



United Nations
Educational, Scientific and
Cultural Organization

IPDC THE INTERNATIONAL PROGRAMME
FOR THE DEVELOPMENT OF COMMUNICATION



Assessment of Media Development in **MONGOLIA**

*Based on UNESCO's
Media Development
Indicators*



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Research team:

Naranjargal Khashkhuu, Director, Globe International Center (Team leader)
Dash Munkhburen, Legal Counsellor, Globe International Center
Ayushjav Tumurbaatar, Media Programme Coordinator, Globe International Center
Narantsetseg Khashkhuu, Programme Coordinator, Globe International Center
Munkhmandakh Myagmar, Executive Director, Press Institute
Gunjidmaa Gongor, Head of Research Department, Press Institute
Chimeddongdog Tsegmid, Researcher, Press Institute
Oyuntsetseg Ravdan, Executive Director, Journalists' College
Choisamba Choijiljav, Journalism Faculty member, Mongolian National University
Naranmandakh Mongol, Faculty member, Radio and Television Institute
Tserenjav Demberel, Transparency Fund
Gankhuyag Sandagdorj, Transparency Fund
Tamir Ukhnaa, independent researcher

UNESCO Coordination by:

Andrea Cairola, Adviser for Communication and Information, UNESCO Office Beijing
Zeng Qingyi, National Project Coordinator, Communication and Information Sector, UNESCO Office Beijing

UNESCO review and editing:

Andrea Cairola, Adviser for Communication and Information, UNESCO Office Beijing
Saorla McCabe, Media Development Indicators Coordinator, UNESCO HQ
Fackson Banda, Programme Specialist, UNESCO HQ

Editorial assistance: Sarah Donkersley, UNESCO HQ

Translated from Mongolian to English by: Naranjargal Khashkhuu, Ariunzaya Davaa, Ayushjav Tumurbaatar, Yeruulsuren Chimiddorj and Dash Munkhburen

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A follow-up discussion was organized during the World Press Freedom Day event on 1 May 2014. The recommendations were also discussed during two multi-stakeholder consultative meetings on Freedom of Expression and Internet and on Freedom of Expression and National Legislation in November 2015.

Revision:

If readers wish to offer any corrections to or feedback on this assessment of the media sector in Mongolia, comments may be taken into account in a second version of this report. Should there be a second version, it will be published in an electronic format and made available on the websites of UNESCO, the Globe International Center and the Mongolian National Commission for UNESCO.

The original version of the report is available on the following websites:
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Foreword

In September 2015, world leaders adopted the new 2030 Agenda for Sustainable Development, which includes a set of 17 Sustainable Development Goals (SDGs). Freedom of expression, press freedom and the right to access information are fundamental rights as well as enablers of many of the goals relevant to the new Development Agenda. Progress in peace, democracy and development for individuals, communities and countries is driven by the free flow of information and ideas.

UNESCO, as the only UN agency with a constitutional mandate to “promote the free flow of ideas by word and image,” works with its Member States to foster enabling environments for free, pluralistic and independent media. UNESCO’s approach to media development is both knowledge-driven and context-sensitive, and it takes into account the challenges and opportunities created by the rapidly changing media environment.

This publication presents the findings of the media development assessment in Mongolia that began in 2012 to determine the state of the media in the country. The assessment was based on the UNESCO/IPDC Media Development Indicators (MDIs), an internationally recognized analytical tool used to provide detailed overviews of national media landscapes and related media development priorities.

The assessment, the first in the North-East Asia region, was undertaken by UNESCO and Globe International Center, a Mongolian media development NGO based in Ulaanbaatar, in partnership with a network of organizations. Data was collected through a review of existing documents, including on-line sources; a questionnaire-based survey of media managers, journalism schools and journalists; consultations; and a national media conference attended by representatives of government bodies, media organizations, journalism schools, lawyers, civil society groups, the donor community, and international organizations.

The report is structured around the following thematic areas, in line with UNESCO’s internationally-recognized MDI framework: 1) system of regulation conducive to freedom of expression, pluralism and diversity of the media; 2) plurality and diversity of media, a level economic playing field and transparency of ownership; 3) media as a platform for democratic discourse; 4) professional capacity building and supporting institutions that underpin freedom of expression, pluralism and diversity; and 5) infrastructural capacity to support independent and pluralistic media.

The publication provides a comprehensive overview of the progress made and challenges facing Mongolia's communication and media sector, as well as a set of evidence-based recommendations to improve the media landscape across the country. As in other countries, the assessment is not a one-off activity but a continuous process, given constant changes in the media scene. It is our hope that the information and recommendations in this publication will be useful to the Government of Mongolia, local and international organizations as well as civil society groups working to promote freedom of expression and the development of the media and communication sector in the country.

Marielza Oliveira

Director and Representative

UNESCO Beijing Office

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Acronyms

AFCCP	Authority for Fair Competition and Customer Protection
AIP	Authority of Intellectual Property
CCCP	Coordinating Council for Crime Prevention
CMJ	Confederation of Mongolian Journalists
CRAMO	Community Radio Association of Mongolia
CRC	Communication Regulatory Commission
DANIDA	Danish International Development Agency
DWA	Deutsche Welle Akademie
EC	European Commission
EU	European Union
FES	Friedrich Ebert Stiftung
GASI	General Authority for Specialized Inspection
GIA	General Intelligence Agency
GIC	Globe International Center
GSIM	Gender Sensitive Indicators for Media
IGO	International Governmental Organization
INGO	International Non-Governmental Organization
ITPTA	The Information Technology, Post, and Telecommunications Authority
ICCPR	International Covenant on Civil and Political Rights
IFEX	The global network defending and promoting free expression
ILO	International Labour Organization
ISP	Internet Service Provider
IPDC	International Programme for the Development of Communication
JICA	Japan International Cooperation Agency
LITRI	Law on Information Transparency and the Right to Information
LGBT	Lesbian, Gay, Bisexual, and Transgender
MDI	Media Development Indicators
MFDJA	Mongolian Free and Democratic Journalists' Association
MJA	Mongolian Journalists' Association
MJU	Mongolian Journalists' Union
MMDS	Multichannel Multipoint Distribution Service
NHRC	National Human Rights Commission
MNB	Mongolian National Broadcaster
OSCE	Organization for Security and Cooperation in Europe
OSI	Open Society Institute

- PI** Press Institute
- RSF** Reporters Without Borders
- SDC** Swiss Agency for Development and Cooperation
- SIDA** Swedish International Development Cooperation
- TACIS** European Commission's Technical Assistance to the Commonwealth of Independent States
- UN** United Nations
- UPR** Universal Periodic Review
- UNDEF** United Nations Democracy Fund
- UNDP** United Nations Development Programme
- UNESCO** United Nations Educational, Scientific and Cultural Organization
- USAID** US Agency for International Development
- USOF** Universal Service Obligation Fund
- WAN-IFRA** World Association of Newspapers and News Publishers
- WB** World Bank

Executive summary

This first-ever comprehensive assessment of the media landscape in Mongolia was undertaken in 2013-2014 to determine the level of media development in the country. The assessment was carried out by UNESCO, in partnership with a network of organizations, including the Globe International Center, the Press Institute, the Confederation of Mongolian Journalists, and the NGO Transparency Fund. The UNESCO/IPDC Media Development Indicators (MDIs), which were used in the assessment, are an internationally recognized analytical tool that make possible a detailed overview of national media landscapes and related media development priorities. This assessment places special emphasis on issues affecting freedom of expression and press freedom; how current state legislation impacts on the media and how it can be amended to provide more space for self-regulation within the media; legislation regarding defamation; restrictions on the daily activities of media outlets; transparency in media ownership; standards of journalism, professional training and research; and labour relations and working rights affecting journalists in their daily activities. It provides a comprehensive overview of the challenges facing Mongolia's media as the sector grows substantially.

1. A system of regulation conducive to freedom of expression, pluralism and diversity of the media

Mongolia's Constitution guarantees its citizens the freedoms of opinion and expression and the rights to information and to publish. In 2011, following expansion of the media sector, the government moved towards greater regulation of broadcast and online media, with the Communications Regulatory Commission adopting procedures concerning commercial broadcasting, digital content, advertising, disclosure of media ownership, licensing and technical standards.

An important step in this regard was the passage of the Law on Information Transparency and the Right to Information (LITRI) in June 2011. LITRI aims to ensure that public bodies release information about their operations, human resources, budgets, finances and procurement activities in order to guarantee transparency and good governance. It also outlines the procedure for requesting and releasing information from public authorities, which has led to improvements among public bodies in their release of information for public consumption. However, LITRI has not been widely promoted by the government and thus the extent of public awareness, implementation and demand-led use of this Law varies widely among public organizations.

Regarding defamation, slander and personal reputation, the individual's honour is protected in both the civil and criminal codes of Mongolia. State, non-state, business and other institutional actors can redress their name, honour and reputation through various legislative approaches. According to the criminal code, libel and slander are considered crimes punishable by imprisonment for a term of up to five years, contrary to international standards. Although these restrictions have been made to protect the public interest, there is concern that the provisions could be overused since the terminology and scope are not clearly defined. As such, it is a possible threat to journalists and their ability to report objectively.

Another issue affecting journalists in their daily work is the absence of legislation protecting the confidentiality of sources for non-public media employees. Protection for non-disclosure of sources and information exists only for journalists working with the Mongolian National Broadcaster. The assessment found that journalists are often pressured or ordered to disclose their confidential sources, especially when involved in a civil or criminal defamation case.

Organizations such as the Authority for Fair Competition and Customer Protection (AFCCP), the Authority of Intellectual Property (AIP), the Coordinating Council for Crime Prevention (CCCCP) and the General Authority for Specialized Inspection (GASI), along with the police, the judiciary and intelligence agencies, are legally authorized to take control over media content, in accordance with content restriction laws such as the Criminal Law on Obscenity; the Law on Prevention of Crime; the Law on the Child Right; the Law on Fighting against Alcohol; and the Law on Copyright and Related Rights, thus allowing for state censorship of the media in Mongolia.

2. Plurality and diversity of media, a level economic playing field and transparency of ownership

Though there are various forms of media ownership in Mongolia, the law does not clearly provide for ownership diversity. Relevant laws recognize public and private ownership, but community ownership is not recognized at the policy, legal and regulatory levels. It is also difficult to identify the real owner of a media outlet as information on ownership details and financial backing is often vague.

As regards media ownership concentration, research indicates a surge in media ownership by large companies and political groups and sales of media outlets within "a close group" of interested parties. The Law on Media Freedom prohibits government ownership, although a number of media outlets have been established by local governments, in violation of this Law.

Regarding the allocation of frequencies, the Law on Radio Waves states that radio waves are state property and that the government reserves the sole right to allocate radio frequencies. The same Law applies to the allocation of television frequencies. The Law refers to the Communications Regulatory Commission as "the government implementing body", suggesting that it is not intended to be independent. Also, Article 10 of the Law states that

any organization wishing to apply for a license to operate a radio station should obtain a reference from the governors of the relevant province, the capital city, the soum (smallest administrative division) and the district. This process does not ensure independence in the allocation of frequencies.

3. Media as a platform for democratic discourse

In 2005, the Mongolian parliament adopted the Law on Public Radio and Television to transform the state-run broadcaster, known as the Mongolian National Broadcaster (MNB), into a public service broadcaster with a legal mandate to act as a platform for democratic discourse, to reflect the diversity of the country and to serve the needs of all groups in society.

With the transformation of the former monopolist state-owned Mongolian National Broadcaster into a public service broadcaster, a legal protection for the editorial independence of the MNB was introduced.¹ The effectiveness of this reform and the extent of MNB's editorial independence from the government has however often been questioned.

As regards self-regulation, the assessment revealed a deficiency in maintaining a widely accepted code of conduct in the broadcasting sector. Although some broadcasting organizations have their own individual codes, breaches are common and they are rarely investigated and sanctions not applied.

Another important issue is the need for greater transparency, especially in regard to media ownership, licenses, budgets, as well as agreements and contracts that may influence content.

4. Professional capacity building and supporting institutions that underpin freedom of expression, pluralism and diversity

With the growth and increasing specialization of the media sector, as well as the need for greater diversity, an array of human resource challenges have arisen. More training opportunities are needed for journalists, especially concerning the media's role in developing and strengthening democracy, with a focus on issues of governance, anti-corruption, anti-violence, social justice, access to public information and equality.

The findings of this assessment suggest that the country's media sector would be greatly enhanced by the creation of a professional council that represents all journalism schools and by the adoption, through partnerships with the government, of a standard curriculum for journalism education at the university level. Other initiatives that could enhance Mongolia's media environment are support for training media-based NGOs; capacity building activities

¹ Art. 5.1 The Law of Mongolia on Public Service Radio and Television, <http://www.legalinfo.mn/law/details/424>

specifically targeting media executives; and the development of joint programmes between schools of journalism and schools of economics and financial management.

5. Infrastructural capacity is sufficient to support independent and pluralistic media

Besides human capacity, there is also a need to develop the technical capacities of rural media outlets to enable them to access equipment of equal standard to that used by their counterparts in Mongolia's capital, Ulaanbaatar. Other issues affecting rural areas include limited Internet speed and a lack of computer literacy among staff in rural media outlets. The print media is affected by circulation problems, with some local newspapers struggling to survive due to the small size of local media markets and their inability to sustain themselves through advertising. In addition, there are inadequate printing facilities in the provincial areas.

Despite the increase in broadcasting penetration and the number of operational broadcasting stations, an area of concern relates to people of lower socio-economic status and their inability to purchase television sets, including essential satellite sets needed in remote areas to access programming. There is also a digital divide between the urban and rural populations, in terms of both access and skills related to using the Internet.

6. Way Forward

This comprehensive assessment includes a detailed analysis of current and pending legislation and provides concrete recommendations to improve Mongolia's media landscape. It should assist advocates and interested parties in their efforts to create an enabling environment for a free, independent and pluralistic media sector in Mongolia.

Key Recommendations

The following recommendations based on consultations among stakeholders that took place during the National Media Conference held from 29-30 October 2013 in Ulaanbaatar, Mongolia. They were updated during a roundtable on World Press Freedom Day held on 1 May 2014 and again through consultations with stakeholders at another roundtable at the Freedom of Expression and Internet Conference on 2-3 November 2015 and at the Freedom of Expression and Ethics on 13 November 2015.

1. Consideration should be given to the following constitutional amendments and legal reforms to provide stronger guarantees for freedom of expression and media freedom:
 - a. Articles 16.16 and 16.17 of the Constitution should be amended to guarantee the right to seek, receive and impart information regardless of frontiers, in accordance with Article 19 of the International Covenant on Civil and Political Rights (ICCPR);
 - b. National legislation regarding freedom of expression and media freedom should be harmonized with the International Covenant on Civil and Political Rights;
 - c. Adoption and implementation of the following laws guaranteeing freedom of expression and media freedom:
 - A revised version of the Law on Media Freedom should be supported and adopted in accordance with the specific features of the media industry and its role in society, and in line with international standards.
 - Provide legal protection of confidential sources for journalism.
 - A law on broadcasting (including digital broadcasting) providing an enabling legal environment for the community broadcasters.
 - d. The following laws impinging upon freedom of expression and media freedom should be repealed:
 - Article 16.1.4 of the Law on State of Emergency to confiscate temporarily, to control or to terminate media outlets in case of an emergency regime;
 - Provisions in various laws that allow the authorities to take over communications media in certain circumstances such as a war, natural disasters or to assist in combating crime.
 - e. Current media regulations should be amended to make them more consistent with international legal standards. In particular, the following changes should be made to the Law on Information Transparency and the Right to Access Information:

- Stipulate that no category of information should be absolutely exempt from disclosure, consistent with the harm and public interest tests in line with international best practice;
 - Simplify and clarify the procedure for obtaining information on request;
 - Introduce dissuasive administrative sanctions for violations by public officials of the right to access information;
 - Establish an independent supervisory mechanism for protecting the right of access to information with adequate resources and powers, including the ability to access classified information and make binding decisions;
 - Impose obligations for public bodies to hold open meetings;
 - Create protections for whistle-blowers.
- f. The Laws on State Secrecy, the Law on the List of State Secret Information, the Law on Organizational Privacy and all other secrecy provisions should be amended to be consistent with international standards to ensure they incorporate a substantial harm test and a requirement that the harm of disclosure is greater than the public interest in having the information (i.e. a public interest override).
- g. Amendments should be made to the Law on Public Service Broadcasting in order to ensure the economic viability and political independence of the MNB;
- h. Defamation should be decriminalized and defamation provisions in all election laws should be repealed;
- i. Content regulations should be reviewed carefully and terms should be narrowly defined in legislation.
- j. All administrative decisions made by public, legally-recognized organizations that contradict both Mongolian and international laws should be repealed;
- k. The current CRC regulations and government decree to filter website comments, disclose users' IP addresses and license news and information websites should be repealed.
2. Adopt measures to support media diversity, including:
- a. Adopt a public policy to support media diversity through the existing Universal Obligation Fund. The policy should consider specific features of community and local media and of their market.

- a. Encourage a trade union in the media sector.
- b. Raise awareness amongst media owners and managers of trade unionism.
- c. Conduct training on the protection of labour rights for media managers and staff.

Introduction

The UNESCO Media Development Indicators (MDIs) are an internationally recognized framework for assessing national media landscapes and identifying media development priorities. The Intergovernmental Council of the International Programme for the Development of Communication (IPDC) unanimously endorsed the MDIs in 2008 as an analytical tool for all those seeking to develop an enabling environment for a free, independent and pluralistic media, and called for their application in partnership with national stakeholders. The MDI assessment in Mongolia was conducted by UNESCO in partnership with the NGO Globe International Center (GIC), the Press Institute, the Confederation of Mongolian Journalists and the NGO Transparency Fund.

Purpose and Justification

The primary purpose of this report is to inform ongoing debate on issues affecting Mongolia's media sector, based on international standards and practices. This report is the first to be drafted based on the MDI methodology in Mongolia and in the wider North-East Asia region. It was conceived at a time when several legislative reforms affecting the media were under consideration, thereby sparking a debate both in parliament and within the country's civil society. The process of preparing this assessment has already facilitated a national dialogue on the issues at stake and has taken into account the various scenarios for legislative and policy reforms that affect the media sector.

Background Information on Mongolia

Mongolia is a parliamentary republic with a system of checks and balances and separation of powers, as guaranteed by the Mongolian Constitution. The highest political body of the Mongolian State is the State Great Khural (Ulsyn Ikh Khural), a unicameral parliament of 76 members who are directly elected for four-year terms. The government, or executive body of the State, is composed of the prime minister and cabinet members who are accountable to the State Great Khural. The head of state is the president who is elected for four-year terms through universal suffrage and whose powers are limited in accordance with the country's parliamentary system.

A period of democratic reform was initiated in 1990, following the disintegration of the Soviet Union. After pro-democracy protests, the Mongolian People's Revolutionary Party (MPRP) amended the Constitution to allow for multi-party elections. In 1992, a new constitution was

adopted, which effectively transformed the country from a one-party regime into a democratic state.

The first democratic parliamentary election was held in 1992 and regular elections have taken place ever since, as per statutory calendars (i.e. every four years), guaranteeing a change of power, with the two main parties alternating in keeping the majorities in parliament or winning the Office of the President.

Mongolia is a large, sparsely populated country of an estimated 1.5 million km² with a comparatively small population of just over three million people. It is a landlocked state located between two large countries: Russia and China. About one third of the population lives in the capital city of Ulaanbaatar and a significant proportion of the populace remains in rural areas, living a nomadic lifestyle. The vast majority of the population is ethnically Mongolian (about 90 percent), mostly following Buddhism or Shamanism, although there are ethnic minorities (Buryats, Kazakhs and Tuvans) living in the western and eastern parts of the country.

