and professional rules that go beyond and complement legal and constitutional principles, and c) bodies in charge of enforcement of self-regulation should perform their tasks on an independent basis and through recognized expertise.

Co-regulation is a relatively new mechanism with some degree of flexibility in defining their specific traits. Co-regulatory systems are essentially based on self-regulatory schemes that count on involvement of state authorities as the last resort regarding implementation. Co-regulation preserves the role of the state as backstop, giving priority to rules and decisions adopted and implemented by non-state organizations.

Regulated self-regulation is equidistant from self-regulation, statutory regulation and co-regulation, referring to those cases where the need to adopt self-regulatory mechanisms and/or basic characteristics of them are defined or authorized by state authorities.

Adoption of mechanisms that go beyond statutory regulation heavily rely on the media structure and the degree of cohesion of different stakeholders within a certain media system. Such alternative and complementary mechanisms always imply a certain degree of voluntary commitment and engagement culture. The success or failure mostly depends on proper assessment of the readiness of participants to get involved and benefit from the specific adopted regulation.

These guidelines are proposed in a context where consensus on how to tackle most challenges still needs to be constructed. They also rely on hard-won experience of many civil society organizations in Ukraine as

they have faced violence and censorship; but, with a need to inform, each other and, at times, the government. There is also a degree of mistrust through contributions made by international organizations that cannot be neglected as previous experiences demonstrated. One of the primary challenges of this initiative is to conform to a common agreement where a proper understanding of national challenges is not incompatible with basic international requirements. International commitments should be incorporated as positive contributions to improvement of freedom of expression and information in Ukraine.

This initiative has brought together international and Ukrainian experts to begin a process to produce guidelines on free speech and media during conflict that can be agreed to and will result in governmental restraint on pressing further restrictions. The initiative is based on a consensus-based approach that can lead to a recognized national strategy for coping with media freedoms and limits during a potential long-term, low-level conflict such as the one Ukraine is currently experiencing.

This effort has collected examples of how other countries have addressed similar pressures, recognizing that no country faced exactly the same circumstances confronting Ukraine. The goal is to provide foundations for a guide to media protections for Ukraine, taking into account military action and Russian government propaganda offensives, that will help Ukraine's media, civil society and government agree on appropriate and proportionate limitations as well as protect the public's right to access to information they need.

This document seeks to provide guidance on protections of freedoms of speech, expression, and the media during a period of conflict, based on international conventions and local expertise, and encourage civil society consensus and public action around protection of these freedoms.

PROMOTING AND ADVANCING MEDIA FREEDOM IN UKRAINE GUIDELINES

1. Guidelines Regarding International Journalists and Media Institutions

- International journalists and other media staff have the same rights as Ukrainian journalists and media staff and should be protected in the same manner. Different treatment should not be considered or applied on grounds of nationality.
- Journalists should not be discriminated against or subject to different treatment based on their language.
- International journalists should be granted access to conflict areas under the same conditions as their Ukrainian colleagues. Undue and unreasonable waiting periods to obtain permission (when applicable) should be avoided as they negatively impact a right to information.
- Media relations with international journalists should respect the international law principles of universal freedom of expression and information. Helsinki Final Act provisions that protect the work of foreign journalists within the Organization for Security and Cooperation in Europe must be respected.
- International journalists should have full right to access public documents and public information, according to international standards and national regulations regarding transparency and access to information.
- National security constraints toward an international journalist in a conflict area should be applied in an objective, non-discriminatory and proportionate manner. Restrictive decisions should be properly justified.

- Ukrainian authorities should avoid labeling international media on the basis of their editorial positions to justify different treatment of media professionals. International journalists will be held responsible for the content they have directly produced and distributed, according to Ukrainian law and international standards.
- Using national security justification to adopt restrictive measures against an international journalist (including deportation) should respect national legislation and international standards. Relevant international best practices and documents, including the Manila Principles, should be considered. Decisions adopted in this area should be clearly and properly justified. Appeal mechanisms need to be made available as well. These mechanisms should not be used as an instrument of international retaliation which can contribute to conflict escalation.
- Ukrainian journalists should assist and cooperate with their international colleagues to promote better understanding of Ukraine and its culture and history.
- To promote a united profession beyond nationalities, Ukrainian authorities, media institutions and journalists should refrain from establishing criteria or processes to determine when an international person is entitled to be considered a journalist or a media professional. Ukrainian stakeholders should take into account the media and information evolution over the last 20 years which has changed the definition of a journalist.