Mongolia is administratively divided into the capital city, Ulaanbaatar, and 21 provinces (aimags). The aimags are further subdivided into soums and baghs, and Ulaanbaatar is divided into districts and khoroos. Each of these sub-units is governed by local assemblies (khurals) comprising citizens' representatives. Provincial governors are nominated by the khurals.

Mongolia guarantees judicial autonomy through its system of independent courts: a state Supreme Court that decides the final judgments for criminal, civil and administrative matters and a Constitutional Court that oversees constitutional matters. Human rights are protected by the 1992 Constitution and a law adopted in 2000 that established the National Human Rights Commission (NHRC). According to a report by NGOs GIC and ARTICLE 19, "since the end of communist rule, a large number of laws have been passed that provide far greater protection towards human rights than in the past. This applies to the right to freedom of expression as well as other rights. At the same time, a large number of provisions unduly restricting freedom of expression remain from the communist period and many of the new laws also contain excessive restrictions".²

Mongolia has been a member of the United Nations since 1961 and has ratified major UN conventions and treaties. It has been a State Party to the International Covenant on Civil and Political Rights (ICCPR) since 1974 and joined the Organization for Security and Cooperation (OSCE) in 2012.

Overview of the Media Sector in Mongolia

The concept of press freedom was first introduced by the democratic movement in the early 1990s. One of the demands of the very first political hunger strike in 1991 was the

² Mongolia in Transition: Mongolian Laws Affecting Freedoms of Expression and Information. Report by GIC and ARTICLE 19, by Toby Mendel, 2002, p.76.

independence of the state-run media and the liberalization of the broadcast sector. By the end of the 1990s, Mongolia's political parties were committed to the promotion and legal protection of the rights of an independent media.

According to a study conducted by the Press Institute, there were 503 permanent media outlets by the end of 2014 (138 television stations, 75 radio stations, 111 newspapers, 90 magazines and 92 news websites).³ Based on number of users, television was the most popular source of information, followed by the Internet. The number of news website doubled between 2011 and 2013, totaling 68 in the first quarter of 2013.⁴

The Communication Regulatory Commission (CRC) is a broadcast regulatory authority that operates as part of the government. In Mongolia there are a multitude of professional organizations run by publishers, broadcasters and journalists, as well as NGOs that specialize in media development. The Press Institute (PI) and Globe International Center (GIC) are the two main NGOs in the media development sector.

Methodology

The first version of this report was drafted by a team of researchers from the Globe International Center, the Press Institute, the Confederation of Mongolian Journalists (CMJ) and the Transparency Fund (TF). The national validation of this publication was undertaken at the Mongolia National Media Conference, which took place between 29 and 30 October 2013 in Ulaanbaatar, Mongolia. This Conference brought together more than 150 representatives of the Mongolian media sector (public and private media outlets, community radio stations from remote areas, and media associations) and relevant government officials and international experts. Issues raised during the Conference were taken into account in an updated version of this report.

The revised recommendations were further discussed at a roundtable on the occasion of the 2014 World Press Freedom Day, held in Ulaanbaatar on 1 May 2014 at the National Legal Institute of Mongolia. This event was co-organized by the Mongolian National Commission for UNESCO, the NGO Globe International Center and the Confederation of Mongolian Journalists. During the roundtable, the report's provisional conclusions and recommendations were handed over to a representative of the government. Upon receiving the draft, the Deputy Chairman of the Cabinet Secretariat of the Government, D. Tsogt-Ochir, underscored that the media was a priority area of the current legal reform process in Mongolia and plays a key role as a fourth estate in any democracy.

Upon further editing and revision, another version of the report was disseminated on the occasion of the 2015 World Press Freedom Day. Given that this finalized document remains a

³ Mongolian Media Today, Press Institute, 2015, p. 3.

⁴ Ibid.

work in progress aimed at maintaining the ongoing national discussion on legislative reform and media development in Mongolia, readers wishing to offer corrections or feedback are invited to send these to q.zeng@unesco.org. Comments will be taken into account in any further version of the report.

Category 1

A system of regulation conducive to freedom of expression, pluralism and diversity of the media



Key Indicators

A. LEGAL AND POLICY FRAMEWORK

- 1.1 Freedom of expression is guaranteed in law and respected in practice
- 1.2 The right to information is guaranteed in law and respected in practice
- 1.3 Editorial independence is guaranteed in law and respected in practice
- 1.4 Journalists' right to protect their sources is guaranteed in law and respected in practice
- 1.5 The public and civil society organizations (CSOs) participate in shaping public policy towards the media

B. REGULATORY SYSTEM FOR BROADCASTING

- 1.6 Independence of the regulatory system is guaranteed by law and respected in practice
- 1.7 Regulatory system works to ensure media pluralism and freedom of expression and information

C. DEFAMATION LAWS AND OTHER LEGAL RESTRICTIONS ON JOURNALISTS

- 1.8 The state does not place unwarranted legal restrictions on the media
- 1.9 Defamation laws impose the narrowest restrictions necessary to protect the reputation of individuals
- 1.10 Other restrictions upon freedom of expression, whether based on national security, hate speech, privacy, contempt of court laws and obscenity should be clear and narrowly defined in law and justifiable as necessary in a democratic society, in accordance with international law

D. CENSORSHIP

- 1.11 The media is not subject to prior censorship as a matter of both law and practice
- 1.12 The state does not seek to block or filter Internet content deemed sensitive or detrimental

Category 1

A system of regulation conducive to freedom of expression, pluralism and diversity of the media

A. Legal and Policy Framework

1.1 Freedom of expression is guaranteed in law and respected in practice

Articles 16.16 and 16.17 of the Constitution of Mongolia, chartered in 1992, guarantee citizens' freedoms of opinion and expression, the right to publish, and the right to information. Parliament enacted a Law on Media Freedom in 1998, a Law on Public Radio and Television in 2005 and a Law on Information Transparency and the Right to Information in 2011. Media and information freedoms and the media sector are regulated by hundreds of other laws such as the Law on Advertising, the Law on Telecommunications and many others. All types of censorship are banned by the Law on Media Freedom. As a member of the United Nations, Mongolia has adopted the Universal Declaration of Human Rights and has been a part of the International Covenant on Civil and Political Rights (ICCPR) since 1974. As such, Mongolia is legally bound to protect freedom of expression in accordance with international law, where freedom of expression is defined as the right "to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".⁵

This is formally recognized in Article 10 of the Constitution of Mongolia, which states that Mongolia adheres to the universally recognized norms and principles of international law and must fulfil in good faith its obligations under international treaties to which it is a party. According to the terms of the ICCPR, the international accords stipulated in the ICCPR are valid as domestic law and take precedence over all domestic laws in cases where there is a contradiction between the two sets of laws. The international treaties to which Mongolia is a party become effective as domestic legislation upon the adoption of the laws, their ratification or accession (10.2) and Mongolia may not abide by any international treaty or

5 Article 19 of the International Covenant on Civil and Political Rights (ICCPR).

other instrument incompatible with its Constitution or treaties that it has not agreed to and legislated upon (Article 10.3).⁶

International treaties are absorbed by provisions in domestic legislation and, in some cases, national legislation recognizes that international treaty provisions override national laws. For example, Article 2.2 of the Law on Communications provides that if any provision of that law is inconsistent with an international treaty to which Mongolia is a party, the latter shall prevail. The same provision is found in Article 2.2 of the Law on the National Human Rights Commission of Mongolia and in the Law on Radio Frequencies.

In accordance with Article 19 of the ICCPR⁷ and Article 16.17 of the Constitution of Mongolia, restrictions on the freedoms of opinion and expression should only be imposed by law. According to international standards, any restriction on freedom of expression must be prescribed by law, pursue a legitimate aim and be necessary in a democratic society.⁸ Article 16.17 of the Mongolian Constitution requires any restriction to be prescribed by law and to pursue a legitimate aim. However, it does not require restrictions to be as “necessary in a democratic society.” This constitutional omission, in effect, gives the government leeway to restrict freedom of expression.

Article 3(1) of the Law on the National Human Rights Commission of Mongolia, passed in 2000, establishes a body whose role is to ensure the promotion and protection of the rights guaranteed by the Constitution, Mongolian laws and international human rights treaties.

Article 139 of the Criminal Code of Mongolia protects all “lawful journalistic activities”. However, this law has never been successfully used by a defence lawyer in relation to a media case to protect a client of a media organization. A partial explanation for this is that the Law does not specify what constitutes “lawful journalistic activities”, making it difficult for defence lawyers to launch criminal cases based on this Law.

Despite the numerous legal provisions related to freedom of expression, the reality is that over the past decade, the global network defending and promoting free expression (IFEX) has reported 21 cases of media professionals’ detentions for libel cases, as well as occasional physical attacks.⁹

Since 2002, Mongolia remains a country with a “partially free” media, according to the Freedom House¹⁰ report (on a scale ranging from “free” to “not free”). It has significant problems concerning freedom of the press, as noted by the freedom of information organization

6 Article 10.3 of the Constitution of Mongolia, <http://www.legalinfo.mn/law/details/367?lawid=367>. The ICCPR was officially translated and published in 2006, in the first issue of the magazine *Turiin medeeteil* (State Information).

7 Article 19(3) of the ICCPR.

8 See Article 19(3) of the ICCPR and Article 10(2) of the ECHR.

9 <http://www.ifex.org/mongolia>.

10 <https://freedomhouse.org/sites/default/files/FOTP%202015%20Full%20Report.pdf>.

Reporters without Borders.¹¹ In 2014, concerns were expressed by the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE) regarding media freedoms in Mongolia. However, the OSCE acknowledged progress in this area in 2015¹² and Mongolia's score in Reporters without Borders' Press Freedom Index has improved significantly between 2011 and 2015.¹³

1.2 The right to information is guaranteed in law and respected in practice

The right to access information held by public bodies is guaranteed by the ratification of the ICCPR and by the Constitution. In 2011, a Law on Information Transparency and the Right to Information (LITRI) was adopted following consistent lobbying from civil society. LITRI was ranked 53rd out of 95 countries in the Global Right to Information Rating compiled by the NGOs Access Info and Centre for Law and Democracy. This rating system assesses the strength of right to information laws without evaluating their enforcement.¹⁴

LITRI provides that public organizations should report and publicize, on websites and other forums for public display, any activities related to budget and finance, human resources, and procurement. Any citizen (including a journalist) and/or legal entity has the right to request information. Officials are legally obliged to respond to freedom of information requests within a maximum of seven working days unless there is a reasonable need for a delay, in which case an extension of seven working days may be granted. If information is available, the citizen or legal entity can access it directly.¹⁵

The Regime of Exemptions provided by Article 18 of LITRI include:

1. If there are well-grounded reasons that public release of the concerned information might be detrimental to national security and the public interest of Mongolia (18.1.1);
2. If the concerned information is related to matters under review by the Mongol Bank, the Financial Regulatory Commission, or by the state administrative organizations in charge of competition or specialized inspection (18.1.2);
3. If it is necessary to protect state secrets, organizations and/or individuals during the process of inquiry, investigation and prosecution (18.1.3).¹⁶

¹¹ <https://rsf.org/ranking>.

¹² <http://www.osce.org/fom/121076>; <http://www.osce.org/fom/122969>; <http://www.osce.org/fom/155216>.

¹³ Mongolia was attributed a score of 39 out of 100 in 2011 versus 25 out of 100 in 2015, with 0 being the best possible score and 100 the worst. See: <https://index.rsf.org>.

¹⁴ www.rti-rating.org/country_data.php.

¹⁵ Article 14.8 & 14.7, LITRI.

¹⁶ LITRI, <http://www.legalinfo.mn/law/details/374?lawid=374>.

Furthermore, LITRI provides exceptions in order to protect intellectual property (Article 19); protection of privacy (Article 20); and secrets of “any” organization or business entity (Article 21). It also prohibits the disclosure of intellectual property-related information without the permission of the owner (19.1), unless otherwise provided by law. Disclosure of an individual’s personal information without his/her permission in writing is prohibited, except for his/her parents’ names, first name, age, gender, profession, education, official position, work address and telephone number (20.1).

Finally, “it is prohibited to disclose, without the written permission of the respective official of the business entity (executive management or other persons to whom the authority is given), secret information, technological solutions, project information, research documents or other information related to required machinery and/or equipment, whose disclosure might be detrimental to the lawful interest of the organization, or those taken under its confidentiality or protection for the purpose of protecting its competitiveness in the free market, or those related to the unique activities of the organization and business entities specified in article 3.2 of the Law on Organization’s secret” (Article 21.1).

According to international standards on freedom of information, exceptions to the principles of maximum disclosure should be “clearly and narrowly drawn and subject to strict “harm” and “public interest tests”.¹⁷ The aforementioned categories of exemptions regarding the Mongolian law on the right to information are, however, excessively broad compared to these international standards.¹⁸ These exceptions are only partially mitigated by the general possibility for citizens to appeal under Article 17 of LITRI to persons in higher positions and higher authorities as well as to the NHRC and the Administrative Court.

The Law on Information Transparency and the Right to Information does not include provisions concerning open meetings and protections for whistle-blowers. Disciplinary liabilities, including the reduction of the salary rate by 20 percent for a period of six months, or the dismissal of a civil servant for one year, are listed in Article 26 of the Law on Civil Service. These disciplinary measures shall be imposed upon the civil servant by the competent authority who appointed him/her, with consideration of the characteristics of the violation and legislation on information transparency and the right to information (25.1).

In 2012, parliament established a Complaints Committee which monitors the implementation of the law. In terms of the implementation of LITRI, one of the challenges is a lack of awareness of its existence. In fact, a recent survey reported that only nine percent of those surveyed in a sample of 2,000 rural citizens, including public officials, were aware of the adoption of a right

to information law.¹⁹ The Transparency Fund (TF), a specialized organization, noted that “the implementation of this Law required a long time.”²⁰

Civil society groups in Mongolia are active in monitoring government transparency and the implementation of the law on the right to information. For instance, Citizens’ Oversight of Budgets, a civil society coalition of 12 NGOs that is supported by the Open Society Forum (OSF), conducted a campaign between November 2012 and March 2013 to investigate budget expenditures of the government’s “special funds” which were not disclosed in the budget that was made public. Based on LITRI, the coalition submitted requests for information for 26 of the 29 funds, which comprise one third of the total public budget. However, they received only one reply to their multiple requests. The coalition also requested information from the General Authority of Executing Court Decisions on the amount of reimbursements made to citizens and entities for damages that occurred through the wrongful actions of public officials and public organizations. The request was rejected on the grounds that the document contained personal information on those individuals who received the reimbursements. Information requests made to the Ministry of Foreign Affairs concerning budget and expenditure of the Assistance Fund to Mongolian citizens living abroad for 2011 and the first quarter of 2013 were also rejected on the same grounds of privacy.

Another civil society coalition, named “Education for All”, requested information in 2012 on a budget expenditure planned for introducing the Cambridge Education system into Mongolia but did not receive a timely response.

Despite such problems, which are common, some progress has been seen in the implementation of LITRI. For the purpose of this assessment, on 3 April 2013 GIC sent information requests to 11 government agencies and ministries to request data on how much they paid media organizations from their “information and advertising” budget lines. GIC received 10 responses and the requested information fell within the legal timeframe (i.e. seven days), except that from the Ministry of Education and Science. By June 2015, GIC was also still waiting for an answer from the CRC for a copy of the agreement signed with the only satellite distribution company in Mongolia, DDish TV.

Secrecy laws such as the Law on State Secrecy, the Law on Organizational Secrecy and the Law on Privacy were not amended after the adoption of LITRI. Many other laws also include secrecy provisions.

Article 16.13 of the Constitution protects the privacy of citizens, their families, correspondence and residence. Article 2 of Chapter 1 of the Law on Individual Privacy defines “individual privacy” as “information, documents or physical items that are kept confidential... disclosure

¹⁹ The baseline survey on awareness of the right to access public information and the FOI law in 20 soums, <http://globeinter.org.mn/?cmd=Record&id=1060&menuid=409>.

²⁰ D. Tserenjav, speech during panel discussion of National Media Conference, 29-30 October, 2013, Ulaanbaatar.

of which might cause significant damage to legitimate interests, reputation and esteem of the person in question.” According to Article 4 of Chapter 1, individual privacy encompasses among others privacy of correspondence, health, property ownership and family life. Persons who have access to the private information of individuals by law or trust are prohibited from disclosing this information (Article 5). Article 6 does provide for privacy to be overridden but only to protect national security, defence, public health, or legal interests.

1.3 Editorial independence is guaranteed in law and respected in practice

While media freedom is enshrined in the Constitution and in several laws related to the media sector (for example the Broadcast Law, the Media Law and the Law on Public Service Broadcasting) and exercised around the country by media professionals (including investigative journalists who work in national and local media outlets), there are laws which can interfere with editorial independence. In particular, the 1995 Law on State of Emergency allows the government to temporarily cease the activities of any media organization. It was used in 2008 in the wake of public unrest and violence following a demonstration against the results of the parliamentary elections. The president declared a state of emergency in the capital city for four days on 1 July 2008 by Decree No. 194. Article 4 of the Decree ordered the shut-down of all broadcasters, except for the public broadcaster, Mongolian National Broadcaster (MNB). During those four days, the government exercised strict censorship over MNB. News reports were broadcast under the direct control of the Emergency Committee of the National Security Commission and based on the information provided by the Committee. The voices of civil society and citizens were harshly restricted and according to a Media Monitoring report published by GIC and IRIM, 58.2 percent of the news sources were official, including police and government representatives.²¹

The National Security Concept states that the state, citizens and media shall “cooperate in developing a policy to build awareness on society to be proud of the motherland, nationality and respect for national interests, ethics, rule of law and state” (3.3.3.2).²² It also states that social sustainability should be ensured through strengthening the independence and autonomy of the media and through responsible and professional journalism that respects ethical standards (3.3.4.3).

In 2009, GIC reported that one in six journalists in a survey sample of 215 say they were threatened or intimidated by those affected by critical media content. Based on the interviews and consultations leading to the preparation of this assessment, it appeared that most media representatives and experts considered politicians, media owners and advertisers to have the largest influence over the editorial content of the Mongolian media. While legislation

21 July 1. Media Monitoring Report, 2008 by GIC and IRIM, <http://globeinter.org.mn/?cmd=Record&id=649&menuid=355>.

22 Parliament Resolution No 48, 2010, <http://www.legalinfo.mn/annex/details/3350?lawid=6163>.

preventing conflict of interest is perceived to be weak and ineffective, specialized media organizations report on the “unwritten rule” that “friends” and relatives of media owners as well as the main providers of advertising revenue should not be criticized or exposed to negative news coverage, even when that coverage is factual. It is also common for politicians and other people in power to react to criticism by exerting direct pressure on the media in various ways, including through threats to editors or journalists. (For details, refer to indicator 1.11).

The Law on Communications and the Law on Radio Frequencies include provisions to respect the Constitution and to adhere to international law. Some laws and the CRC’s regulations mention obligations of the public interest. For example, the Law on the Licensing of Business Activities protects legitimate public interests (Article 9) as one of the principles in granting licenses. This Law states that radio frequencies are public goods in accordance with the Law on Radio Frequencies (Article 4). Similarly, the CRC’s radio and television regulations oblige commercial broadcasters to protect the public interest (Article 5.1). This regulation also contains a requirement for domestic production, which stipulates that at least 50 percent of weekly programming must be locally produced, or produced by Mongolian citizens and legal entities registered in Mongolia.