According to the United Nations Human Rights Committee, journalism is administered by “professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the Internet or elsewhere” (General comment No. 34, paragraph 44). The UN Rapporteur on Freedom of Opinion and Freedom of Expression stated that persons other than journalists inform the public and carry out a “vital public watchdog role” and that international bodies increasingly use terms more general than “journalist”, such as “media professionals” or “media workers”. This “functional” notion of journalism has also been adopted by the Council of Europe by defining a journalist as “any natural or legal

person who is regularly or professionally engaged in the collection and dissemination of information to the public via any means of mass communication” (Recommendation of the Committee of Ministers No. R (2000) 7).

- International journalists should be offered access to fora, training activities and other forms of discussion and engagement to promote a common understanding and respect with regard to professional journalism standards in Ukraine.
- Ukrainian journalists’ associations and other relevant stakeholders should consider projects and initiatives to improve knowledge and awareness among international journalists regarding legal and ethical standards. Ukrainian professional organizations should engage in improving language accuracy of international journalists to avoid biased, unfair or poorly-informed representations of the facts. In cases of violation of legal and ethical standards, proper redress mechanisms, adapted to the situation and status of international journalists working in Ukraine, should be put in place. Such mechanisms cannot be used to impose non-objective, unreasonable or discriminatory measures.
- International journalists shall be allowed to present their own interpretations and descriptions of Ukraine, respecting professional and legal standards and the need for reporting activities to be fair and accurate.
- Monitoring and tracking journalists in Ukraine may be implemented with the sole objective of preserving their safety.

2. Guidelines for Journalists in an Occupied Territory

- Protections granted to journalists working in an occupied territory also apply to freelancers and independent individuals engaging in journalism. Such protections refer not only to these guidelines but also to national and international standards applicable to journalistic work.
- Journalists working in a conflict zone or occupied territory should receive training on how to guarantee their personal safety. Training

should be encouraged and, in justified cases, be established as a condition to obtain an accreditation or permission to work in a particularly dangerous area. Current initiatives by the Ministry of Defense and the Ministry of Information regarding accreditation and training of journalists in this area need to be strengthened and assessed in terms of effectiveness and adequacy.

- Accreditation and authorization processes regarding journalism in an occupied area should be granted on an objective, non-discriminatory and proportionate basis. These mechanisms cannot be used to select or classify journalists and media outlets on a political or ideological basis. National security restrictions and requirements should be clearly and properly justified.
- Journalists operating in uncontrolled areas should apply special caution and inform authorities on a regular basis about their location, situation and condition.
- Different parties in the conflict should cooperate to provide protection to journalists as well as to facilitate any operation or adoption of any measure aimed at protecting or rescuing them in case of need. In such cases, the safety of journalists should be a priority.
- Access to information remains a basic right related to the exercise of the right to freedom of information, even in conflict areas. Restrictions to this right need to be justified carefully and transparently.
- The principle of Ukraine's territorial integrity should be respected in that journalists cannot have their movements and activities restricted on the sole basis of their territorial location.
- Journalists working in a conflict zone or occupied territory should be trained on how to communicate, interact and engage with different actors and combatants on the ground, including providing proper identification and accreditation.
- Journalists working in a conflict zone or an occupied territory shall communicate their presence and capacity to all relevant groups and organizations and the civilian population to an extent which enables them to protect their work and their personal safety.

- Journalists will be granted access to information regarding special rules, requirements and other exceptional provisions – particularly those affecting their work – as well as the different potential newsmakers who may hold or claim jurisdiction over their presence and activities.
- In cases of arrest, detention or any other form of unjustified impediment to performance of their activities, journalists should identify themselves in their professional capacity and avoid any conflict or situation that may endanger their personal or legal safety. The same precautions should be adopted in cases of pressure or any other interference in their work.
- Journalists should remain independent and treat actors, combatants, victims and all those involved in a conflict, or present in an occupied territory, in a fair and objective manner. This shall not prevent journalists from expressing opinions and holding editorial views as long as those views do not interfere in their reporting. Journalists are entitled to devote attention to serious humanitarian issues as well as other major violations of international law.
- Acting as an official or unofficial spokesperson, or communication platform of one of the parties or other groups or persons involved in a conflict is incompatible with the practice of journalism. Directly engaging in the conflict through other means and activities also goes beyond the role of a journalist. This includes dissemination of propaganda for war or any other form of expression prohibited at the international level, particularly by instruments of international criminal law. This guideline should be interpreted in accordance with existing humanitarian international law regarding protection of journalists in conflict zones.
- Journalists working in annexed territories enjoy the same rights and protections of those operating in the rest of Ukraine, on the basis of the principle of territorial integrity. Any action or statement of operation by Ukrainian authorities affecting the annexed territories should take into account journalist safety as a priority.
- Blocking or jamming broadcast signals or other transmission technologies should be proportional, justified and avoid affecting distri-