A wide range of laws in Mongolia impose positive obligations on the media to carry certain types of messages from the State or in the interest of the public good. These include the following:

- Broadcasters must play the national anthem daily (Law on State Symbol, Articles 21.1.5 and 21.1.6);
- Organizations involved in communication and information are required to transmit information in case of attacks and during disasters and accidents (Law on Civil Defence, Article 8.3);
- The media must provide information to the public about natural disasters (Law on Meteorological and Environmental Assessment and Analysis (Article 13.4);
- The media is required to publish or broadcast urgent information to prevent crime (Law on Prevention of Crime, Article 11.2);
- The media must announce the commencement and cessation of war (Law on War Regime, Articles 5.4 and 6.3);
- The media must publish or broadcast urgent information necessary to prevent and destroy fires (Law on Fire Security, Article 22.1);
- The broadcast media must carry information and warnings about food safety (Law on Food, Article 6.16.2);

- The print media must provide information about the possible effects of alcoholic beverages failing to meet regulatory standards (Law on Anti-Alcoholism, Article 10.2);
- The media, as well as religious and public organizations and business entities, are required to educate the public about HIV/AIDS prevention (Law on Prevention of HIV/AIDS, Article 8).

These state-enforced legal requirements for the media to carry certain types of messages may be open to abuse by certain authorities. Public messages are a matter for editorial decision making and should not be imposed as a legal requirement. According to a report by GIC and ARTICLE 19 written by Toby Mendel, *Mongolia in Transition: Mongolian Laws Affecting Freedoms of Expression and Information*, “a number of provisions in various laws allow the authorities to take over communications media in certain circumstances, such as in times of war, natural disasters, or to assist in combating crime. Specific provisions of this sort include the following:”²³ the State can mobilize communication networks in the event of war, martial law or an extreme natural emergency (Law on Communications, Articles 23.1 and 25.2.5); the police can use communications media to transmit information on crimes (Law on Police Authority of Mongolia, Article 26.1.2); in case of an emergency regime, measures can be taken to temporarily confiscate, control, or terminate media outlets (Law on State of Emergency, Article 16.1.4); prison staff can use communication and media outlets to assist in their efforts to capture escaped prisoners (Law on Satisfying Judgement, Article 8.11.3); and executive government authorities and their employees can use the premises of communications and media outlets where necessary (Law on Executive Activities, Article 13.2.2).

According to the publication *Access to the Airwaves: Principles on Freedom of Expression and Broadcast Regulation*, “the legal framework for the media and communications generally should not allow State actors to assume control of the media – either over their equipment or their output – in an emergency. Should a genuine state of emergency arise which absolutely necessitates such measures, special legislation can be passed at that time, to the extent that it is strictly required by the exigencies of the situation, in accordance with international law”.²⁴ The provisions included in the various Mongolian laws mentioned above grant the authorities very broad powers to take over the media, which may lead to abuse.

The majority of media outlets prepare paid-for news stories and politicians often invite journalists out for dinner or on trips abroad. There is plenty of anecdotal evidence indicating that journalists take bribes and “envelopes.” However, there is no systematic research on this. Different corruption cases have been mentioned during discussion events among

²³ *Mongolia in Transition: An Analysis of Mongolian Laws Affecting Freedom of Expression and Information*, July 2002, Article 19, GIC, p.122.

²⁴ *Access to the Airwaves: Principles on Freedom of Expression and Broadcast Regulation*, note 43, Principle 4. <https://www.article19.org/data/files/pdfs/standards/accessairwaves.pdf>.

journalists or on the Internet. For example, one of the online news websites mentioned that approximately 1,000 journalists were invited to the opening ceremony of the trade centre Dunjingarav, during which they were “awarded” with either a free travel coupon to Hainan in China or with a portable computer.²⁵ At a public event in May 2013, a parliamentarian denounced the fact that another MP had allegedly paid many media organizations in an attempt to discourage them from publishing any information regarding a recently revealed secret about an undeclared Swiss bank account.²⁶

1.4 Journalists’ right to protect their sources is guaranteed in law and respected in practice

Mongolia has no law protecting the confidentiality of sources for non-public media employees. The 2005 Law on Public Radio and Television guarantees protection for non-disclosure of sources and information only for journalists from the Mongolian National Broadcaster (Article 34).

The Code of Conduct of the Mongolian Journalists, adopted by the Congress of the Confederation of Mongolian Journalists in 2005 and amended in 2011, acknowledges journalists’ right to protect their sources. However, this is a self-regulatory instrument, which has no legal basis and is not recognized by the judiciary, the police or other authorities, politicians, or business entities. Consequently, specialized organizations involved in the preparation of this assessment noted that journalists are often pressured or ordered to disclose their confidential sources, especially journalists who are defendants in civil or criminal defamation cases.

In a 2008 survey conducted by GIC involving more than 200 news and current affairs reporters, 38 percent of those surveyed (or 74 journalists) reported having been forced to disclose their sources at least once. Of these, 40 percent reported that they were pressured by police, 30 percent by the courts, 22 percent by politicians and 22 percent by public bodies.²⁷ There is no legal requirement for journalists to comply with these extrajudicial demands. However, if they do not comply, it is common for claims to be made that the report in question is not based on a legitimate source. GIC documented a total of 43 cases between October 2005 and 2014 involving disclosure/demands to reveal confidential sources.²⁸

Demands to reveal information sources by law enforcement bodies, especially by the General Intelligence Agency (GIA), increased during a two-year period between 2013-2014. For

²⁵ <http://news.zindaa.mn/11lr>.

²⁶ Uyanga Gantumur, MP. Speech during Round Table dedicated to 2012 World Press Freedom Day (WPF), Ulaanbaatar.

²⁷ Media Freedom Report 2009, GIC, page 7, <http://www.globeinter.org.mn/images/upld/mediafreedomreport2009eng.pdf>.

²⁸ Media Freedom Report 2012-2014, GIC, 2015, p.18. <http://www.globeinter.org.mn/images/upld/Hevleliinerhcholoo2015english.pdf>.

instance, in September 2013 several journalists and reporters were questioned and told to reveal their sources to police departments and GIA officers. This action was related to a report about the Tsetsgee Munkhbayar case, who had organized a demonstration outside the parliament building to protest against the revision of a law banning mining along a river and in forest areas. Again, in October 2014, a number of journalists and bloggers were questioned by GIC officers and asked to reveal the sources for their reports and tweets about an agreement between the two main political parties. At that time, Prime Minister Altankhuyag Norov publicly stated the falsity of the agreement and said he would approach the GIA to investigate the matter.

A fact-finding mission conducted in Mongolia in September 2011 by Forum Asia, a regional human rights network, reported that “many journalists interviewed told us that the absence of a legal right to protect their confidential sources puts them in a difficult and dangerous position, especially when police and the court pressure them to disclose their sources.”²⁹

1.5 The public and civil society organizations participate in shaping public policy towards the media

Engagement of civil society in the discussions of the government’s policy and the drafting of legislation is becoming common practice in Mongolia. Mongolian Civil Society Organizations (CSOs), including those involved in the preparation of this assessment, have been active in constructive dialogues through public awareness campaigns or by contributing proposals during the law-drafting process, as well as through thematic and ad-hoc debates and seminars, media interviews and parliamentary hearings. Public hearings can be organized by permanent and temporary committees within parliament in order to exchange information and hear the views of citizens, scientists, experts, interested stakeholders, NGOs and public organizations on specific reforms including those related to the media sector.

Representatives from specialized media NGOs, such as GIC and PI, are routinely consulted about draft laws and regulations affecting the media. However, CSOs often allege that despite widespread consultation, their recommendations are rarely included in the final versions of laws.

There have nevertheless been a number of cases where the advocacy efforts of specialized media NGOs have significantly contributed to media law and policy reform. GIC and PI, for example, devoted their efforts to the promotion of public service broadcasting (PSB) for over seven years, until in 2005 the parliament enacted the PSB Law. GIC also played a key role in lobbying to get the Law on Information Transparency and the Right to Information adopted in 2011, beginning with a public awareness campaign in 2004. These efforts were complemented by those of an Advocacy Group, which comprises NGOs such as the Zorig Foundation, DEMO, the Transparency Fund and Women for Social Progress.

ARTICLE 19 and GIC first produced a comprehensive report titled *Mongolia in Transition: An Analysis of Mongolian Laws Affecting Freedoms of Expression and Information* in 2002. Since then, GIC has been reviewing the drafted and adopted laws and analyzing media-related provisions. GIC has also campaigned for the reform of the State Secrecy Law since 2005 and has been working on this issue in cooperation with the General Intelligence Authority. GIC has also been lobbying for laws to protect journalists' sources and has been campaigning for the decriminalization of the defamation law. GIC' advocacy activities on legal reform were largely funded by the Open Society Foundation.

On 12 December 2012, GIC organized a discussion at the president's "Citizens' Hall", in cooperation with the Legal Standing Committee of the parliament, on the abolishment of criminal defamation. Following this discussion, the Ministry of Justice drafted a new version of the Criminal Law, titled *The Law on Crime*, which does not include defamation as a criminal act.

Since 2010, media law reform has been part of the government's agenda. A number of different drafts have been prepared by MPs, the government and the President. The government itself has initiated a series of draft laws affecting the media sector, such as a Broadcasting Law as well as laws on media outlets, data protection, information security and amendments to the secrecy laws. As a result, at least 12 working groups have been established from eight government bodies and in 2012 GIC organized a meeting with working groups to discuss concepts and principles of the draft laws. Moreover, a revised version of the Law on Media Freedom, as drafted by the Office of the President, was a central topic of discussion among journalists and media players, including their professional associations. Representatives of GIC, PI, CMJ, and the Association of Parliamentary Reporters were integrated into an ad-hoc parliamentary working group created to draft this Law. The President, however, withdrew the draft while parliament was discussing it because the Law's initiators were concerned the concept of the Law might be completely changed.

Recently, the government has been perceived as being less cooperative in discussions on laws and regulations related to online media. For example, in January 2013 the government issued a decree commissioning the IPTA to establish a "Unified System of Comments in Websites" - without engaging in prior consultations with CSOs. Website owners protested that this might lead to government censorship. Consequently, a meeting of the government and website owners was convened and it was agreed after negotiations that narrow regulations on the implementation of the Decree should be adopted by the Communication Regulation Commission and that the Decree will include content restrictions on issues such as child pornography and the protection of intellectual property.

B. Regulatory System for Broadcasting Works to Ensure Media Pluralism and Freedom of Expression and Information

1.6 Independence of the regulatory system is guaranteed by law and respected in practice

In Mongolia, the current regulatory system is not independent of the government. The two organizations that deal directly with communication regulation and monitoring are governmental: the CRC (which is nominated by the government) and the Information, Communication Technology and Post Authority (ICTPA) (which is a public administration in charge of telecommunications policy under the Office of the Prime Minister). A third governmental authority with the power to impact the media sector is the Authority for Fair Competition and Customer Protection (AFCCP).

The Law on Communications establishes the CRC and, in Articles 8.2 and 8.3, provides that the CRC shall consist of a chairperson and six members, all of whom are nominated by the Prime Minister based on the recommendation of the Minister for Communications. The CRC's main responsibilities are "to facilitate an effective and competitive environment in the communications market for enterprises and individuals, to issue licenses, and to offer professional analysis and decision-making."³⁰ According to this framework, the CRC monitors license exploitation; manages the allocation of the spectrum; allocates and invalidates broadcasting licenses; establishes an interconnection regime with the aim to provide low, fair, transparent, prompt and equitable interconnection; re-balances tariffs so that the objectives of affordability and operator viability are met in a consistent manner; and settles arguments between license holders.

Although the process of appointing CRC members lacks independence, transparency and public participation, there are some measures aimed at preventing conflicts of interest within the media industry. Firstly, Article 8.6.2 of the Law on Communications provides that the chairperson and members of the CRC shall not be persons who possess 20 percent or more of the common stock of the holder of a broadcast license. Secondly, Article 8.2 provides that the CRC's chairperson and members shall have six-year terms, although it does not explicitly protect them against early dismissal.

Lastly, Article 8.11 of the same Law provides that the CRC shall report its budget performance and work activities to the government each year. The Cabinet of Ministers' decree states: "Regulatory authorities should be accountable to the public for their activities."³¹ Article

³⁰ Article 8.1, Law on Communications, <http://www.legalinfo.mn/law/details/523?lawid=523>.

³¹ Recommendation (2000) 23, Guideline 25.

8.11 also states that the government shall ratify the annual budget of the CRC. However, this provides little, if any, protection to the financial independence of the commission.

On several occasions, civil society has proposed a reform of the communication regulatory body so that it can enjoy operational and administrative autonomy from any other person or entity, including the government and its agencies. So far, however, such reform has not been on the agenda of any of the draft laws affecting the media sector.

1.7 Regulatory system works to ensure media pluralism and freedom of expression and information

In terms of legislation, no laws or regulations related to broadcasting media and the communication sector aim to promote “pluralism and freedom of expression and information”, while the proposed Media Freedom Law was still a draft during research for this report and had yet to be approved at the time of publication.

The Law on Radio Waves states that the government has the ownership of waves and shall allocate rights to their use (Article 4). Article 5.2 of the same law refers to the CRC as “the government administrative authority in charge of communications,” suggesting that the CRC is not intended to act independently to pursue the public good. Moreover, Article 10 of the Law on Radio Waves states that license applicants need permission from local governors before getting a license. This means there is neither formal nor substantial independence in the allocation of frequencies.³²

C. Defamation Laws and Other Legal Restrictions on Journalists

1.8 The state does not place unwarranted legal restrictions on the media

In Mongolia, there are no restrictions on entering the journalism profession. In terms of access, accreditation is necessary only for parliamentary and court reporters. The resolution of the General Election Committee (GEC) from 2013 adopted a procedure to report on elections; in accordance with this procedure, the GEC will issue an accreditation for “media workers” reporting on the election.

³² Mongolia in Transition: An Analysis of Mongolian Laws Affecting Freedom of Expression and Information, July 2002, Article 19, GIC, 2002, p.97.

1.9 Defamation laws impose the narrowest restrictions necessary to protect the reputation of individuals

International standards recognize that in a democratic society, freedom of expression may be restricted, where necessary, to protect a legitimate interest or with regard to a particular reputation.

At the same time, any legislation that restricts freedom of expression in order to protect the reputation of others must have the genuine purpose and demonstrable effect of protecting a legitimate reputation interest. Furthermore, a restriction cannot be justified unless it can be convincingly established that it is necessary in a democratic society.³³

Articles 16 and 17 of the Mongolian Constitution, regarding the right to seek and receive information, allow for restrictions on these rights, including “to protect [the] dignity and reputation of persons.” The way these principles interconnect with the aforementioned international standard was the subject of a study by GIC on the use of defamation laws between 1999 and 2014. The study showed that Mongolian courts heard a total of 354 civil and 32 criminal defamation cases against media and journalists during that period.³⁴ In the vast majority of cases, the defendants were found to be in breach of the law.

While international standards hold that defamation should be a civil and not a criminal charge and should never be punished with detention, in Mongolia reputation is protected by both civil and criminal law, as well as by election laws. Mongolia’s Criminal Code considers defamation a crime and contains provisions to penalize slander (Article 110) and libel (Article 111), with sanctions of up to three months’ detention (or six in the case of reiteration) and for up to five years in limited cases. Different types of organizations (including public, non-governmental and business companies) have been using these laws to recover both their honour and reputation, and detention has been a reality for journalists and, more recently, for bloggers.

Article 231 of the Criminal Code declares it an offence to insult State officials, including judges, prosecutors, customs and tax officers, and inspectors who have legal powers. This offence is punishable by up to three months of imprisonment.

In addition to the criminal provisions, defamation is also covered by Article 21 of the Civil Code as follows:³⁵

21.1. It is prohibited to illegally use the given names of citizens.

33 Mongolia in Transition: An Analysis of Mongolian Laws Affecting Freedom of Expression and Information, July 2002, Article 19, GIC, p.110.

34 Media Freedom Report 2012-2014, Globe International Centre, p.24. <http://www.globeinter.org.mn/images/upld/Hevleliinerhcholoo2015english.pdf>

35 Civil Code of Mongolia, 2002, <http://www.legalinfo.mn/law/details/299?lawid=299>.

- 21.2. If the person who defamed the citizen's name, honour, dignity or business reputation fails to prove the accuracy of the defamation, s/he shall be liable to refute the defamation via the media, in the form in which it was originally disseminated, or in other forms.
- 21.3. If the defamation of a third person's name, honour, dignity or business reputation is due to incomplete information, the responsible person shall be liable to rectify the information, as stipulated in Article 21.2 of this Law.
- 21.4. Any citizen, considering harmful the dissemination without his/her consent of any personal information defined by law as confidential, shall be entitled to seek remedies.
- 21.5. A person, considering harmful any publication or public demonstration without consent of an individual image in the form of a photo, movie, video recording, portrait or any other form, shall be entitled to seek remedies.

The same regulations apply to protect the business reputation of legal entities, meaning that private and public legal entities receive equal treatment.

According to Article 497 of the Civil Code,³⁶ “a legal person who has caused damage to others' rights, life, health, dignity, business reputation, or property deliberately or due to negligent action (inaction) shall compensate for that damage.”

According to Article 511 of the Civil Code, “if the party responsible for distributing information that damages the good name, dignity and business reputation of others fails to prove that it is true, s/he shall be liable to compensate the non-material damage in monetary or other form separately from the material damage.”³⁷

An analysis based on international standards found three problems posed by these civil defamation provisions. Firstly, they allow public bodies to file lawsuits for defamation. Articles 21 and 27 of the Civil Code provide that “citizens” or “legal entities” – which include both private and public bodies according to Article 27.6 – may carry out legal action. While individuals or private legal entities should have the right to sue for defamation, this right should not extend to public bodies.³⁸

A second problem is the fact that the Civil Code places the onus on the person who disseminated the allegedly defamatory statement to prove that the information was “accurate”

³⁶ Civil Code of Mongolia, 2002, <http://www.legalinfo.mn/law/details/299?lawid=299>.

³⁷ <http://www.legalinfo.mn/law/details/299?lawid=299>.

³⁸ Mongolia in Transition: An Analysis of Mongolian Laws Affecting Freedoms of Expression and Information. Report by GI and ARTICLE 19.

or “truthful”. This places a significant burden on the defendant and has a chilling effect on freedom of expression, for example in situations where the defendant has proof of truth but this proof is not admissible in court due to strict evidence rules. This has been recognized in a number of countries, where the onus has been shifted to the plaintiff, for example in cases involving public officials.³⁹ As a result, at least in cases involving statements on matters of public concern,⁴⁰ the plaintiff should bear the burden of proving the falsity of any allegedly defamatory statements or imputations.⁴¹

A third problem with the civil defamation laws is that they fail to provide for a defence of reasonable publication. Even where a statement of fact on a matter of public concern has been shown to be false, defendants should benefit from a defence of reasonable publication as an acceptable remedy.⁴²

A criminal defamation charge was first applied in 2002 against Ms B. Khanddolgor, editor of the newspaper *Ug* (Word), who was sentenced to one-year imprisonment by the Sukhbaatar district court of Ulaanbaatar city and sent to the Gants Hudag Detention Centre. She was accused of publishing a report issuing a warning about the possible spread of HIV/AIDS in the territory of Altanbulag soum in Selenge province, located on the northern border of Mongolia. In the news report published on 5 March 2002, a woman anonymously called “B” was alleged to be infected with HIV and reported to “have been causing serious concern” due to her numerous affairs, including alleged liaisons with soldiers on the northern border. Journalists, media experts and politicians had different opinions about the incident, with some criticizing the editor and others seeing it as a violation of press freedom.⁴³

Another prominent criminal defamation case that made the news in Mongolia was against Ms. D. Bolormaa of the daily newspaper *Zuunii Medee*. The suit was filed by Mr B. Narankhuu, director of the *Mon Uran* company, who had been accused in a newspaper article of being involved in a human trafficking case. The case was first filed in 2010 and was heard by courts of different jurisdictions. Ms. Bolormaa was convicted by the trial judge and later lost her appeal in 2013 at the Supreme Court. The penalty was a fine of MNT 8.5 million (approximately US\$4,300).⁴⁴

³⁹ See, for example, *New York Times v. Sullivan*, 376 US 254 (1964) (United States Supreme Court).

⁴⁰ The term “matters of public concern” includes all matters of legitimate public interest. This includes, but is not limited to, all three branches of government – and, in particular, matters relating to public figures and public officials – politics, public health and safety, law enforcement and the administration of justice, consumer and social interests, the environment, economic issues, the exercise of power, and art and culture. However, it does not, for example, include purely private matters in which the interest of members of the public, if any, is merely salacious or sensational.

⁴¹ *Defining Defamation*, Principle 7.

⁴² *Defining Defamation*, Principle 9.

⁴³ *Media Freedom Report 2012-2014*, Globe International Center, p.21.

⁴⁴ *Media Freedom Report 2012-2014*, Globe International Center, p.22.

Free expression is limited by the strict criminal defamation law and the number of criminal defamation cases is radically increasing. Monitoring reports by the Globe International Center reveal that 27 criminal defamation cases occurred between 2005 and 2012, and in 2013-2014 alone their number reached 13. The majority of the plaintiffs were elected politicians and authorities and these cases were brought to disclose whistleblowers, journalists' confidential sources and the identity of journalists. There are two cases involving the use of criminal law against Twitter bloggers.⁴⁵

Politicians, high-level state officials and government bodies made up 56 percent of all plaintiffs in 2012 and 2013. In 2014, 30 percent of plaintiffs were government bodies and high-level state officials; 35 percent were private companies; and 20 percent were non-state organizations and individuals. The plaintiffs remained unidentified in 15 percent of all cases.⁴⁶

All election laws of Mongolia have strict defamation provisions. The 2012 Law on Parliamentary Elections makes it illegal "to insult, or damage [a] candidate's reputation, and disclose his/her "personal secrets (Article 33.3). The 2012 Law on Presidential Elections also explicitly prohibits defamation of others and the dissemination of false information by political actors during their campaigns, thereby placing the liability for the content of political advertising on the media (Article 33.1). It also prohibits the media and websites from disseminating libelous, insulting or false information (Article 33.5.4).

Concluding observations from the UN Human Rights Committee, which discussed the Mongolian Government report on the implementation of the ICCPR during its 101st session from 14 March-1 April 2011, noted that: "The Committee regrets the application of the legislation on defamation in the case of journalists prosecuted after having criticized public servants, or lawyers who contested judges' decisions (Article 19 of the Covenant)" and the Committee recommended that the Government of Mongolia consider decriminalizing defamation.⁴⁷

In 2014, a new draft Law on Crime, which decriminalized defamation, was submitted to the parliament. However, the new government was formed, the Justice Ministry re-drafted the Law and re-introduced criminal defamation. This updated draft Law was submitted to parliament on 5 February 2015 and is pending adoption.

45 Statement on Mongolia's free expression situation delivered to the Permanent Missions, <http://upr-mongolia.mn./index.php?cmd=Content&menuid=%28menuid=30%20R%20menuid=50%20R%20menuid=51%29&id=105>.

46 Media Freedom Report 2012-2014, Globe International Center, p.23. <http://www.globeinter.org.mn/images/upld/Hevleliinerhcholo02015english.pdf>.

47 Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee on Mongolia, CCPR/C/MNG/CO/5, 25 March 2011:http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=MNG&Lang=EN.

In 2014, GIC submitted a Universal Periodic Review (UPR) Report on Freedoms of Opinion and Expression,⁴⁸ which was reviewed on 5 May 2015 during the 22nd UPR session of the UN Human Rights Council. The government received recommendations from eight countries. Austria, the Czech Republic, Ireland and the USA recommended to decriminalize defamation. The recommendations were accepted by the Mongolian government during the 30th session of the Human Rights Council, held from 24 to 25 September 2015.

1.10 Other restrictions upon freedom of expression, whether based on national security, hate speech, privacy, contempt of court laws or obscenity, should be clearly and narrowly defined in law and justifiable as necessary in a democratic society, in accordance with international law

In Mongolia, there are numerous laws restricting freedom of expression and information. Under the Criminal Law, a fine and detention of up to three months may be imposed if “privacy is disclosed” (Article 136.1); “obscenity is advertised” (Article 123); “citizens’ correspondences are violated” (Article 135); “cruel religious doctrine is advertised or distributed” (Article 144.1); and/or if “facts of criminal cases are disclosed without the permission of inspectors, detectives, prosecutors and judges” (Article 257.1).

Furthermore, the Law on National Security states that “the citizens of Mongolia shall maintain respect for the essential national interest and fulfil their duty as imposed by the law, and they shall not reveal State secrets, secrets of organizations or private citizens” (Article 14.1).

The above laws do not seem to be sufficiently narrow in their definitions to warrant restricting freedom of expression.

The CRC’s regulation on digital content and broadcast service lists all of the above-mentioned legal provisions related to content restrictions but does not provide their definitions. Based on this regulation, the CRC retains the power, in cases of violation, to issue warnings to broadcasting stations, impose economic liabilities, and terminate or invalidate licenses. According to a 2014 report by the CRC, nine television and eight radio frequency licenses were terminated on grounds that they had violated the aforementioned provisions.

The CRC itself does not carry out content monitoring except during elections. In many cases, it simply reacts to content monitoring conducted by government bodies, such as the Authority of Fair Competition and Protection of Consumers’ Rights, the Authority of Protection of Intellectual Property, the Coordination Board of Crime Prevention, the police, the State Intelligence Authority and the General Authority of Professional Inspection.

D. Censorship

1.11 The media is not subject to prior censorship as a matter of both law and practice

The 1998 Law on Media Freedom bans all types of censorship. It states that the government shall not establish any censoring organization and/or finance any such activities (Article 3). Furthermore, there is no official body invested with the legal power of prior censorship.

However, prior censorship may be imposed under the 1995 Law on State of Emergency, which allows the government to “take control over mass media or stop activities until the state of emergency has ceased”.⁴⁹ During a “state of emergency” in July 2008, the government stopped all broadcasting stations from operating for four days, except for the state-owned Mongolian National Broadcaster. Moreover, police prevented journalists from gathering news and confiscated footage. Reporters from commercial stations were not allowed to enter Government House to report on parliamentary sessions or cabinet meetings.

During interviews and consultations carried out within the framework of this assessment, several journalists from various Mongolian media outlets reported having been tightly controlled and sometimes “censored” by their supervisors, and not always in the interest of professional reporting. Some claimed that their editors-in-chief were afraid to publish investigative reports, even when these reports were factual and verified.

All broadcast and print media outlets are required to register in Mongolia. They must submit their pro-forma requests for registration within ten days after their establishment. In accordance with the rule of the State Registration Authority, a media organization can be registered as either a company or an NGO, depending on its specific qualifications. Broadcasting stations can only be registered after their license is granted, in accordance with the Law on Licenses of Business Activities (Article 15.16.1)⁵⁰ and they are required to register in addition to obtaining a license. In order to apply for a license they must receive permission from the local governor, giving the latter de-facto discretionary power, which can be abused. Media outlets must submit their statutes, which must include publication/programme policy, frequency, structure, powers and duties of the governing body and editor-in-chief, and information on their revenue/finance. These provisions are not in line with international standards. As stated in General Comment 34 on Article 19 of the ICCPR: “Journalism is a function shared by a wide range of actors, including 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, and general State systems of registration or licensing of journalists are incompatible with

⁴⁹ Article 16.3.4, Law on Law on State of Emergency, <http://www.legalinfo.mn/law/details/433?lawid=433>.

⁵⁰ Article 15.16.1, Law on Licenses of Business Activities, 2001, <http://www.legalinfo.mn/law/details/34?lawid=34>.

paragraph 3 [of Article 19, which spells out the only legitimate reasons for restricting freedom of expression].”⁵¹

1.12 The state does not seek to block or filter Internet content deemed sensitive or detrimental

Until 2011, Mongolians had been free to access all Internet content from local and/or international websites. However, the Communications Regulatory Commission (CRC) has since been tasked by the government with enforcing content regulations in cyberspace. Between 2011 and 2014, it adopted over 30 internal regulations, including the General Conditions and Requirements on Digital Content, which apply to news and information websites, content aggregators and content supplying services. The regulatory framework also sets standards on issuing, terminating and withdrawing licenses and standards on studio equipment.

In September 2014, the CRC adopted the amendments to the “General Conditions and Requirements for Regulation of Digital Content.” The document provides regulations on servers, web hosting companies, online content aggregators, online content suppliers, and other Internet Service Providers (ISPs). According to the regulation, “content” means any product that transfers characters, signals, texts, pictures, graphics, sounds, tones, moving images and other types of information transmitted through a communications network into an electronic form. It also says that e-mail, bulk and spam, communication between individuals (for instance, via telephone, fax or IP) shall not be considered as “content”. The regulation prohibits creating or spreading content that violates the law and provides lists of laws that restrict content, as mentioned under sub-indicator 1.3.

Between 2012 and 2014, the CRC restricted access to 172 websites in Mongolia, mostly for copyright violations and based on the conclusions of government bodies with the authority to conduct inspections and monitoring. The CRC has informed the public about websites on the “blacklist”⁵², which can be accessed at the following address: <http://www.black-list.mn>.

The CRC also specifies the date at which these websites were blocked. For example, the first website to be banned in 2012 was www.zaluu.com, created by Edmuun LLC. The provision was based on a violation of Article 12.1 of the Law on Competition related to copyright infringements. The ban was the result of a complaint filed by other websites to the Authority of Fair Competition and Protection of Consumers’ Rights. The CRC sent a warning letter asking Edmuun LLC to remove content that was found to be in violation of the copyright law and instructed them to report back, but www.zaluu.com did not reply. The decision to block the website was endorsed by the State Supervisory Inspector of the Authority of Protection of Intellectual Property and then enforced by the CRC.

51 General Comment No 34, provision 44, Human Rights Committee, 102nd session, Geneva, 11-29 July 2011 <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>.

52 <http://www.black-list.mn>.

On January 2013, the government adopted a decree titled Unified System of Comments in Websites. It contained technical and administrative measures to regulate the content of online comments on Mongolian online media. The official objective was to prevent online slander, insults and threats. This Decree was approved during a cabinet meeting without prior consultation with the media and IT industries or the CSOs and without a parliamentary discussion. Both the Decree and the way in which it was created were heavily criticized by most media and the IT community. Concerns were raised about the applicability of the measures contained in the Decree and about their legitimacy under both national law and international standards on freedom of expression.

With this Decree, the government tasked ICTPA and the General Intelligence Agency to work together to develop software and technical solutions to implement a “unified system”. The government intended to use this new software to identify netizens and thereby end online anonymity. Once the netizen was identified, he or she would be held accountable for posting comments that were considered, under Mongolian law, to be potentially criminal in nature, libelous, insulting, threatening, or in breach of obscenity laws. The National Data Centre is supposed to ensure the technical reliability of this “unified system”, while the State Registration Authority is to gather information of users who post comments on websites based on the intersection between IP information and netizens’ civil data and the database of mobile phone users. Internet service providers and mobile operators are obliged to install the government-developed software and to collaborate with the authorities’ efforts to identify netizens.⁵³

The CRC, as per the decree, is required to elaborate the regulatory procedure defining the requirements for news websites and issuing domain names. All websites must use the same state-approved registering software. The software spots forbidden keywords, turning them into asterisks (“****”). While writing, the software prohibits 86 words in the Mongolian language (written in Cyrillic), such as mansuurakh (muddle), yankhan (prostitute) and erliiz (mixed-blood). It also prohibits 108 words written with Latin characters or in English, such as “sex” or “terrorist”. The software reportedly contains flaws. It does not take into account the contextualized meaning and blocks all words containing the same letters or syllables as the prohibited words.

In accordance with the above regulation, websites must be registered by www.happywebs.mn. As of June 2015, 106 websites and blogs in total had been registered with the CRC. The registration requirement does not cover Internet-based television and radio stations, online newspapers, or online versions of traditional media and bloggers.

A recent case of government intervention to block a website occurred when the news website amjilt.com criticized the Prime Minister’s private company. Published on July 3 2014, it reported that the “PM’s company Khaan Jims” was polluting the Tuul River and was

53 Government Resolution No 1, 2013. <http://www.legalinfo.mn/law/details/8939?lawid=8939>

accompanied by photographic evidence. The following day, an officer from the CRC called amjilt.com “due to complaints made by Khaan Jims”. She instructed representatives of www.amjilt.com to remove the article and post a retraction with the threat that the website would be placed on the blacklist within the hour if the request was not met. After three hours of telephone calls, the website was blocked and it is no longer operational today.⁵⁴

Media NGOs in Mongolia protested that this course of action seriously impinged upon both the public's right to know about issues affecting the public interest, and upon the freedom of the media. They also claimed that the obvious and overt motive behind blocking and closing down websites “in violation” of the law did not concern copyright issues; rather, it was a direct case of censorship. In fact, in accordance with stipulated rules, the CRC should warn and send prior notice to service providers based on statements by and letters from the government agencies authorised to take control over media content or copyrights' breaches.⁵⁵

The OSCE Representative on Freedom of the Media issued a press release on 10 July 2014 expressing concern about the blocking of the news website. It stated that “it is worrisome to see a government regulator initiating measures to block access to information of public interest” and urged “the authorities to encourage pluralistic discourse of all issues of public importance.”⁵⁶

54 <http://globeinter.org.mn/?cmd=Record&id=1131&menuid=367>.

55 UPR submission of Globe International Center on behalf of the Mongolian Human Right Forum available at: http://upr-mongolia.mn/images/xupld/10_JSTMP5_UPR22_MNG_E_Main.pdf.

56 <http://www.osce.org/fom/121076>.

Recommendations

- Guarantee freedom of expression and of the media. Articles 16.16 and 16.17 of the Constitution should be amended to guarantee the right to seek, receive and impart information regardless of frontiers, in accordance with Article 19 of the International Covenant on Civil and Political Rights (ICCPR).
- Support and adopt the revised version of the Law on Media Freedom in accordance with the specific features of the media industry and its role in society and in accordance with international standards.
- Enact a Broadcasting Law and implement a revised Law on Communications to guarantee the operational and administrative autonomy of the regulatory system, including vis à vis the government and its agencies.
- Repeal the government's resolution on the "Unified System of Comments in Websites" to prevent government-developed software from identifying netizens and filtering the content of websites and ISPs, thereby restricting freedom of expression on the Internet.
- The General Conditions and Requirements for Regulation of Digital Content should be amended to make them consistent with international standards on freedom of expression, including by removing the possibility of blocking content without the oversight of the judiciary and based on vague or broad provisions on content regulation.
- The current CRC regulations to license news and information websites, should be repealed. Other provisions should be carefully examined to ensure they are consistent with international standards.
- The Civil Code should be amended so that only individuals and private legal entities have the right to bring actions in defamation, and so that the plaintiff bears the burden of proving the falsity of any statements or imputations of fact. It should also provide for a defense of reasonable publication, even when a statement of fact on a matter of public concern has been shown to be false.
- Restrictions on the right to freedom of expression of professionals or public officials (such as judges, public prosecutors, policemen and women and members of the National Human Rights Commission) should be repealed and should be dealt with by professional bodies.
- All administrative decisions made by public and legally-entitled organizations and agencies that contradict both Mongolian and international laws should be repealed.
- The government should consider launching a programme of systematic training for lawyers, judges and prosecutors, law enforcement officials and police in order to create a network of the media lawyers who are able to defend media rights.

Category 2

Plurality and diversity of
media, a level economic
playing field and
transparency of ownership



Key Indicators

A. MEDIA CONCENTRATION

- 2.1 State takes positive measures to promote pluralist media
- 2.2 State ensures compliance with measures to promote pluralist media

B. A DIVERSE MIX OF PUBLIC, PRIVATE AND COMMUNITY MEDIA

- 2.3 State actively promotes a diverse mix of public, private and community media
- 2.4 Independent and transparent regulatory system
- 2.5 State and CSOs actively promote development of community media

C. LICENSING AND SPECTRUM ALLOCATION

- 2.6 State plan for spectrum allocation ensures optimal use for the public interest
- 2.7 State plan for spectrum allocation promotes diversity of ownership and content
- 2.8 Independent and transparent regulatory system

D. TAXATION AND BUSINESS REGULATION

- 2.9 State uses taxation and business regulation to encourage media development in a non-discriminatory manner

E. ADVERTISING

- 2.10 State does not discriminate through advertising policy
- 2.11 Effective regulation governing advertising in the media

Category 2

Plurality and diversity of media, a level economic playing field and transparency of ownership

A. Media concentration

2.1 State takes positive measures to promote a pluralist media

There are no laws or regulations in Mongolia directly addressing diversity in media ownership. A Law on Competition does exist but it does not specifically refer to the media industry. Article 9 of the Law on Communications does however provide for fair competition and one of the powers of the CRC is to create enabling conditions for “fair competition”.

Legislation also exists to limit foreign investment in the media sector. Until January 2015, the State Registry Law required written permission from a company in order to access its official registry records. This had made it almost impossible to obtain data about media ownership. In January 2015, this Law was amended so that the requirement for written permission became applicable to individuals only. Nevertheless, media ownership can be difficult to ascertain. For example, the Genco Group, one of Mongolia’s biggest business groups with operations in different sectors including mining, travel and tourism, mentions on its website that it runs the television channel C1 but does not specify the name of the media outlet, the owners or the amount of investment in the company.⁵⁷ Media entities also keep information on circulation, sales and market share confidential. It is therefore difficult to assess the level of media concentration in Mongolia and no preventative measures are undertaken by the government.

The issue of ownership transparency has dominated the political and public discourse on media concentration for the past decade. The issue is included in the following two policy documents: the National Security Concept of Mongolia⁵⁸ and the General Regulations of Radio and Television Services.⁵⁹ In addition, the Action Plan of the Mongolian Government for 2012-2016, adopted by Parliamentary Resolution No. 37 in 2012, includes plans to “disclose

⁵⁷ <http://www.genco.com.sg/summary.html>.

⁵⁸ Concept of National Security of Mongolia, Parliament Resolution No 48, 2010, www.legalinfo.mn/law/details/6163.

⁵⁹ General Regulations of Radio and Television Services, Government Resolution 2010, No 276. www.legalinfo.mn/law/details/4338.

ownership and revenue of the media, to enhance independence of media organizations and to guarantee the freedom to publish.”

“Ownership transparency” is a provision under Article 4 of the General Regulations on Radio and Television Services, issued by the Communication Regulation Commission (CRC). In order to disclose ownership and maintain “independent, open and ethical broadcasting”, investors in the media sector and license holders must report on: the percentage of shares (as well as the name of the country in the case of a foreign investor); the name, full address and telephone number of the license holder; the organizational structure of the legal entity; and the names and nationalities of the management team.⁶⁰ The report must be submitted to the CRC in January of each year and any information changes must be received within one month of submission (Article 4.2). The CRC must publicly disclose information about ownership (Article 4.3). However, information on owners and investors provided by companies is incomplete, which often makes it challenging to identify who the real owners of media organizations are.

At first glance, the number of media outlets in Mongolia would seem to suggest a very vibrant media sector. As of the end of 2014, in accordance with Press Institute data, there were some 506 media outlets catering to the information needs of this vast and sparsely populated country of 3.0 million inhabitants. At the time of assessment, 210 out of 503 media outlets were broadcasting stations (72 radio stations and 138 television stations), while 111 were newspapers, 90 were magazines and 92 were news portals.⁶¹

In the mid-1990s, the number of new commercial and independent media outlets was growing rapidly. From around 2005, however, the number of traditional print media outlets began to decrease. Large business and political groups began acquiring media companies to create media oligopolies. As of 2013, nine media companies owned more than three media outlets each, which represented approximately 11.5 percent of all Mongolian outlets.⁶²

A lack of reliable data about the audience and market share of these companies makes it difficult to assess the extent to which they dominate the media market in Mongolia. Among these nine companies, Egel Co. Ltd dominates the local newspaper market with 17 newspapers. The Mongol Mass Media Group owns two general television stations (Eagle TV and EDUTV) as well as four cable channels (Shuud TV, Movie Box, Sport Box, and the children’s channel Dream Box) in addition to two news portals (www.news.mn and www.shuud.mn). The Mongol News Group owns four newspapers, two television channels, and a magazine with a combined circulation of 2,856,000 copies in 2012 – the largest circulation in Mongolia. The Ekh Goyot Media Group has seven media outlets, including two FM stations, ETV and Mass TV, and three magazines.