bution of protected speech. Measures adopted should be properly communicated to all parties and appeal mechanisms. Such measures should have a limited and pre-established application period and be regularly reviewed.

- If a media organization has been subject in the past to restrictive measures on the grounds of national security, it does not justify imposition of new and/or permanent *preventive* blocking measures.

3. Guidelines to Guarantee Objective and Accurate Reporting

- Journalism should be based on accurate and fair presentation of facts, no matter the urgency and sensitivity of the issues being covered. All journalists should ensure, by applying the highest professional standards, that all reported information is accurate and presented fairly and accurately. Journalists should refrain from publishing unfounded, biased information as well as rumors and speculation.
- Ukrainian institutions in charge of media policy, legislation and regulation should refrain from using a general notion of “propaganda” or “fake news” as the basis for regulations or restrictions regarding rights to freedom of expression and freedom of information. However, effectively fighting propaganda, disinformation and any other form of unfair and inaccurate reporting can and should be one of the main drivers of Ukrainians’ media policy and regulation, including self and co-regulation. These measures particularly take into account the directives provided in the next guideline.
- Ukrainian institutions should address different forms of manipulated information and propaganda by improving regulation of defamation, hate speech, and crime incitement. Regulation should respect the principle of legal certainty. Comparative experiences in this area, including the Foreign Agents Registration Act criteria from the United States, should be taken into account. Possible interference in the right to freedom of expression and information deriving from such measures should be given proper consideration.

- Protecting sources should be fully granted, according to international standards. National security should not be used as a reason to compel journalists to reveal sources.
- Ukrainian authorities and other relevant stakeholders may take reasonable measures to report, publicly denounce and prevent groups, individuals and even other countries from interfering in the full and effective exercise of the right to freedom of expression. State institutions are obliged to condemn any unlawful action aimed at silencing freedom of expression and investigate and bring to justice those responsible.
- Ukrainian media stakeholders should support and promote initiatives coming from civil society and non-State actors aimed at improving accurate reporting as well as providing fact-checking services, raising awareness about propaganda and debunking false information.
- Provisions adopted within the framework of the previous paragraph should not hinder open discussion on public interest issues, including the most sensitive topics related to conflict and should be consistent with the protection granted by the European Court of Human Rights to political speech, even in cases when it can “shock, disturb or offend.”
- Any sanction related to exercising rights to freedom of expression and information should respect the principle of proportionality by imposing the least restrictive means to protect the public’s interest and rights.
- Provisions regarding “incitement” to crime or any other illegal action should be drafted and implemented with the intent of preventing misunderstanding and danger that can be reasonably detected or anticipated, always taking into consideration the context, the author and circumstances of editorial content. Government restraint applies to speech insulting Ukraine’s culture, the state or its symbols, the government, public officials; and, a foreign nation, its state symbols, its government and its public officials according to well-developed international standards. Unless the media criticism was intended and likely to incite imminent violence, expression should be protected.

- Legislation restricting speech on the basis of danger to national security is only legitimate in cases where expressions are intended to incite imminent violence, are likely to incite such violence and there is a direct and immediate connection between the expression and the likelihood or occurrence of violence. As stated in the previous paragraph, this needs to be assessed taking into consideration the context, the author and the circumstances of the content in question.
- Limits, restrictions or sanctions for prevention or to hinder dissemination of certain content (even if inappropriate or illegal) is not acceptable. Likewise, use of such measures to prevent minority, extreme or politically uncomfortable opinions from being communicated, as well as corruption cases from being disclosed, is a direct violation of the rights to freedom of expression and information.
- Provisions related to national security issues, and those affecting freedom of expression need to be clearly established and justified, without granting excessive, broad and discretionary powers to government authorities. Independent review and appeal mechanisms in this area are needed.
- Measures adopted by state institutions to protect national security should be publicly disclosed with regard to specific media organizations or platforms as well as affected editorial content.
- National security cannot be used by state authorities to prevent journalists from gathering information and staying in touch with all parties involved in a conflict.
- National security institutions must adopt a proactive policy to generally inform journalists and media organizations about information affected by restrictions and limitations, as well as their scope and duration.
- As stated by the Joint Declaration of regional and international rapporteurs on freedom of expression in 2015, states should take measures to ensure all groups in society have access to opportunities to make their voices heard, both within their communities and in wider social debates, including the promotion of media diversity, public service broadcasting and community media. Promotion of media

and digital literacy and citizen journalism, including the capacity to make effective use of online communication tools, are also important. Such measures can contribute to reducing alienation which can increase risk of participation in attacks on freedom of the news media.

- Provisions enacted in the specific context of conflict are legitimate if they respect the Joint Declaration principles. These restrictions should be reviewed on a regular basis and include sunset clauses to avoid excessive use.
- Journalists and media actors should never try to respond to or counter unfair and inaccurate information with content, comments or statements which may fall short of legal and ethical standards. In cases of possible violation of professional standards or legal provisions, they should refer to regulatory authorities. Regulation aimed at monitoring and protecting ethical journalism values should be enhanced.
- Journalists in Ukraine are entitled to present their opinions and hold their own editorial views on matters they report about. However, opinions should not distort presentation of the facts, according to professional standards.
- Journalists who engage nongovernmental organizations, political parties or any form of activism (particularly if it involves drafting and publication of reports, communiqués or pamphlets) should separate both activities and not allow the latter to interfere in the former.
- Media institutions should have mechanisms in place to protect the professional independence of journalists and avoid any form of excessive pressure (either emanating from public institutions, media owners or editors) that negatively affects fair and accurate reporting. These mechanisms may include internal professional guidelines, internal professional organizations and ombudspersons.
- Journalists must maintain vigilance and be ready to detect efforts to destabilize the public through misleading information and propaganda and attempts to undermine public trust. Media organizations should adopt internal rules to ensure maintenance of high standards of editorial integrity. They must be vigilant to patterns and

practices of others introducing false and incendiary material into the Ukrainian public arena.

- Specific rules should be developed to avoid excessive control from and dependence on government institutions, particularly in conflict areas. These regulations should include adequate safeguards to ensure proper access to information, news conferences, meetings and public documents by all journalists and media organizations, avoiding inadequate collusion between journalists and public officials.
- Media outlets should remain independent from any public or private interest that may affect the fairness of their reporting and professional operation of their newsrooms.
- Media organizations have the right to express their editorial views, but they should be presented to the audience as such and not improperly interfere in the day-to-day reporting of their journalists. Specific rules should be adopted through internal, participative processes.
- All stakeholders should advocate for adoption of better structural laws and regulations, aimed at improving media pluralism and diversity in Ukraine with a focus on limiting the concentration of media ownership and strengthening its transparency.
- Distribution of user-generated content requires proper verification of its fairness and accuracy, according to ethical and professional standards.
- Media outlets and journalists should not engage in campaigns or any other communication activity aimed at the promotion and advocacy of ideas, institutions, governments or groups. Content distributed in such cases will not be considered the exercise of journalism activities and therefore will not have protections established in present accepted guidelines. When personal or individual social media accounts are used for this purpose, specific safeguards and caution should be taken to avoid attribution confusion.
- Media outlets and journalists should respect international legal prohibitions regarding war propaganda and hate speech.