⁶⁰ <http://www.crc.gov.mn/k/wz>.

⁶¹ Mongolian Media Today. Press Institute, 2015, p. 3.

⁶² Idem, p. 3.

Three sectors are slightly more transparent in terms of ownership and concentration. These are the news agency sector, satellite television distributors and cable operators. MONTSAME is the only news agency in Mongolia. It owns seven newspapers, with publications in English, Russian and Japanese. It is a state-run agency and its director is appointed by the Prime Minister, even though both the 1998 Media Freedom Law and the 1998 Parliament Resolution No. 108 state that the agency shall be transformed into a public service entity. Concerning television delivery systems, the privately-owned DDish TV is the only satellite distributor licensed to operate in the country and Sansar CATV dominates the cable market, with a 59.6 percent share of the total market in 2012 (see table below).⁶³

Table 1: Market share of cable operators in Mongolia

#	Name	Market share (%)	#	Name	Market share (%)
1	UNIVISION Ca TV	0.4	7	Orange Ca TV	3.6
2	UB DMB Ca TV	0.4	8	Super Vision Ca TV	7.6
3	DDishCa TV	0.4	9	Network Ca TV	9.2
4	MDHS Ca TV	1.2	10	Khiimori Ca TV	12.0
5	National Ca TV	2.0	11	Sansar Ca TV	59.6
6	MNBC Ca TV	3.6			

2.2 State ensures compliance with measures to promote a pluralist media

Some of the data concerning media ownership, including name, address and contact information, structure of management and share of ownership (in the case of multiple owners) is available on the CRC website. By 2015, only 16 television stations had provided information on their ownership.

However, the adequacy of the available information on ownership has been repeatedly questioned by specialized civil society organizations due to the stations' alleged lack of transparency. This is mainly due to a combination of two factors:

Most media organizations are registered under a company name but the current legal regime makes it almost impossible to obtain information on shareholders;

Information on media ownership must be sent to the CRC, which does not always disclose this information.

Despite media pluralism being recognized as a value in current legislation, no funding has been allocated to support the development of small broadcast media operations in the

⁶³ Idem, p. 6.

provinces. There is also a growing trend towards media concentration among big business and political groups, and media businesses are usually sold within a closed group.⁶⁴

B. A Diverse Mix of Public, Private and Community Media

2.3 State actively promotes a diverse mix of public, private and community media

There are no long-term government policies to actively promote media diversification. Private media outlets have only existed since the early 1990s, when Mongolia began its transition towards democracy and a market economy. Until then, state-run media had held a monopoly position in the market. The only national broadcaster had been state-owned, while the country's only printing house had favoured state-run newspapers, delaying the printing of private publications for weeks or even months.

In 1996, the Mongolian Government accepted funding from the Danish government's International Development Agency (DANIDA) to establish a new independent printing house. This led to a flourishing of private newspapers.

Another step in the diversification of the media sector was the enactment of the Mongolian Law on Press Freedom in 1998, which resulted in the privatization of the largest state-run daily newspapers and the opening up of new market opportunities for private newspaper owners.

The monopoly of state media in broadcasting began to weaken when the Public Service Broadcaster Law was enacted in 2005 and state television and radio broadcasters were transformed into public service entities. The only public service broadcaster, the MNB, includes one national and one local television channel and one national and one local radio station. It is supported by the state through an annual subsidy of MNT 7 billion (US\$4 million).⁶⁵

The Press Institute's annual media statistics reveal that 65 percent of newspapers and 87 percent of television channels were privately owned in 2014.⁶⁶ The development of newspapers is supported by favourable tax regulations. For example, equipment imported for newspaper production is exempted from customs duty and the VAT.

⁶⁴ Media Freedom Report 2012-2014, GIC, p.14. <http://www.globeinter.org.mn/images/upld/Hevleliinerhcholoo2015english.pdf>.

⁶⁵ Annual report of the MNB 2014. http://mnb.mn/s/76?type_slug=i.

⁶⁶ Mongolian Media Today. Press Institute, 2014.

There are currently no legal or regulatory frameworks to support small media, including community media.

2.4 Independent and transparent regulatory system

As mentioned under indicator 1.6, the primary Mongolian broadcast regulator is the CRC, which is appointed by the government. Its members, including the chair, are nominated by the Prime Minister upon the recommendation of the Minister for Communications, as established by the Law on Communications, thus limiting the CRC's independence.

The CRC's main responsibilities are "to facilitate an effective and competitive environment in the communications market for enterprises and individuals, to issue licenses and to offer professional analysis and decision-making." In accordance with the Law on Communications, the CRC shall grant a license to a legal citizen who plans to "run [a] public communications service" (Article 12.1.1) and to use a radio frequency (Article 12.1.2). In 2002, the CRC adopted the Procedure on Competition for Licenses for Radio Frequencies. Article 2 of Resolution No. 6 of the Procedure recognizes two types of competition: 1) public tender, in the case of a complex technical clearance; and 2) auction, if there is no technical solution. Given the limited scope of operations and transmission areas, licences for rural broadcasters are granted without competition so as to encourage local media development.

The CRC has issued licenses for 107 radio stations and 190 television stations including 104 for terrestrial stations, 82 for cable channels, two for Internet Protocol TVs, and one for a mobile television station. Some of the license holders have stopped operations mainly due to financial reasons. For example, compared to 2013, in 2014 the number of operating television channels dropped by 10, newspapers by 12, magazines by 8; while number of radios remain unchanged and number of news websites increased by 17.⁶⁷ Even so, the number of existing media outlets suggests that there is considerable media pluralism in Mongolia.

The CRC has however been criticized for the way in which it has exercised its authority as a regulator. Civil society groups and some parts of the media industry claim that the CRC has at times displayed political bias and shown a lack of transparency and discretion when assessing the technical requirements for license eligibility.⁶⁸ Indeed, until 2010, most of the licenses granted by the CRC were allocated to wealthy private companies, often with links to political groups. Until 2004, licenses were often granted to stations close to the Mongolian People's Revolutionary Party (MPRP). During the 2004 elections, a coalition government was

⁶⁷ Mongolian Media Today- 2015, Press Institute, 2015, p. 43

⁶⁸ Panel discussion meeting with journalists and civil society representatives to evaluate the state of Mongolian media within the frame of the Asian Media Barometer: Mongolia 2012 project. Ulaanbaatar, September 2012. For results of the discussion see: Asian Media Barometer: Mongolia 2012. Friedrich-Ebert-Stiftung. Ulaanbaatar, 2012.p.43.

formed and most of the stations that were subsequently granted licenses were tied to the Democratic Party.⁶⁹

In 2008, the CRC made an exceptional decision to hold an auction for a licence, and eight media companies took part in the bidding process. However, a year later the Secretary-General of the Mongolian People's Party (MPP) received a license for his Shine Delhii TV. He later sold the licence to Mongol TV, which is part of the Gachuurt Company, for MNT 800 million (approximately US\$402 million), even though CRC licensing rules do not allow the sale of licenses. The Gachuurt Company is controlled by another MPP party official.⁷⁰ This procedure was perceived as unfair and discriminatory by the media community.

Since 2012, the CRC has pledged that no new licenses will be distributed until the country's digital switchover is complete. In 2014, controversy arose over the criteria to be used for selecting the nine private channels which, as per the government's provision on the digital switchover, will "automatically" receive digital licenses. The CRC declared that it intended to conduct a content analysis of television programmes and select channels based on content that "educate(s) and enlighten(s)", and primarily focus on national culture, traditions and heritage.⁷¹

2.5 State and CSOs actively promote development of community media

The Mongolian State does not have any policies to support community media development. In fact, community media is not recognized by Mongolian law and no spectrum is reserved for community broadcasters. There are no special public funds or fiscal measures to support local and community media. Furthermore, the CRC has issued regulations containing requirements in terms of technical standards, professional staff, minimum broadcast time and revenue, which are difficult for community broadcasters to comply with.⁷² The lack of formal recognition of community media is largely due to the fact that the government lacks a thorough understanding of such media.

Despite these barriers, community media outlets are not prohibited and attempts have been made to create community radio, often with support from international donors. Some precursors to community radio have been developed over the last decade, namely local radio stations created with NGO support. These include the Visually Impaired People's Radio, Best FM, Goviin Dolgion FM (founded by the Open Society Foundation) and Noyon-Uul Radio (based in Uvurkhangai and established with the support of UNESCO and the Press Institute).

⁶⁹ Asian Media Barometer: Mongolia 2012. Friedrich-Ebert-Stiftung. Ulaanbaatar, 2012. p.44.

⁷⁰ Interview conducted by the Press Institute in February 2014 with a CRC head of department as part of this assessment. The interviewee requested to remain anonymous.

⁷¹ Interview with head of policy regulation department of CRC, U. Tamir, February 2014.

⁷² Licence requirements for broadcast media <http://www.crc.gov.mn/sg/50>.

The CRC has also issued licenses without competition for non-profit media. It has done so for at least four FM stations: Gandan (Buddhist Centre) Radio, Auto Radio, Monastery Radio and the aforementioned Visually Impaired People's Radio. Regarding television, the education channel EDU TV has been granted a license as a non-profit channel upon request from the Ministry of Education, Science and Culture and initially with public budget subsidies. TV9 was also granted a license as a non-profit Buddhist channel. Both channels have since become commercial.

In 2012, the first ten radio stations defining themselves as "community media" were established through the UNESCO project "Comprehensive community services to improve human security for the Rural disadvantaged populations in Mongolia", funded by the UN Trust Fund for Human Security. Located in ten minority-populated soums in four aimags (Bayan-Olgii, Uvs, Khovd and Khuvsgul), most of these stations broadcast in minority languages and work with the population in a participatory manner, with an elected board, a manager, producers and volunteers.

The community radio stations usually hold a standard license as local radio stations. In most cases they are also registered as NGOs and operate under the NGO Law of Mongolia. This hybrid system exists due to the complicated legal procedure for obtaining a license for a spontaneous community initiative. This hybrid status, however, presents limitations because NGOs face legal restrictions on income-generating activities, even when this income is reinvested according to a non-profit model. This obstacle impedes the further proliferation of community media in Mongolia.

Many media organizations are lobbying for legislation supporting community media. The community media self-determination movement gained momentum in 2012 and 2013. The Community Radio Association of Mongolia (CRAMO) was created with technical assistance from the Globe International Center (GIC) and support from UNESCO and the Swiss Agency for Development and Cooperation (SDC). In 2013, CRAMO also organized a series of advocacy seminars and initiatives to raise awareness about the concept of community radio among legislators in view of the ongoing reform of the Broadcast Law, as well as among central and local governments and the population at large.

There have also been promising developments in non-radio community media. Since 2001, the Media Centre for Disabled Citizens has been publishing the newspaper Khumuun Zaya and, since 2005, it has been producing short programmes and broadcasts on the Mongolian National Broadcaster every four months. The NGO Arular publishes a quarterly magazine for the Kazakh minority, which is also called Arular.

C. Licencing and Spectrum Allocation

2.6 State plan for spectrum allocation ensures optimal use for the public interest

In 2007, the CRC created the Mongolian National Spectrum Plan and the Plan of Spectrum Allocation, available online on the CRC website (www.crc.gov.mn).⁷³ The Plan was adopted in 2007 by CRC Resolution No. 62 and amended in 2011 by CRC Resolution No. 44.

There were no public discussions or consultations prior to the adoption of the Plan because it was not made public. The CRC's website states that "the national spectrum plan will allocate spectrum in accordance with international regulations, trends in international, technical and technological developments and national security." A license is obligatory for public service broadcasting (Article 9.1.2), in accordance with the Law on Communications. The CRC "must consider both public and legitimate interests in granting, terminating and invalidating licenses as well as monitoring implementation of the terms and conditions" (Article 9.1.1).

Small broadcasters in the provinces, except for in Darkhan and Orkhon, enjoy concessions on the condition that they do not compete for spectrum. (Darkhan and Orkhon provinces represent relatively large urban centres with populations of 98,000 and 93,000 people respectively. Thus, broadcasters in these provinces are not considered 'small').

In accordance with the Plan, only two possibilities for using the frequency spectrum remain. However, the CRC has decided not to allocate these frequencies until the country has completed its conversion to digital.

2.7 State plan for spectrum allocation promotes diversity of ownership and content

The Mongolian laws and regulations do not contain provisions on targets, quotas or other rules that specifically promote diversity. While commercial channels are not required to have diverse programming, the CRC's Broadcast Regulation dictates that 80 percent of daily programming on cable stations must be "specialized" (Article 8.2). No definition, however, is given for this term. At the time this report was compiled, cable stations specialized in themes such as children's programming, art, sport, news and information, cooking and shopping.

2.8 Independent and transparent regulatory system

The Law on Communications states that the CRC shall respect the principle of transparency (Article 9.1.3). Meanwhile, the purpose of the 2002 CRC Resolution No. 6 is to provide

⁷³ Mongolian National Spectrum Plan. www.crc.gov.mn; <http://techbum-server.appspot.com/www.crc.gov.mn/k/1r/1V>.

open and equal opportunities for all applicants, requiring public tenders and auctions to be announced through the daily media at least 30 days prior to the selection process.

However, the law and the CRC procedures, do not specify how transparency is ensured and in reality, no safeguards exist. As described under indicator 2.4 (related to operations of the CRC), the criteria for making decisions regarding the regulatory system are not fully transparent and are often perceived to be heavily influenced by political and governmental interferences. It is therefore safe to posit that license applicants do not necessarily receive fair treatment.

D. Taxation and Business Regulation

2.9 State uses taxation and business regulation to encourage media development in a non-discriminatory manner

The government has taken some measures to provide financial support for print media, especially for small and medium enterprises (SMEs). In 2008, it introduced a “print industry” programme under Resolution No. 53. The following year, and as part of this programme, SMEs became exempt from customs and value-added tax (VAT) duties for the purchase of small and medium printing presses, spare parts and newsprint.⁷⁴ SMEs with an annual sale below MNT 1.5 billion (US\$750.000) meet the requirements of this programme. It is not known, however, if newspapers and magazines have actually benefitted from this exemption.

The government also provides support through the “Post to Every Household” programme. Adopted in April 2011, it offers newspapers a five percent discount on postal distribution costs. The only eligibility requirement is that the newspaper must have paid subscriptions. The Mongol Post signed a contract with the Mongolian Newspaper Association and the Association of Daily Newspapers for a total of 400 million MNT (US\$200 million) per year.

E. Advertising

2.10 State does not discriminate through advertising policy

Advertisements through the mass media and other channels are regulated by the Law on Advertisement (2002). The implementation of this Law is administered by the Agency for Fair Competition and Protection of Consumers’ Rights. However, there are currently no codes of conduct regarding production and placement of advertisements in Mongolia and the aforementioned organization does not have a responsibility to develop such codes. According to the former head of its advertisement department, M. Ganzorig, advertisers and

⁷⁴ Art. 13.1.13, Mongolian Law on Value Added Taxation. <http://www.legalinfo.mn/law/details/415>.

the media lack a proper understanding of advertising codes despite the great need for them in Mongolia.⁷⁵

Advertisements from the government and other national or local public bodies are an important source of revenue for the Mongolian media. This funding information, however, is not publicly available and no transparent media reports exist on funding received from public bodies.

In 2012, GIC sent ten requests to government agencies for information on public funding allocated to media outlets between 2011 and 2012. It received responses from eight agencies, including the Ministry of Finance. In 2012 alone, the parliament, the Office of the President and the government (including the ten government agencies) allocated a combined total of MNT 4.1 billion (US\$2.9 million) to advertising in the media. According to the Ministry of Finance, parliament's expenditure was almost MNT 3 billion (US\$1.7 million) while the government's was MNT 758 million (US\$380 million). According to the Ulaanbaatar city administration's response to the GIC request, they alone spent MNT 482 million (US\$242 million) on advertising.⁷⁶ Public agencies do not have any rules governing usage of public funding, and decisions are made mainly by orders of the managers of these public bodies. There are no mechanisms to monitor the allocation of government advertisement funds.

When preparing their annual advertisement plans, public agencies establish a contract with media outlets, which some sources have claimed obliges them to abstain from critical or negative news coverage about the respective agency. This encourages "paid-for journalism", thereby distorting the professional standards of media outlets. The selection of media outlets to receive government advertisement revenues is made without open bidding or public tenders, and is reportedly often based on personal judgments or connections. Among rural media, there is strong competition for government advertisement revenues. A media representative from one province interviewed for this study suggested that the local governor there selected which local media outlets to fund based on the prospective outlet's relationship with and attitude towards his political party. The claim was made that he would sign an agreement with a certain newspaper to allocate more funds in return for positive reports about himself. The interviewee also alleged that he would then oblige local schools to buy those newspapers. However, this information could not be verified.

It has been a trend recently for local governors' offices to establish their own media outlets as part of their Media and PR departments to disseminate information on their activities to the public.⁷⁷ This appears to violate the Law on Media Freedom, which prohibits government bodies from owning media outlets. However, in certain provinces such as the Darkhan-Uul

⁷⁵ Interviews carried out for this study assessment.

⁷⁶ Letter received from the Ministry of Finance on 5 April 2013.

⁷⁷ Interview with a media representative on February 3, 2014. The interviewee requested to remain anonymous.

aimag, public funding for advertising is equally shared among all existing media outlets, irrespective of their circulation.

The Law on Public Service Broadcasting prohibits the Mongolian National Broadcaster (MNB) from running commercial advertisements and bans all advertisements during current affairs news programmes. The MNB is however allowed to broadcast social advertisements, as long as they are limited to two percent of its daily broadcasting time.⁷⁸ The Press Institute monitored the implementation of the above provisions in 2009, 2010 and 2012. The results showed that even though MNB does not exceed the limit on social advertisements, it regularly violates the Law by broadcasting advertisements during news and current affairs programmes, or prohibited forms of advertisements such as surreptitious or commercial advertisements.

The government has responded to this criticism by claiming that national television stations have a duty to disseminate information the government deems necessary without charge, given that they are funded from the state budget.

2.11 Effective regulation governing advertising in the media

Article 11 of the Law on Advertisement and Article 13 of the Law on Public Service Broadcasting stipulate the separation of advertisement and journalistic content. The CRC's regulation on Broadcast Services sets a limit of 15 minutes of advertisements per hour for commercial television. In practice, however, these laws are not respected. For example, the Press Institute's report states that during highly rated programmes, commercial broadcasters air advertisement blocks of eight to ten minutes, two to four times per hour.⁷⁹ This means that advertising during a 60-100 minute programme on commercial television can range from 30 to 40 minutes.

Paid-for news stories prepared in a journalistic format are common practice in the media and can be observed in any daily newspaper or current affairs programme on television. A 2007 report entitled *Mongolian Media Landscape: Sector Analysis*, prepared with UNESCO support, highlighted the fact that "the media are full of paid-for business news. According to this report, the media and journalists are extremely dependent on financial support from politicians and businesses."⁸⁰ The situation remains unchanged today.

AFCCP has a special department in charge of advertisements. It was set up in October 2012 with a mission to monitor the implementation of the Fair Competition Law, the Advertisement Law and related rules and government decisions. Since its establishment, this unit has monitored prohibited forms of advertisements, which include those for alcohol,

78 Article 13.1, 13.3. Law on Public Service Broadcasting, 2005, <http://www.legalinfo.mn/law/details/424?lawid=424>.

79 Media audience report, April 2013, Press Institute of Mongolia, Ulaanbaatar.

80 *Mongolian Media Landscape: Sector Analysis*, UNESCO, Beijing, 2007, p. 24 http://portal.unesco.org/ci/en/files/25643/12291016843mongolian_media_landscape_en.pdf/mongolian_media_landscape_en.pdf.

medical products, rare animals and plants, misleading advertisements and advertisements promoting discrimination based on age, gender, race, religion or education. In some cases, administrative measures were taken to address violations.