4. Guidelines Regarding Social Media Content Regulation

- Media organizations and journalists must respect professional principles regardless of the platform communicating their content.
- Media organizations and regulatory bodies should cooperate and dialogue with social media platforms to guarantee ethical and legal standards are applied in the online world.
- Media institutions, regulatory bodies, government and the Verkhovna Rada should engage with social media platforms to guarantee that any decision blocking or removing online content is based on clear and precise rules and adopted according to transparent and fair procedures. Adequate appeal procedures should be in place.
- Media institutions, government officials, journalists and social media platforms should engage in a regular dialogue and discussion to guarantee understanding of challenges and problems related to fair reporting in Ukraine; in particular, regarding conflict matters.
- Ukrainian Internet policies should increase and improve sources of reliable information. This objective can be pursued through promotion or creation of news sites, fact-checking and anti-propaganda initiatives online, and media literacy will be strengthened.
- Social media platforms in Ukraine should guarantee freedom of expression is exercised. They should also protect the exercise of rights to freedom of expression and information for all users without introducing disproportionate, discriminatory or arbitrary restrictions to those rights.
- Ukrainian institutions and the media should create online platforms aimed at disclosing blocking, filtering and restrictive measures adopted by other countries that affect Ukrainian editorial content. And, Ukrainian institutions should refrain from adopting restrictive retaliation measures adopted by other countries regarding online content.
- Ukrainian public service broadcasting should expand the core and reach of its activities to the online world to provide citizens with a re-

liable source of information and entertainment as well as an accurate source of information regarding propaganda and counter-propaganda present in the online world.

- National security measures adopted and addressed to social media platforms in Ukraine present the need to respect requirements of transparency and proportionality as well as legal certainty and motivation, according to these guidelines. When implementing such measures, platforms need mechanisms less harmful to the rights to freedom of expression and information.
- Ukrainian institutions need to preserve connection to the Internet in all the areas of the country, including occupied and annexed zones, to safeguard the right to information of citizens.
- Social media platforms and other Internet actors should promote mechanisms to communicate measures adopted by regulatory authorities and identify content affected by them.
- Social media platforms in Ukraine should also consider adapting their use and community rules to specific circumstances – especially regarding issues mentioned in the previous guidelines. Specific rules must respect the right to freedom of expression.
- Social media platforms should adopt special rules to deal with so-called third-party comments, in accordance to the principles mentioned above and the European Court of Human Rights.

5. Guidelines on Addressing and Improving Self-Regulation for Legacy Media

- Self-regulation should be promoted to improve media quality and professionalism, and to reduce statutory regulation.
- Self-regulatory mechanisms should be the result of an open and participatory discussion with the objective of establishing shared principles in the media ethics and basic professionalism.
- Self-regulatory mechanisms should not be limited to a certain type of media. They should cover all media and be technologically neutral.

- Self-regulatory mechanisms should be inspired by principles already in place in the Ukrainian legal system and introduce further and more detailed provisions in areas where legal and regulatory intervention might be excessive or inadequate.
- Self-regulatory mechanisms should count on enforcement that operates independently. Government officials and citizens should be aware of the existence of enforcement capability and encouraged to use it.
- State institutions and journalists must promote adoption of self-regulatory mechanisms by raising awareness about their relevance and usefulness. Special efforts should be made to avoid proliferation of ineffective self-regulatory mechanisms and move toward schemes that cover the entire media, including online media.
- State institutions can adopt laws and rules that include incentives to create appropriate self-regulation. Such norms reinforce general principles applicable to self-regulatory codes.
- “Co-regulation” is defined as collaboration between government regulators and media on establishing and applying ethical and professional standards. Regulators should promote and facilitate mechanisms to co-regulate dissemination of news as well as guarantee their effectiveness and function.
- Ukrainian government institutions and journalists should facilitate dialogue between existing self-regulatory mechanisms and organizations in charge of statutory regulation. This allows identification of where co-regulation can provide more flexibility and effectiveness in enforcing rules and principles.
- Co-regulation should be adopted through legislation and subsequent rule-making that clearly delineates the role of stakeholders versus the backstop powers of government institutions. Basic principles to protect freedom of expression should be respected.

6. Guidelines on Continued Engagement with European Institutions

- Ukrainian journalists will create a common repository and database of decisions of European Court of Human Rights and Council of Europe standards relating to freedom of expression. This repository may be established and maintained in cooperation with academic institutions and human rights organizations, for example, the Ombudsperson.
- Ukrainian journalists will discuss possible mechanisms to further engage with the Council of Europe platform to protect journalism and journalist safety. (<http://www.coe.int/en/web/media-freedom>)
- Ukrainian journalists will identify and engage with legal experts to promote a higher presence and participation in cases before the European Court of Human Rights (as *amicus curiae*, for example).
- Ukrainian journalists will increase participation in events, fora, conferences, discussions, and trainings organized by international human rights bodies, including institutions within the Council of Europe, the Organization for Security and Cooperation in Europe, the European Union and the United Nations. Special attention should be paid to events aimed at discussing the media's role in times of conflict and facilitating dialogue among journalists from different countries.
- Media regulatory organizations in Ukraine will improve, with assistance of government institutions, their engagement with international platforms – such as the European Platform of Regulatory Authorities – to facilitate understanding and promotion of European regulatory standards and principles established by both the European Union and the Council of Europe.
- Ukrainian journalists will increase their contacts and have a more active exchange of views with professional associations, nongovernmental organizations and other organizations operating at the international level with the intent of protecting freedom of expression and information according to international standards.

Experts' bios

Susan Abbott

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Susan Abbott is an independent consultant who specializes in working with non-profit organizations, universities, and donors in the areas of media development, civil society assistance, and digital rights. Abbott provides consulting services for facilitating workshops and training programs, grant writing, monitoring and evaluation, and organizational capacity building. As a grant writer and M&E consultant, Abbott has experience with USAID, US Department of State, and a variety of private foundation donors. She has worked with a variety of NGOs on developing M&E tracking systems, increasing institutional capacity around M&E, and on designing M&E frameworks. In addition, Abbott works with NGOs, especially small- to medium-size NGOs, on developing a fundraising strategy, finding partners for large grant applications, and developing concept papers and ideas into fully-funded projects.

Abbott has recently consulted for Access Now, Albany Associates, the Center for International Media Assistance, Fondation Hironnelle, International Business & Technical Consultants, Inc., Media Legal Defence Initiative, and Thomson Foundation. Abbott has work experience in Bosnia and Herzegovina, Hungary, Jordan, Mozambique, Serbia, Sudan, Somalia, and Ukraine as well on a number of global/international advocacy and network projects. She is particularly

interested in conflict and post-conflict media development environments as well as in supporting projects that seek to develop local and regional advocacy strategies related to promoting freedom of expression and access to information.

In addition to her consulting practice, Abbott is a lecturer in the Department of Communication, University of Colorado Denver, and a non-resident fellow at the Center for Media, Data, and Society at Central European University, Budapest.

Previously, Abbott worked for the Center for Global Communication Studies of Annenberg School for Communication, University of Pennsylvania, Internews, and IREX. Abbott has authored many papers, managed the production of several M&E toolkits, and facilitated workshops, summer schools and conferences on approaches to monitoring and evaluation of media development, digital rights, and civil society advocacy, including the Caux Guiding Principles on M&E, the Budapest Summer School on Media Development and Democratization: Understanding and Implementing Monitoring and Evaluation Programs, Internet Governance, Civil Society and Communication Policy Advocacy, and the edited book *Measures of Press Freedom and Media Contributions to Development: Evaluating the Evaluators* (Peter Lang, 2011). She is the author of a recent CIMA publication entitled *Rethinking Public Service Broadcasting's Place in International Media Development*. Abbott received her BA from American University, and her MA from Central European University.

Douglas Griffin

Albany Associates



Mr. Griffin is an expert in communications and media strategy, law and policy – particularly in conflict, post-conflict and transitional environments.

He is an attorney with expertise in drafting legal documents and assisting with development of communications, media law and policy. Mr. Griffin has significant experience in communicating effectively with a variety of stakeholders, including government and international community representatives on law and policy issues.

His policy work includes drafting a media development strategy for Somalia with input from its ministries and the United Nations; drafting key legislation and regulations concerning media and telecommunications in Iraq; training national regulators of broadcast and communications, and providing comprehensive broadcast and regulatory advice to regulators and government ministries in Jordan, the United Arab Emirates, the Democratic Republic of Congo, Kosovo, Afghanistan and Bosnia Herzegovina. Prior to joining Albany Associates, Mr. Griffin was in private practice with an international law firm in its New York, Moscow and Paris offices.

Monroe Price

University of Pennsylvania's Annenberg School for Communication



Monroe Price was Director of the University of Pennsylvania's Center for Global Communication Studies at Penn's Annenberg School for Communication, a post from which he retired in 2016. Mr. Price holds a B.A. and an LL.B (now a Juris Doctor) from Yale University.

Professor Price was founding director of the Program in Comparative Media Law and Policy at the University of Oxford. He also established the Center for Media, Data and Society at the Central European University. His work on media and the post-1989 transitions included service on the Commission on Radio and Television Policy, established late in the Gorbachev era to bring together Soviet and US professionals and academics working on broadcast and society.