In Mongolia, the existence of structural, political and regulatory barriers prevents the development of an advertisement market capable of generating sufficient income to support a sustainable, diverse and pluralistic media. The barriers include immature market mechanisms, the prevalence of business and political interests over principles of open and fair market competition for advertisement revenue, and a lack of regulation to support fair competition in the media sector.

Recommendations

- Define a clear and transparent licensing procedure for nationwide broadcasting for a general audience based on consultations with professional organizations.
- Establish transparency in media ownership in accordance with international standards and support fair competition and media diversity. Information on the beneficial media owners, license holders, finances and on public agreements and contracts should be open to the public.
- Encourage research institutions and companies to conduct studies on readership, circulation, audience data and advertising revenue of media outlets, which is important for fair market competition.
- Make budget and expenditure reporting on state funds allocated for media relations transparent, in accordance with the LITRI. Government agencies should allow all media outlets to compete fairly via public tenders/bids.
- Amend the Law on Advertisement to provide clear principles and definitions on public announcements to avoid “hidden advertisements” in relation to public, commercial or community media outlets.

Category 3

Media as a platform for democratic discourse



Key Indicators

A. MEDIA REFLECTS DIVERSITY OF SOCIETY

- 3.1 The media – public, private and community-based – serve the needs of all groups in society
- 3.2 Media organizations reflect social diversity through their employment practices

B. PUBLIC SERVICE BROADCASTING MODEL

- 3.3 The goals of public service broadcasting are legally defined and guaranteed
- 3.4 The operations of public service broadcasters do not experience discrimination in any field
- 3.5 Independent and transparent system of governance
- 3.6 PSBs engage with the public and CSOs

C. MEDIA SELF-REGULATION

- 3.7 Print and broadcast media have effective mechanisms of self-regulation
- 3.8 Media displays culture of self-regulation

D. REQUIREMENTS FOR FAIRNESS AND IMPARTIALITY

- 3.9 Effective broadcasting code setting out requirements for fairness and impartiality
- 3.10 Effective enforcement of broadcasting code

E. LEVELS OF PUBLIC TRUST AND CONFIDENCE IN THE MEDIA

- 3.11 The public displays high levels of trust and confidence in the media
- 3.12 Media organizations are responsive to public perceptions of their work

F. SAFETY OF JOURNALISTS

- 3.13 Journalists, associated media personnel and media organizations can practice their profession in safety
- 3.14 Media practice is not harmed by a climate of insecurity

Category 3

Media as a platform for democratic discourse

A. Media reflects diversity of society

3.1 The media – public, private and community-based – serve the needs of all groups in society

In Mongolia, a large and sparsely populated country, the number of television stations broadcasting nationwide has reached a considerable 16 channels.⁸¹ Until the end of 2004, there had only been one. In 2005, six television stations began to transmit nationwide and by 2010, the number had risen to 14. This trend contributes to reducing the information gap between the rural and urban areas, even if some of the nationwide stations can only be received via satellite.

Despite these important developments, the national media, whether print or broadcast, take little interest in the information needs of rural citizens, focusing mainly on news and events in the capital city. For example, the share of news items concerning rural issues in MNB's current affairs news programmes in 2011 was just 17.4 percent.⁸² Almost all of these stories were prepared in relation to visits of government officials and high-ranking politicians to rural provinces. An exception is the commercial television channel TV9, launched in 2003, which regularly purchases content for its daily news programmes from provincial television journalists.

In 2005, parliament adopted the Law on Public Radio and Television (the PSB Law) and the state-run broadcaster became a public service broadcaster (PSB), maintaining the name Mongolian National Broadcaster (MNB). MNB has a legal mandate to serve the needs of all groups in society. According to the PSB Law:

Article 8.1: The Public Service Radio and Television shall offer programmes covering various aspects of political, economic, scientific, educational, cultural and sports issues in society at a high professional level.

⁸¹ Mongolian Media Today. Press Institute of Mongolia, 2013, Ulaanbaatar.

⁸² Monitoring of the programming structure and information programs of the MNB-3, 2011, Press Institute report, Open Society Forum.

Article 8.2.7: [The Public Service Radio and Television shall] ... strive to meet the needs of the public and various social groups including ethnic minorities, women, children and [the] disabled.

Mongolia has a population of nearly three million people, 95 percent of whom are Mongols; four percent of whom are the Kazakh minority; and the remaining one percent of whom come from different ethnic groups including Bayad, Buryat, Durvud, Khoton, Myangad, Torguud, Tuvas, Uriankhai, Uuld, and Zakhchin. These groups speak Mongolian with different accents and some, such as the Kazakhs and the Tuvas, also speak their own language. Until 2011, MNB's National Radio produced and broadcast special programmes for the Kazakh minority in their own language once per week, while MNB's National Television did the same twice a week. In October 2011, MNB launched a second channel with the support of UNESCO. Called MN-2, it aims to serve the needs of not only the Kazakh minority, but also other language groups including the Buryat and Tuvans.

Minority language programmes make up 30 percent of the second channel's weekly programmes.⁸³ MNB also has a branch in the Bayan-Ulgii aimag where the radio is produced and aired in Kazakh.

MNB is the only radio station to broadcast its current affairs news programmes in sign language for citizens with hearing disabilities. According to the results of PI's monitoring study, MNB regularly produces and broadcasts programmes targeting children, youth and minorities. From 2010 to 2011, programmes targeting specific social groups took up 18 percent of its weekly programming hours.⁸⁴

The needs of young audiences are well served by the media market. Public and commercial television stations offer a similar share of children's programmes, ranging from four to five percent of weekly broadcasting time for the national public station and for the commercial channels EDU TV, MN 25 and TV9.⁸⁵ Other commercial channels devote even more time to children's programmes, with ᠒1, NTV and SBN dedicating eight to ten percent of their weekly broadcasting time to such programmes.⁸⁶ The specialized cable station Dream Box is popular among the children, while Internet and mobile phones are also becoming more popular among children and teenagers.

Print media also caters to children as well as to a diverse array of special interests. There are currently eight newspapers dedicated to children, the first of which was launched in 1944 and is called Pioneer's Truth. As of 2012, there were 13 newspapers and magazines specifically targeting youth and children; six targeting women; 21 on science and technology

⁸³ www.mn2.mn.

⁸⁴ Monitoring of the programming structure and information programs of the MNB-3, 2011, Press Institute, Open Society Forum.

⁸⁵ <http://www.crc.gov.mn/k/2G7>.

⁸⁶ Mongolian media today. Press Institute, Ulaanbaatar, 2011.

trends; and 16 on family and health issues.⁸⁷ However, unequal gender representation is a significant issue in the Mongolian media. Firstly, men are disproportionately relied upon as information sources. This is partly because most information provided by daily newspapers and news programmes comes from senior government officials, most of whom are men.⁸⁸ Secondly, gender stereotypes are pervasive in the media, whereby women are primarily represented as housewives. In 2012, the Press Institute conducted a comparative qualitative study on daily newspaper content on male and female candidates for parliamentary elections in 2000 and 2008. The results showed that Mongolian newspapers place minimal value on the achievements, skills and knowledge of female politicians. Instead, they emphasize their roles as mothers, their marital status and role in the family their physical appearance and their clothing, especially in tabloid newspapers. The Mongolian media also frequently uses female politicians to report on social issues such as health, education, culture, family and children.⁸⁹

In February 2015, GIC, in cooperation with the National Committee on Gender Equality, conducted a pre-assessment on gender sensitivity of the media content in the output of two television stations, MNB and UBS TV. This evaluation used UNESCO's Gender-Sensitive Indicators for Media within the framework of the project titled "Piloting Gender-Sensitive Indicators for Media and Media Self-Regulations in Mongolia". The appraisal was carried out with the support of UNESCO's IPDC and the UNESCO Beijing Office. It focused on news and current affairs content, namely Tsagiin Khurd (the Time Wheel programme) of MNB and City News of UBS. The evaluation was carried out over a randomly chosen period of five days' programming of local and foreign news coverage. The results showed that men featured heavily in the news and current affairs content of both television programmes.

The MNB assessment results showed that men made up 81 percent of coverage in news and current affairs, whereas women accounted for just 19 percent of coverage. The UBS assessment showed that 80 percent of information sources were men.

From March to April 2015, GIC conducted training sessions on gender issues and gender-sensitive journalism for media professionals employed by the assessed television stations. The participants gained knowledge on the definition of gender, the history of the concept as well as on issues such as gender stereotyping, gender mainstreaming, gender equality, gender balance, gender discrimination, the media's portrayal of women's issues and gender-based violence. More than 80 media professionals, managers, technicians and other staff from MNB and UBS attended the training event.

⁸⁷ Mongolian media today. Press Institute, Ulaanbaatar, 2013.

⁸⁸ Gender Sensitivity in Media. UNFPA. National Committee on Gender Equality. IRIM. 2010. p.7.

⁸⁹ Representation of Women Politicians in the Mongolian Daily Newspapers in 2000 and 2008. Critical analysis report. Press Institute, 2012.

In July 2015, GIC completed a post-assessment analysis of news and current affairs programming using the same indicators. Although content still disproportionately portrayed men, the figure had decreased from 80 percent in UBS City News and 81 percent in MNB to 61 and 65 percent respectively.⁹⁰

Regarding the diversity of programme types, there is a roughly even share of information and entertainment programmes. As of 2011, 48 percent of the weekly programming on MNB was dedicated to current affairs and other information programmes, while the remainder was devoted to entertainment programmes such as films and music shows. In 2012, the private broadcast outlets Eagle TV and Edu TV dedicated more time for news programmes than the public service broadcaster MNB, while the share of information programmes on other commercial channels was similar to that of MNB.⁹¹

Even though the media may appear to provide for the information needs of different groups in society, not all groups are equally well represented. Most news media, including daily newspapers and television news programmes, overwhelmingly present the views of politicians and high-ranking officials, whereas the voices of ordinary citizens, marginalized groups and the weakest in society are barely heard.

In terms of facilitating access to information to people with disabilities, the National Association of Persons with Visual Impairment was set up in 2004. It launched an Internet broadcast, which covers ten aimags: Dornod, Sukhbaatar, Dornogobi, Omnogobi, Arkhangai, Uvurkhangai, Khovd, Uvs, Khuvsgul and Selenge. Support was provided by the Ministry of Labour and Social Welfare, with Danish funding. The radio station Best FM 98.5 (<http://tunein.com/radio/Best-FM-985-s211543/>) went to air in December 2004 and produces 168 hours of continuous programming every week. It targets the general public and has a variety of programming, including ten minutes of daily news, one hour of daily literature programmes promoting blind writers, 30-60 minute health programmes every Friday and other programmes for people with disabilities. It is a semi-commercial station, with profit redirected to the association to support its activities.

Social media is actively used by the lesbian, gay, bisexual, and transgender (LGBT) community to raise public awareness about issues related to them and to advocate for a non-discrimination law, given that the Constitution does not guarantee them equal rights or protection from discrimination.

Regarding linguistic minorities, the Mongolian Kazakhs use the Internet to communicate in their native language. Community radio in the Bayannuur soum of Bayan-Ulgii aimag delivers Kazakh language programmes for the aimag radio station, which can also be downloaded from the Internet. The very first newspaper in the Kazakh language was launched in 1941. It

⁹⁰ GSIM Assessment report. GIC, 2015.

⁹¹ Monitoring of the programming structure and information programs of the MNB-3, 2011, Press Institute, Open Society Forum.

was initially called Progress but has changed its name several times and is published today under the name Jana Dauir. It is subsidized by the public budget of the Bayan-Ulgii aimag.

3.2 Media organizations reflect social diversity through their employment practices

To date, no research has been carried out on the religious faith of media workers. However, statistics regarding their profession, age and gender do exist.

According to the 2015 annual media report published by the Press Institute of Mongolia, by the end of 2014, 47 percent of media workers (2,135 out of 4,543 workers) were classified as creative workers, such as journalists/reporters, editors and producers. Another 15 percent (687 workers) were found to be managerial-level workers such as directors, chief editors and managers.⁹²

Gender distribution varied between sectors. In the print and broadcasting sectors, creative workers were predominantly female (66 and 60 percent respectively), while there was a near gender balance at the managerial level (54 and 44 percent respectively).

Regarding age, the majority of print media employees (41 percent) were between 18 and 29 years old. The same age group dominated in the broadcasting sector (47%).

B. Public Service Broadcasting Model

3.3 The goals of public service broadcasting are legally defined and guaranteed

As part of the liberalization of the media sector following Mongolia's democratic transition, the formerly monopolist, state-owned Mongolian National Broadcaster (MNB) was nominally and legally transformed into a Public Service Broadcaster (PSB). However, the extent and effectiveness of this reform and the editorial independence of MNB from the government has often been questioned.

The 2005 Law on Public Radio and Television (PSB Law) defines a public service broadcaster as a "non-profit legal entity which has the mandate to solely serve the public interest and is responsible to the public and controlled by the public". It also states that the purpose of public service radio and television is to produce and broadcast a variety of information, education and entertainment programmes on a national scale.⁹³ Article 17 allows the PSB to generate revenue from all types of sources (rent of equipment and premises, license fees, non-commercial advertisements that do not exceed two percent of the broadcasting time and

⁹² Mongolian Media Today. Press Institute. 2015.

⁹³ Art.3.1, 3.2, The Law of Mongolia on Public Service Radio and Television, <http://www.legalinfo.mn/law/details/424>.

state subsidies). Article 15 allows it to air sponsored programmes “unless the programme content is influenced by the sponsor.” The PSB Law does not specify how the amount of the annual state subsidy should be determined, merely stating that the highest governing body, the National Council, shall discuss the annual budget and propose projected amounts of funding for inclusion in the state budget. The Law also fails to specify how the amount charged for license fees for public service broadcasting shall be determined, except for the general provision that “the amount shall be determined by the government based on the suggestion of the National Council.”⁹⁴

The National Council is responsible for ensuring that the public service broadcaster's programmes comply with the Law. This Council is required to record all its meetings, processes and decisions and to make these publically available through the media. However, it only partially abides by these legal requirements; it records its meetings but fails to publish them. Limited information of the National Council's activities is made available on the MNB's website (which was launched in 2014), including some meeting agendas and decisions, but meeting minutes are not regularly published.

Editorial independence is legally guaranteed for the Mongolian National Public Broadcaster (MNB) by the Law on Public Radio and Television Law (PSB Law), which states: “It shall be prohibited for any business entity, official, individual person, or the management of the Public Radio and Television to interfere or influence a reporter or an editor of Public Radio and Television during the preparation of broadcast programmes, which is in conformity with the principles of the Constitution and this law” (Article 5.1). The law also protects the editorial independence of local public radio and television broadcasters: “All local radio and television shall be operated independently from local governments, administrative organizations, and officials” (Article 33.1). While the PSB's editorial independence is guaranteed by law, in practice, according to several journalists from the MNB, heads of public and private organizations often call the broadcaster's journalists or the head of programming to put pressure on them when MNB broadcasts a critical story about their organization. Shortly after the appointment of the first National Council on 5 January 2006, the employees of the MNB formed a Temporary Committee and began to protest against the Council, criticizing it for interfering to promote certain political interests and illegally appointing the MNB management and appealing for the MNB's independence. The protests escalated from public letters to sit-ins but the appeals were ignored.⁹⁵

94 Art.17, 18, The Law of Mongolia on Public Service Radio and Television, <http://www.legalinfo.mn/law/details/424>.

95 <http://www.globeinter.org.mn/images/upld/hevlel%20erh%20chuluu2005-2006.pdf>.

3.4 The operations of public service broadcasters do not experience discrimination in any field

Transmission of public service broadcasting content via satellite is financed by the state budget, as approved by parliament. Cable carriers broadcast public service television programmes free of charge. Thus, the public service broadcaster does not experience any discrimination in this field.

3.5 An independent and transparent system of governance

According to the PSB Law, the highest governing body of the MNB is the National Council, which consists of 15 members appointed for a single six-year term. All members are supposed to be chosen from a roster proposed by CSOs and then confirmed by the president (four members), the government (four members) and the parliament (seven members).⁹⁶

According to Article 21.6 of the Law, NGOs working in the areas of history, tradition, arts, culture, literature and science are tasked with proposing a roster of candidates from their respective area to the president who selects the four council members competing for office. Similarly, NGOs working in the areas of law, foreign affairs, journalism, healthcare, education, sports, the environment, labour rights and social protection also propose a roster of suitable candidates for parliament to choose seven council members. NGOs engaged in economics, business, technology and management sectors can propose candidates for the government to appoint the remaining four members.

The reality, however, is reportedly rather different. The only time candidates recommended by the CSOs have been partly taken into account was during the first round of nominations for election to the Council in 2005, when seven out of 15 candidates were considered.⁹⁷ Further details about this are provided under indicator 3.6. Since then, the recommendations of CSOs have either been completely ignored or the candidates have been handpicked by executive or parliamentary bodies without a transparent and participatory consultation mechanism.

Given that the ultimate approval is made by political entities, the entire appointment process is heavily influenced by political interests and priorities.⁹⁸

According to Article 21 (3) of the Law on PSB Law:

The nomination for the membership on the National Council shall be prohibited if he/she is a civil servant or... a senior official of a political party; a current employee or non-employee

⁹⁶ Art. 21, The Law of Mongolia on Public Service Radio and Television, <http://www.legalinfo.mn/law/details/424>.

⁹⁷ Monitoring the transition to public broadcasting, Media Freedom Report 2005 and 2006, p. 29, GIC.

⁹⁸ Roundtable involving 12 journalists, media experts and civil society representatives on 14-16 September 2012 organized by Friedrich-Ebert-Stiftung as part of the assessment of Mongolian media for the Asian Media Barometer.

who is involved with programme policy development of other radio and television stations; holds a financial interest in other radio and television stations; or poses potential influence/interference with the financial autonomy of public radio and television.⁹⁹

The National Council approves the MNB's strategic, operational and financial plans, budget and organizational structure and it appoints the director-general. The MNB is divided into five main divisions (television, radio, news agency, strategy and finance, and administration), each managed and run by a director. The board of directors ensures the implementation of the approved plans.

The National Council is legally obligated to conduct its activities in an open and transparent manner. However, it only partly fulfills this duty because it fails to publish official reports (except for the MNB annual report and financial reports) and does not make detailed information about its meetings publically available. In 2014, the MNB introduced a new website¹⁰⁰ with a separate page dedicated to information about the Council's activities. This page contains only brief information about Council meetings (agenda and decisions) as well as its annual and financial reports, in line with the provisions of the LITRI. Until to the end of 2013, annual reports were published in a daily newspaper.

3.6 PSBs engage with the public and CSOs

As mentioned under indicator 3.5, Article 21.6 of the PSB Law envisages a major role for civil society by appointing civil social representatives to the governing body of the MNB. However, the impact of such a participatory role has been limited in practice. In June 2005, after parliament passed the PSB Law, representatives of 140 CSOs participated in a forum and proposed 32 candidates for the MNB's National Council. However, only nine of those candidates made it into the appointed list, while the remaining six members were appointed from elsewhere.

Since the MNB protests in 2006 (see indicator 3.3), all subsequent appointments to the National Council have been conducted in a unilateral manner by the authorities entitled to appoint members (the president, government the parliament).

Article 6.2 of the PSB Law states that MNB's operations should be transparent and informed by public opinion, which should be facilitated by public discussions and meetings with viewers and listeners. The MNB abides by this provision by organizing at least one or two open day events (meetings with viewers and listeners) every year in various remote provinces.

Other possibilities to engage with the public service broadcaster include letters, comments on its website and social media pages, and participation in the special call-in programme "Public

⁹⁹ Art. 21, PBS Law, <http://www.legalinfo.mn/law/details/424>.