He has delivered many lectures and has organized conferences with the American-Austrian Foundation, the Communications University of China, Renmin University and the Squadron Program on Law, Media and Society at the Benjamin N. Cardozo School of Law.

A prolific author, his books include *Media and Sovereignty*; *Television, The Public Sphere and National Identity*; *Owning the Olympics: Narratives of the New China*; and, *Objects of Remembrance: A Memoir of American Opportunities and Viennese Dreams*.

Mary Mycio

Media Attorney/International Development Consultant



Ms. Mycio is an American journalist with 16 years of experience, as a media lawyer and civil society activist. Of Ukrainian ancestry, she is the author of the book *Wormwood Forest: A Natural History of Chernobyl and Doing Business*. Ms. Mycio earned her Juris Doctor from the New York University School of Law.

She worked as a correspondent for the Los Angeles Times, and directed IREX's Media Legal Defense Education. Ms. Mycio now works as a media policy analyst, an advocacy project coordinator and provides expertise to educational programs, using new media to counter censorship in Ukraine. She has also worked as a legal consultant drafting media laws in Moldova.

Joan Barata Mir

International Expert in Freedom of Expression, Media Freedom and Media Regulation



Dr Barata is the Founder of the Vienna-based consultancy firm CommVisions.

Dr. Barata served as principal adviser to the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe's Representative on Freedom of the Media and as Secretary General of the Catalonia Audio-visual Council.

He provides regular assistance to different international organizations and entities, including the OSCE; the Council of Europe; the European Broadcasting Union; the Organization of Ameri-

can States; the United Nations Educational, Scientific and Cultural Organization; and, USAID.

He is a Research Fellow for the Center for Data and Communication Studies at the Central European University and a Fellow at the Center for Internet and Human Rights at the European University in Viadrina.

Adam Barry

Munger, Tolles & Olson



Adam Barry is a litigator in the Los Angeles office of Munger, Tolles & Olson. His practice focuses on complex financial services litigation, global disputes and anti-corruption compliance and counseling, with an emphasis on the Foreign Corrupt Practices Act.

Mr. Barry's experience includes representing Bank of America and counseling domestic and foreign clients regarding European and American anti-corruption laws.

Mr. Barry maintains an active pro bono practice focused on the right to freedom of expression and information, national security and media regulation. He counsels clients on these issues and has filed *amicus* briefs concerning the right to freedom of expression in domestic and international courts including the European Court of Human Rights.

Igor Rozkladaj

Center for Democracy and Rule of Law



Mr. Rozkladaj specializes in media and “national memory policy” at the Reanimation Package of Reforms. He serves as Secretary of the Independent Media Council and was a member of the Public Council of the National Council on Television and Radio Broadcasting from 2010–2016. Mr. Rozkladaj is a member of the Expert Council on Freedom of Information and Privacy Protection and is an Ombudsman representative on access to public information and personal data protection. He was a member of the Independent Expert Council on media activity during the 2007 elections. He continues to be involved in developing legislation on public service broadcasting and audiovisual media services in Ukraine.

Olha Bolshakova

Advocacy and Lobbying Center at the Independent Association of Broadcasters



Ms. Bolshakova has worked at the Independent Association of Broadcasters since 2003. She is an attorney and also an associate professor of economics. She served as a member of the Public Council in the National Council on Television and Radio Broadcasting from 2010–2016. Ms. Bolshakova runs the Advocacy and Lobbying Center, monitors broadcast legislation, coordinates communications with public authorities, professional organizations and organizes events aimed at promoting broadcast industry interests.

Pavlo Moiseev

Internews-Ukraine



Pavlo Moiseev is a media expert, civil society activist, lawyer, expert in communications, GR, PR. Reanimation Package of Reforms expert, member of Expert Council at Ministry of Informational Policy of Ukraine, Civic Council of the Verkhovna Rada of Ukraine Committee on Freedom of Speech and Informational Policy.

Mr. Moiseev has 20-years experience of legal practice. Over the past 12 years, he has worked at Internews Ukraine where he coordinates legal projects, coordinates government relations, engages in strategic planning and develops communications activities. He served as Chair of the Public Council in the National Council on Television and Radio Broadcasting from 2010–2014.