¹⁰⁰ <http://mnb.mn/>.

Hour”, in monthly audience surveys conducted by MNB’s Research, Information and Public Communication Centre and in special audience tours of MNB.

Statistics from MNB’s Research, Information and Public Communication Centre show that, for 2012, 11,300 citizens participated in the monthly audience survey and expressed their views on MNB programming, while 1,622 received feedback to their written requests and letters. Most of the letters concerned MNB’s programming content and requested specific issues of concern to be covered.¹⁰¹ Information and requests from citizens used to be recorded by the Public Communication Centre and forwarded to relevant departments and persons in charge, but there is no public evidence of the follow up given to such requests. In January 2015, the Public Communication Centre of the MNB was fully dismantled.

C. Media Self-Regulation

3.7 Print and broadcast media have effective mechanisms of self-regulation

Until the end of 2013, journalists, journalism lecturers and media scholars stressed the need to establish self-regulatory mechanisms to strengthen professional ethics and responsibilities. The process of establishing the Mongolian Media Council began at this time. The draft Law on Media Freedom was withdrawn in 2013 and resubmitted to Parliament by parliamentary members, headed by M. Batchimeg and S. Demberel. It stipulated that there should be only one organization called the Mongolian Media Council and that 40 percent of its financing should be provided by the state budget. It also clarified the Council’s functions.

In late 2013, two groups of Mongolian journalists (totalling 25 people) participated in two separate, organized study tours to Brussels and Berlin respectively. The tours focused on issues of journalistic responsibility, media development trends, best practices of journalism in Europe, and self-regulation. They were organized and funded by the EU Delegation in China and Mongolia and the Deutsche Welle Akademie (DWA) respectively. Shortly after the tours, participants, inspired by their new experiences in Europe, initiated a comprehensive process to establish a media self-regulatory body.

The group members issued a strategic plan and invited representatives of media outlets (including unions and associations, NGOs and journalists) to participate in the Initiative Group to Establish the Mongolian Media Council. In November 2014, the group announced a founders’ meeting and created an online registration process. Out of the 400 people who completed the online registration, over 300 were journalists. This reveals the desire among Mongolian journalists to have their own media self-regulation body.

On 28 January 2015, the Mongolian Media Council was established as an independent organization with a mission to promote principles of ethical conduct and deal with complaints from citizens. In accordance with Mongolian law related to NGOs, the MMC's board has 15 members. The MMC also has two complaints committees: one for complaints against the print and online media and the other for complaints against the broadcasting media. Each committee has 15 members.

In the first three months since it was established, the MMC focused on developing its institutional structure. This included creating a working office, workspace, rules and regulations, adopting a code of ethics for journalists, and approving and implementing regulations for solving complaints. The MMC also held training events for all members with the help of the DWA. It announced publicly that, from 22 April 2015, it would be receiving public complaints. By October 2015, it had already received four complaints. These complaints were related to news articles and programmes and the MMC was working to address them.¹⁰²

The process of setting up these self-regulatory mechanisms, however, was hampered by a lack of knowledge and understanding of such mechanisms, as well as a lack of financial resources or of will to establish and run an efficient self-regulatory body. Media managers appeared to be unwilling to finance such an organization through voluntary membership fees, so intentions to establish mechanisms of self-regulation had not gone beyond discussions at the time of writing.

Since the establishment of the MMC, a Code of Media Ethics has been adopted and it applies to all the journalists. The MCC reviews complaints about breaches of this Code.

As regards the coverage of elections, during the 2008 election campaign, the General Election Committee, in accordance with the Election Law, set up a temporary Media Council consisting of members of media associations, civil society, and political party representatives participating in the elections. The Council oversaw the election campaign with regard to fairness and balance in media coverage, dealt with campaign-related complaints, and provided the Election Committee with recommendations. However, due to political ambitions and differences of opinion, the Council was notable to operate efficiently. Similarly, media councils established during the 2012 parliamentary election and the 2013 presidential election played a largely symbolic role.

3.8 Media displays culture of self-regulation

Some media organizations have adopted their own professional codes of conduct. These include the national public service broadcaster MNB, the news agency MONTSAME, Eagle TV, and the daily newspapers Udriin Sonin and Unuudur. In rural areas, thanks to the initiative of the local newspaper Khovdiin Medee, a code of conduct for provincial journalists was

discussed and approved. However, none of the organizations have efficient mechanisms to implement these codes. For this reason, the codes are not widely understood and some employees are not even aware that a code of conduct exists within their organization.

D. Requirements for Fairness and Impartiality

3.9 Effective broadcasting code setting out requirements for fairness and impartiality

The content of commercial broadcasters is regulated by the “General Conditions, Requirements and Regulations on the Broadcasting Services”, approved by the Communication Regulation Commission (CRC) in 2011.¹⁰³ Article 5 states that the mission of a commercial broadcaster’s programming is to “enlighten and inform the public.” In fulfilling this mission, broadcasters “should serve the public interest and abide by the laws of Mongolia, including parliamentary, presidential and local elections laws, as well as the international standards and regulations relevant to Mongolia.”¹⁰⁴ Article 9 of this rule obliges compliance with competition laws and the principles of transparency, fairness and impartiality.

Implementation of these regulations is controlled by the CRC. So far, the CRC has not made any public statements or reports concerning the content of commercial broadcasters. However, non-compliance with the regulations can lead to serious consequences such as withdrawal of a broadcasting license, as stipulated in paragraphs 15.1.5 and 15.1.6. In March 2013, the CRC withdrew the licenses of nine cable television stations, including Shonkhor, MBO and Music Box, for failing to comply with the provision about adhering to national technical standards for broadcasting networks.¹⁰⁵ The CRC did not provide details about the justification of its decision. Stations whose licenses are revoked can apply for license renewal after addressing the problems that caused the license withdrawal. Most stations use this clause to re-open and recommence operations.

According to the Law on Licensing, bodies authorized to grant licenses have the power to approve the terms and conditions of the licenses and to supervise their enforcement. Thus, the CRC approved its General Conditions and Requirements in 2013 by Resolution No. 52. This document contains 29 regulations covering, for example, licenses for broadcasters, Internet providers and content aggregators.

Regarding content of broadcast media, the CRC amended the “General Conditions and Requirements on Radio and Television Services” in 2015 and renamed it “General Conditions and Requirements and Regulation of the Broadcasting Service” (GCCRBS). The GCCRBS contains requirements for programming content and technical standardization as well as

¹⁰³ <http://www.crc.gov.mn/k/wz>, Art. 5.

¹⁰⁴ *Ibid.*

¹⁰⁵ <http://www.news.mn/content/136266.shtml>.

issues related to competition. The main requirement regarding programme content is that at least 50 percent of weekly broadcasting must be produced in Mongolia, by Mongolian citizens, or by business or legal entities registered in Mongolia. Cable channel providers are obliged to prepare at least 80 percent of their daily programming in accordance with their specialized field, such as sports or the arts. The GCRRBS also requires programme content to be fully compatible with Mongolia's content laws as well as with other relevant laws such as the Laws on Intellectual Property, on the Protection of Child Rights, on Fighting Obscenity, on Fighting Alcohol, on Crime Prevention on Advertisement.

For instance, Article 19.5 of the 1996 Law on Culture (amended on 12 July 2015) states: "For the broadcast stations registered in Mongolia, except for the public broadcaster, at least 60 percent of the total content produced should be educational content, documentary, arts and entertainment. At least 70 percent of educational, arts, documentaries and entertainment programmes for children shall be the nationally produced", meaning that at least one of the scriptwriters, directors, producers or one-third of the production crew should be Mongolian citizens. Article 19.7 states that "at least 40 percent of the movies and programmes of the IPTVs shall be nationally produced".

The CRC first began monitoring the implementation of its regulations in 2001, which it now does regularly using a series of indicators. One of the indicators is the "selection of movies with content which is deemed unsuitable, such as bloodshed, violence and pornography." According to CRC's monitoring, the MBO movie channel falls under this indicator and as such violates the Law on Fighting Obscenity.

The monitoring is conducted by a team consisting of government agencies such as Authority of Intellectual Property, the Authority of Fair Competition and Consumer Protection and the police. As a result of the 2011 and 2012 monitoring activities, a decision was taken to suspend the licenses of those stations in breach of CRC's conditions for at least three months and until the stations abide by the regulation. Information is not publically available on the total number of stations whose operations were terminated.

In October 2015, the CRC released a report of the comparative study of 16 commercial television stations based on the results of its 2013 and 2015 monitoring activities. The results of monitored stations show that in 2015, the percentage of Mongolian content has decreased by 8 percent, while all stations met the 15 percent requirement for children's and education programming. According to the report, the advertising limit was exceeded by an average of 80 percent.

The content of public service broadcasting is regulated by the Law on Public Service Broadcasting. Article 8 of the Law determines PSB programming policies and requirements. Among other regulations, the Law requires diversity of programme content and formats and plurality of target groups in order to provide an equal service to various social groups. According to the Law, MNB must respect different political, religious, social and economic

views. Furthermore, the public service broadcaster's programmes shall "disseminate objective and unbiased information, be produced to a high professional standard and maintain respect for professional codes of conduct."¹⁰⁶

Monitoring of these provisions for the years 2009, 2010 and 2012 conducted by the Press Institute concluded that MNB does fulfil the principles of diversity of programme formats and plurality of content and target audiences. However, it relies heavily on sources from the government and high-ranking officials without independent cross-checking, and fails to sufficiently include the voices of ordinary citizens in public discourse.

Concerning regulations during election periods, Article 35 of the Law on Parliamentary Elections¹⁰⁷ and Article 39 of the Law on Presidential Elections¹⁰⁸ state the requirements regarding the broadcasting of election advertisements on commercial radio and television channels. These articles stipulate that radio and television companies, besides the public radio and television stations, may broadcast paid campaign programmes. The total airtime of such broadcasts should not exceed two hours per day during parliamentary elections and one hour per day during presidential elections. According to the aforementioned laws, each candidate, party or coalition should be allocated equal airtime. The transfer of schedule and airtime to other parties, coalitions or candidates is prohibited, as is the organization of any activity involving the ranking of political candidates or parties. According to the Law on Parliamentary Elections (Article 35.13), rules for campaign programmes are regulated by the General Election Committee and the CRC.¹⁰⁹ The Law on Presidential Elections (Article 39.4) states that tariffs shall not exceed the maximum price for the prime time spot of the broadcaster in question. Media outlets that violate provisions of the Law on Parliamentary Elections are subject to a fine in tugriqs of 15 to 20 times the monthly minimum wage.

The implementation of the Law on Parliamentary Elections is to be monitored by the CRC. During the 2012 parliamentary elections, the CRC monitored campaign programming on 18 television stations, 26 radio stations and 39 cable channels in Ulaanbaatar as well as 56 television channels and 10 radio stations in rural areas. The results suggest that 14 out of 18 television channels in the capital violated the elections law (13 times at most, and at least once by exceeding the permitted broadcasting time limit by between 30 minutes and 29 hours). The monitoring report found that a common violation was the allocation by media outlets of more time to political parties and candidates to whom they are affiliated. For example, 98 percent of MPRP-related stories were positive in a newspaper owned by an MPRP member compared to 77 percent for those in an MPP member-owned newspaper.¹¹⁰

¹⁰⁶ The Law of Mongolia on Public Service Radio and Television, Art.21,<http://www.legalinfo.mn/law/details/424> Art. 8.1.

¹⁰⁷ Article 35.11, Law on Parliamentary elections, 2011, <http://www.legalinfo.mn/law/details/351?lawid=351>.

¹⁰⁸ Article 39.3, Law on Presidential elections, 2012, <http://www.legalinfo.mn/law/details/8910?lawid=8910>.

¹⁰⁹ Article 35.13, Law on Parliamentary elections.

¹¹⁰ Parliamentary election coverage in 2012. Monitoring Report. Press Institute of Mongolia, 2012.

The violators were punished with fines issued by state inspectors, ranging from two million MNT (approx. US\$1,000) to 57 million MNT (approx. US\$28,500). In contrast, rural broadcasters did not appear to violate any election regulations, except for complaints about showing excessive campaign footage of one particular party.¹¹¹

The threat of closure is enshrined in the new Law on Presidential Elections. Based on the conclusion of the Authority of Fair Competition and Protection of Consumers' Rights, the CRC is empowered to issue three-month suspensions of licenses for stations found to be in violation of this Law. The Law on the Presidential Election obliges both broadcast and print media to allocate equal time/space to the dissemination of objective and true information. It also prohibits content containing libellous and insulting comment from political parties' media campaigns during election periods.¹¹²

3.10 Effective enforcement of broadcasting code

As mentioned under indicator 3.7, there are no effective industry-level codes of conduct in the broadcasting sector. Even though some broadcasting organizations have their own codes, breaches are common and are neither investigated nor sanctioned.

The CRC's "General Conditions, Requirements, and Regulation of the Broadcasting Service" contain some content-related regulations. Even though the CRC has the authority to oversee implementation of the rule, it has not made any decisions about violations or imposed any sanctions since the 2011 approval of the regulation on content control.

The Law on Public Service Broadcasting contains provisions regarding citizens' complaints to MNB, including the following:

The Director-General of the broadcaster has to "provide a written answer to complaints from citizens regarding the technical and professional aspects of its programmes within 15 days;

The public broadcaster has to establish a complaints commission to deal with requests and complaints from citizens concerning the content of the public service broadcaster;

In proven cases of false information, the public service broadcaster is obliged to broadcast corrections. The complainant can request the correction to be broadcast during the same or similar type of programme free of charge.

Until January 2015, the MNB's Research, Information and Public Communication Centre was in charge of fulfilling the above provisions of the law by registering complaints, suggestions and requests from citizens, forwarding them to the respective officials in charge, monitoring implementation and giving feedback to citizens after their issues were resolved. However, implementation of citizens' requests remained ineffective due to a lack of understanding and

¹¹¹ http://www.crc.gov.mn/file/newfile/crc_report2012.Pdf.

¹¹² Article 39.10, Law on Presidential elections, 2012, <http://www.legalinfo.mn/law/details/8910?lawid=8910>.

support among MNB executives. In January 2015, the Public Communication Centre was dismantled due to budgetary cuts.

E. Levels of Public Trust and Confidence in the Media

3.11 The public displays high levels of trust and confidence in the media

The most recent representative public opinion poll on media use and media credibility was conducted by the Mongolian Press Institute (PI) in 2011.¹¹³ It found that the share of people who “fully trust” the media has increased threefold since 1998, while the share of people who “do not trust the media at all” has decreased threefold. In the seven years between 2004 and 2011, citizens’ trust in the media remained almost unchanged.

Table 2: Levels of public trust in the media between 1998 and 2011

	1998	2004	2011
Fully trust (%)	6.0	19.5	20.0
Trust sometimes (%)	70.5	64.0	65.0
Do not trust at all (%)	16.5	6.5	5.5
Do not know (%)	7.0	10.0	9.5

Source: Mongolian Press Institute (PI), 2011

Rural residents are more negative about the media than their urban counterparts. In Ulaanbaatar, twice as many people trust the media as those living in the countryside, who feel that the media do not reflect their interests.

The increased level of trust in the media since 1998 has been accompanied by a shift towards a freer media environment and an increased willingness of citizens to actively express their opinions through the media.

The PI’s report found that for 2009, personal meetings with decision makers and visits to public agencies were considered the main opportunity to communicate with officials and express opinions or make requests. A comparison with the 2011 report shows that, in just two years, “people who wish to express their opinions on certain matters of social life through the radio or television increased by 23 percent.” The report suggests that “these aspirations could also be partially realized thanks to the increased freedom of expression and media pluralism.”¹¹⁴

¹¹³ Media responsibility and journalistic ethics. Public opinion poll study report. Press Institute, 2011.

¹¹⁴ Media responsibility and journalistic ethics. Public opinion poll study report. Press Institute, 2011.

By 2011, one out of three people preferred to use the Internet to express opinions on matters of public concern and the number of people interested in writing a letter to a daily newspaper had increased by seven percent. While 39 percent of Ulaanbaatar residents confirmed that they usually receive information they need from the media, this figure was 12 percent lower in rural areas.

According to the survey, 48 percent of Ulaanbaatar residents and 42 percent of rural citizens believe journalists perform their professional duties well. About the same percentage of respondents considered journalistic performance to be “average” (40 percent in Ulaanbaatar and 47 percent in the countryside). Those who were not satisfied with journalists’ work thought journalists tended to “sensationalize” news or were inaccurate or biased. Respondents considered the reasons for poor journalistic performance to be insufficient professional knowledge and skills and the political influence on the media.

As specified under indicator 1.3, many media outlets prepare paid-for news stories and politicians often invite journalists out for dinner or on trips abroad. These factors all contribute to the skeptical attitudes ordinary citizens have towards the media. Social media networks, such as Facebook and Twitter, and user-generated comments on news sites contain many negative remarks about journalists. Sh. Davaadorj, an experienced journalist and blogger, used his blog to publish a critical article about unethical journalism in Mongolia.¹¹⁵ The article received comments from 29 different people (as of June 2015), 16 of which echoed the author, criticizing Mongolian media and journalists and supporting the author’s statement that it was time for journalists to wake up and “clean their name.”

3.12. Media organizations are responsive to public perceptions of their work

A series of interviews with representatives of 20 media outlets was conducted during the preparation of this report (eight daily newspapers, two magazines, one online news site and one radio station), which showed that a clear majority (90 percent) of media organizations do not measure audience perceptions and do not fully understand the importance of audience research.¹¹⁶

Until recently, the Mongolian Press Institute (PI) conducted monthly audience research using internal resources. The resultant reports were sold to businesses and media organizations in order to sustain the research activities. One monthly report containing information about the behaviour of audiences of all television, newspaper, radio and online media cost around US\$70. Specific data could be purchased for US\$5 per page. However, only a few television stations purchased these reports (they do so in order to inform programming policies and

¹¹⁵ The fostered journalism in Mongolia. Sh. Davaadorj. June 2015 <http://davaadorj.niitelch.mn/content/1061.shtml>.

¹¹⁶ Interviews conducted with 20 media executives and managers in 2013 for this report.

advertisement pricing) and in 2014, the PI ceased its audience research activities due to a lack of funding. Some media outlets, especially those who received unfavourable ratings by media consumers, tend to negate or hide such research reports. Some media houses “try to apply pressure on the research organization for conducting audience measurements, rather than taking concrete steps to positively change audience opinions and attitudes”, according to the PI’s director, Ms. M. Munkhmandakh.

Among the mainstream media organizations, only the national public service broadcaster MNB has a research unit that conducts regular monthly surveys to collect the views of viewers and listeners. It also used to purchase and analyze the audience data produced by PI and deliver audience-related information to senior management.

Furthermore, there are no organizations other than MNB with a special unit or employee to receive and collect audience feedback. Some organizations such as the C1 channel do try to register incoming calls. However, the calls are taken by whichever employee happens to answer the phone and there is no process in place to collect and collate the information.

To increase their online influence and gain real time audience feedback, most media organizations have opened Facebook and/or Twitter pages on which media consumers can leave their comments. However, none of the media organizations employ professionals to analytically collect audience comments and feedback, or summarize the feedback and deliver this to the management for decision making purposes.

MNB and other television channels also use online platforms to collect viewers’ opinions on their programming and to promote various shows and entertainment programmes. They launch separate or specialized sections on their websites for such programmes and ask viewers to support or vote for the best participants of the music and dance shows.¹¹⁷

Some daily newspapers, such as Zuunii Medee and Niigmiin Toli, have special rubrics for readers’ contributions in which they mostly publish audience letters. Almost all FM stations broadcast call-in programmes. However, these are mostly entertainment programmes rather than debates on public interest issues.

Almost every journalist working in Ulaanbaatar has a private Facebook or Twitter account through which they share their own stories and interact directly with their audiences.

Some television channels claim to regularly monitor their own websites and provide immediate answers to audience questions or requests. However, when their websites were examined during this assessment, it was found that none had any functional audience feedback tools.

Certain television channels such as ᠒1 and MNB, have special programmes for engaging viewers. Such programmes usually receive phone calls from viewers on issues of public

117 <https://www.facebook.com/mongolstv>; <https://www.facebook.com/MNBonline>; <https://www.facebook.com/ETV.HDTV>.

concern or the programme content of the respective television show and use SMS and instant messaging. However, such shows do not enjoy high popularity.¹¹⁸ MNB also organizes regular “open days” in the capital and provinces so that staff can meet with viewers and listeners, receive their comments, questions and suggestions, and provide feedback.

Provision 7.44 of CRC’s “General Conditions, Requirements, and Regulation of the Broadcasting Service” obliges the television and radio service provider to receive and solve audience complaints regarding operation and programming and to inform on its contacts (e.g. addresses, phone numbers, emails and websites) during programming. Provision 7.45 states that a “mechanism for receiving and solving audience complaints regarding programming shall be established. Responses shall be made within 48 hours from [the] time received.” However, it is unclear if the provisions are being implemented or not and CRC has not produced any comments or reports regarding this issue.

Audiences do not generally provide feedback or make comments or requests, including requests for corrections to false information has been published or broadcast. Media organizations are reported to seldom pay attention to requests or complaints from the audience, with the exception of those from high-ranking politicians or businessmen, which are usually replied to by publishing corrections.¹¹⁹

F. Safety of Journalists

3.13 Journalists, associated media personnel and media organizations can practice their profession in safety

Specialized observers such as Globe International Center (GIC) and the Mongolian Press Institute have regularly monitored the safety of media professionals. They have found several cases of journalists being subject to instances of illegal harassment and violence such as beatings, threats and intimidation.

Since 2002, Mongolia has been a country with a “partially free” media, according to the Freedom House report (on a scale ranging from “free” to “not free”). Reporters Without Borders (RSF) also noted that it is a country with significant problems concerning freedom of the press but has shown significant improvement in recent years. In 2014, it rose 34 places in the global ranking of press freedom (reaching 54th place), representing “the index’s biggest jump. It had few violations in 2014, while the benefits of legislation on access to information began to be seen. Problems remain, however, including on the legislative front, but there has been a clear improvement.”¹²⁰

¹¹⁸ Audience research report, November 2013, Press Institute, Ulaanbaatar.

¹¹⁹ Asian Media Barometer: Mongolia 2012. Friedrich-Ebert-Stiftung. Ulaanbaatar 2012.

¹²⁰ <http://index.rsf.org/#/>.

Between October 2006 and January 2015, out of a total of 375 cases of violations of the professional rights of journalists and media, GIC documented 22 physical attacks, 20 instances of damage to cameras and 48 cases of illegal detention or criminal cases.¹²¹ Almost 97 journalists said they had received severe threats of violence, and in some cases even death threats against themselves or their family members.

GIC also reported that, from 2012 to 2014, violations against journalists and the media increased compared to previous years. Journalists faced external threats and intervention in their professional work; censorship; demands to reveal their information sources; and interrogation. Some were forced to give testimony collectively by law enforcement bodies, especially by the General Intelligence Agency, while others were subject to the use of criminal defamation law by politicians, public bodies and public officials censoring the media.¹²²

On 1 July 2008, during a post-election riot, five reporters were seriously injured. As a consequence, in 2009, the so-called “Cooperation Agreement” was signed by most of the Ulaanbaatar-based television channels and the General Policy Department. According to this document, “parties have a duty to report urgent police action to maintain social order during mass disorder, and police shall provide all relevant information and secure conditions for reporting.” It states that the police will provide “safety for television stations that have signed the agreement and for their journalists working at flashpoints.”

The Cooperation Agreement obliges television stations to comply with the following:

- True and objective information must be disseminated urgently;
- No media outlet shall disseminate incorrect information or propaganda that encourages mass disorder during public demonstrations;
- Information delivered must be balanced;
- Media outlets shall distribute information respecting privacy and state secrecy;
- When reporting, media outlets shall regularly contact [police] central headquarters for information on the current situation;
- If a public demonstration becomes a mass disorder, the media shall cooperate with the police and broadcast propaganda to defuse and resolve the situation.¹²³

¹²¹ Media Freedom Report 2012-2014, GIC, <http://www.globeinter.org.mn/images/upld/Hevleliinerhcholoo2015english.pdf>.

¹²² *Ibid.*

¹²³ Media Freedom Report, 2009, <http://www.globeinter.org.mn/images/upld/mediafreedomreport2009eng.pdf>

Article 4 of the Agreement, entitled “responsibilities”, states that “...if a Party does not execute, or inappropriately executes, their duty, the other Party shall have the legal responsibility to remove the damage.” The Agreement affects the media’s rights, especially in several provisions dictating that information must be “true”; that the media “must” and “must not” carry “propaganda”, that safety is provided only for reporters and media staff from stations that are signatories to this agreement and that there must be urgent reports on police actions. No similar agreements have been signed since 2009.

3.14 Media practice is not harmed by a climate of insecurity

Mongolia is a relatively secure country, although there have been moments of tension and sporadic violence on the occasion of major political appointments.

In 2011, the UN Human Rights Committee recommended that Mongolia should “...ensure that measures are taken to protect journalists from threats and attacks. It should also ensure that all allegations of such threats and attacks are immediately and thoroughly investigated and that the perpetrators are prosecuted.”¹²⁴

Self-censorship occurs at the level of media organizations and has a serious impact on the professional autonomy of newsrooms. A common practice is for media owners and managers to sign “agreements of cooperation” with governmental agencies and private companies. Such agreements include so-called “blocking” or non-disclosure provisions that prevent the publication of critical materials concerning the respective parties to the particular agreement. An example of the implication of such agreement was revealed by Uyanga Gantumur, a former journalist and newspaper owner turned MP. In an interview with Mongol TV during the 2012 World Press Freedom Day, Gantumur stated that most of the Mongolian media were silent about the alleged offshore fortune of a prominent politician and former minister because he had reportedly signed non-disclosure agreements with media outlets.

GIC’s monitoring of free expression violations has exposed the facts behind some of these editorial pressures. Three female journalists and one male journalist left their jobs after the editor acted against them, publishing apologies on behalf of the journalists even though the information was allegedly true. Fearing further attacks, insults and threats, they preferred to remain silent rather than to expose violations of their professional rights.¹²⁵

Self-censorship is widely practised in Mongolia. Journalists and editors often strive to avoid offending advertisers and investors, are fearful of certain powerful actors, and face pressure to follow the editorial policy determined by the owners of their media outlets. These constraints are compounded by the fact that the Mongolian media sector is very small, with many media

¹²⁴ Concluding observations of the Human Rights Committee, 101st session, New York, 14 March - 1 April 2011, Consideration of reports submitted by States parties under Article 40 of the Covenant.

¹²⁵ Survey of journalists, GIC, 2014.

actors knowing one another. There is therefore a high reluctance to offend, since journalists are easily ostracized for criticizing the “wrong” people or writing about the “wrong” things.¹²⁶

A regional human rights organization, Forum-Asia, visited Mongolia on a fact-finding mission on freedom of expression in September 2011. Its report noted:

Journalists interviewed told us that they have been subjected to external pressures, physical attacks, threats and harassment to themselves, their media organizations and even their families by government officials, politicians, businessmen and others for reporting news. Such treatment of journalists breeds a climate of fear and journalists become reluctant to report news that is critical of those in power or disapproved by official bodies. This self-censorship is even more dangerous to the independence of media because it is not visible. We are also gravely concerned by the lack of action on the part of the law enforcement agencies with regard to these attacks on journalists. Most, if not all, cases that we have been informed about have ended without proper investigation and the perpetrators were never identified, perpetuating impunity against journalists and witnesses.¹²⁷

Public officials and authorities often use criminal and civil defamation suits in response to critical articles. To avoid being sued for libel, many independent publications are forced to practice some form of self-censorship. There is no official censorship by the government. However, journalists frequently complain of harassment and intimidation as well as pressure from the authorities to reveal confidential sources. Many journalists continue to face verbal threats or pressure against either themselves or their family. In January 2012, a local television reporter and cameraman were assaulted while attempting to cover a dispute at a mining company in the province of Bayankhongor. In July, several journalists were beaten at the office of Sky Television while airing parliamentary election results. The attacks were carried out by an investor in the company with six colleagues. The assailants were convicted in December and one was sentenced to a prison term of three-and-a-half years.¹²⁸

¹²⁶ Asian Media Barometer: Mongolia 2012. Friedrich-Ebert-Stiftung. <http://library.fes.de/pdf-files/bueros/asia-media/10293.pdf>.

¹²⁷ Fact Finding Mission on Freedom of Expression in Mongolia. Forum Asia. 2011. <http://www.forum-asia.org/?p=10868>

¹²⁸ Freedom of the Press 2013. Mongolia. Freedom House. <https://freedomhouse.org/report/freedom-press/2013/mongolia#.VaTffrX-0dV>.

Recommendations

- Fully implement the Law on Public Service Broadcasting, in particular as concerns the modalities of appointment of members of the Mongolian National Broadcaster's National Council. Set out procedures that enable a transparent and fair selection process with public participation and scrutiny. Allow reasonable commercial advertising and review the limits for advertising.
- Provide public funding to community media through competitive processes and support small and medium-sized rural private media through taxpayer-funded discounts on printing and postal costs. The government should promote the establishment of more community media outlets in remote areas and allow ethnic minority groups and disabled people to deliver their voices to their communities.
- Ensure that measures are taken to protect journalists from threats and attacks. Ensure that all allegations of such threats and attacks are immediately and thoroughly investigated and that the perpetrators are prosecuted.
- Encourage media outlets to improve balanced gender representation in media coverage in line with the UNESCO Gender-Sensitive Indicators for Media (GSIM) while helping to introduce internal rules or guidelines on gender equality within media outlets. Regular training in this area should be promoted.
- The media industry should strengthen its commitment to engage with audiences and enhance public trust in the media.

Category 4

**Professional capacity
building and supporting
institutions that underpins
freedom of expression,
pluralism and diversity**



Key Indicators

A. AVAILABILITY OF PROFESSIONAL MEDIA TRAINING

- 4.1 Media professionals can access training appropriate to their needs
- 4.2 Media managers, including business managers can access training appropriate to their needs
- 4.3 Training equips media professionals to understand democracy and development

B. AVAILABILITY OF ACADEMIC COURSES IN MEDIA PRACTICE

- 4.4 Academic courses accessible to wide range of students
- 4.5 Academic courses equip students with skills and knowledge related to democratic development

C. PRESENCE OF TRADE UNIONS AND PROFESSIONAL ORGANISATIONS

- 4.6 Media workers have the right to join independent trade unions and exercise this right
- 4.7 Trade unions and professional associations provide advocacy on behalf of the profession

D. PRESENCE OF CIVIL SOCIETY ORGANISATIONS

- 4.8 CSOs monitor the media systematically
- 4.9 CSOs provide direct advocacy on issues of freedom of expression
- 4.10 CSOs help communities access information and get their voices heard

Category 4

Professional capacity building and supporting institutions that underpins freedom of expression, pluralism and diversity

A. Availability of professional media training

4.1 Media professionals can access training appropriate to their needs

In 2014, Mongolia had 2,333 “creative media workers”, which includes journalists, producers and editors. Of these, 966 (54 percent) were journalists with a university degree specializing in journalism or in a variety of other fields including natural science, linguistics, translation and teaching. Another 42 percent had not completed any professional training. In addition, there were 900 camerapersons and IT professionals working as technical workers and assistants in the media.¹²⁹

In 1996, the Mongolian Free Democratic Journalists Association organized the first training course for a wide range of media workers introducing the principles of media independence and professionalism and describing the role of a free, pluralist and professional media in a democracy and for election coverage. Since then, three non-academic institutions had been the main players in systematically providing training courses on democratic and professional journalism: the Mongolian Journalists Association, the Press Institute (PI) and Globe International Center (GIC). Most of these training events have been made possible through the assistance of international donors, including bilateral donors (DANIDA, USAID, JICA, SIDA), the European Union (TASIS programme, EC projects), overseas foundations (the Asia Foundation, Open Society Institute, Friedrich Ebert Stiftung), international governmental organizations (IGOs) (UNESCO, UNDP, WB) and international non-governmental organizations (INGOs).

As of 2012, 17,000 media professionals had attended a total of 770 training courses on journalism and media issues organized by the Press Institute. According to the Press Institute's training records, over 60 percent of participants were female and about 35 percent were from

¹²⁹ Mongolian Media Today. Press Institute. 2014.

the rural media. The topics of these training courses varied from basic journalism issues to investigative journalism tools and techniques, environmental reporting, and reporting on children, health or other social issues. Various forms of training have been used for those courses, for example classroom, in-house, or online.¹³⁰

Between 2008 and 2013, the GIC organized 15 courses involving approximately 500 journalists, media workers and journalism teachers from urban and rural areas. The main topics of the courses were related to election coverage, community radio and gender sensitive reporting.

Since 2008, the Journalists Association has organized training courses for urban-based journalists on topics such as the economy, environment, health and legislation in cooperation with the government, media and NGOs. For instance, in the years 2012–2014, this association organized 19 training courses involving around 500 people.¹³¹

Due to their limited knowledge of foreign languages, Mongolian journalists had few opportunities to participate in regional and international exchange programmes. In 2012 however, 12 Mongolian journalists were sent to Australia for a six-week training course on the “Media Mining Community”. Similarly, the Association of Parliament Reporters sent 40 journalists to Switzerland, the USA and South Korea on an exchange and tour programme in 2011. Prior to this, the Foreign Ministry organized tours to China and Russia for journalists specialized in ministerial affairs.

In 2013, a group of Mongolian journalists travelled to Brussels with support from the EU. Since then, the Office of the President has initiated an English language programme. Conducted by the American Council for International Education, this programme sends journalists to the US to improve their language skills. By 2015, three groups of 15 journalists had participated in the programme.

There is no single entity or researcher that studies the availability and quality of training for journalists. At present, only two organizations (the PI and GIC) have their own strategic training plans. However, it is common practice for professional training organizations to conduct surveys on participant satisfaction and to use that information to improve the quality of their own training programmes.

Although each media organization is aware that they must have a plan to improve human resource development and internal processes, they often fail to train their journalists and staff members. There are several media unions and associations (two for newspapers, two for television, two for online news sites and three for radio stations) but they do not conduct training courses. In recent years, smaller NGOs have started organizing training courses for journalists. For instance, the Journalism for Development NGO, an initiative of the Mongolian

¹³⁰ <http://www.pressinst.org.mn>.

¹³¹ Training events for Mongolian journalists. CMJ. Unpublished report. 2014.

Mining Journal, has set out to train journalists specialized in economic issues. It organized a total of 15 training courses on economic issues between 2012 and 2014.¹³²

According to a recent study on Gender-Sensitive Indicators for Media conducted at MNB, the broadcasting institution provides regular training activities for its staff members. As of 2014, 72 percent of female and 28 percent of male media professionals were involved in training activities. Women prevailed at all levels of the MNB, except at the National Council.

The Confederation of Mongolian Journalists (CMJ) works together with the National Committee on Gender Equality (NCGE) and supports actions taken by the NCGE. Both organizations hold periodic training events for media professionals and journalists on gender issues.¹³³

In the case of fee-paying training events, organizations attempt to keep fees to a minimum but affordability remains a significant problem for most journalists. Media organizations are also reluctant to send their staff to training events as they reportedly either do not fully understand the significance of training or are understaffed and able to spare journalists, even for a short period.

In addition to the historic role played by non-academic organizations in training and re-training journalists, often “on-the-job”, the last decade saw a boom in journalism education courses provided by academic institutions (refer to indicator 4.4).

4.2 Media managers, including business managers, can access training appropriate to their needs

Most of the training mentioned under indicator 4.1 has targeted junior to medium-ranking reporters rather than managers. The first major training event targeting media managers was in 1998, when the World Association of Newspapers, in cooperation with the Mongolian Publishers’ Association and with the support of the Free Press Foundation (a DANIDA-established independent printing house), conducted a newspaper management training which resulted in the launch of the first newspaper advertisements. In the following years between 2000 and 2014, about 10 training events were organized by the Press Institute specifically for media executives.¹³⁴ In 2012, GIC trained ten community radio managers in their workplace.

There is no statistical data on the educational level of media executives. Half of Mongolian journalists have a BA degree in journalism¹³⁵ and, in most cases, experienced journalists are promoted to positions of editor-in-chief or director.

¹³² <http://www.journalism.mn/contentlist/category453.shtml?sel=1000>.

¹³³ <http://gender.gov.mn/en>.

¹³⁴ The Press Institute of Mongolia. 15 years. Ulaanbaatar, 2011.

¹³⁵ Mongolian Media Today. Press Institute of Mongolia. Ulaanbaatar 2014.

4.3 Training equips media professionals to understand democracy and development

The list of training courses organized by professional organizations and media NGOs such as the PI and GIC after 1990 (see indicator 4.1 above for details) reveals that most of the courses were designed around the themes of the media's role in developing and strengthening democracy as well as media responsibility and professional ethics. Training topics included a wide range of issues concerning democracy and development such as good governance, anti-corruption, anti-violence, social justice, access to public information, equality as well as reporting on human rights, politics, the economy, business, gender issues and the environment.

The NGO Oyuni Darhlaa is active in strengthening health reporting and has organized 50 training courses reporting on HIV, blood donor issues and public health, involving 1,300 journalists between 2009 and 2014. Investigative journalism has been a part of the training curricula of PI and GIC since a UNESCO-IPDC project was implemented in 2005 in cooperation with the Zorig Foundation.¹³⁶ Investigative reporting training was conducted by GIC in October 2011 with UNESCO funding. It included teaching trainer show to use the UNESCO manual on investigative reporting, "Story Based Inquiry," which was translated into Mongolian by the Press Institute. In addition, a series of training sessions on investigative journalism were conducted by GIC between 2013 and 2014 as part of the "Promoting citizen's right to information and supporting transparency and fairness in Mongolia" project and with funding support from the United Nations Democracy Fund (UNDEF).

Since 2014, the Press Institute and the Deutsche Welle Akademie have jointly launched a four-year project to strengthen training capacities in investigative journalism. The project includes a series of "train-the-trainer" courses on investigative journalism techniques as well as the development of a new training module for journalists and of training manuals.

In 2010, the Press Institute supported the development of an eight-course training programme on basic journalism within the framework of the IPDC to translate and adapt the UNESCO "Model Curricula for Journalism Education". As part of the new curriculum, a component on development journalism was introduced into the BA programme of the Press Institute. This project worked with professors from public and private universities such as the Mongolian State University of Education, the University of Humanities' School of Journalism (including Ikh Mongol, Otgontenger, Soyol Erdem, Tugeemel and Nomundalai) and the Radio Television Institute of the Mongolian University of Culture and Arts.

B. Availability of academic courses in media practice

4.4 Academic courses accessible to a wide range of students

In 1961, the State University of Mongolia started a journalism education course for the very first time. As of 2014, 4,500 people had graduated from this university with degrees in journalism. At the time of assessment (in 2015),¹³⁷ there were 16 universities and institutes providing higher education in journalism. Three universities, one state and two private, offered courses in journalism at their campuses in Ulaanbaatar.

In the 2011-2012 academic year, a total of 2,200 students (more than 30 percent of whom were from rural provinces) enrolled in undergraduate programmes, 76 students in MA degree programmes, and 19 students in PhD programmes.¹³⁸ On average, 400 students graduate each year with a BA degree in journalism. Twenty percent of these major in specialized areas of journalism such as international journalism, journalist-interpreter, journalist-copyreader, broadcast journalism, TV journalist-cameraman, TV journalist-producer and sports journalist, while the remaining percentage graduate in general journalism.¹³⁹ The vast majority of graduates (80 percent) are female.¹⁴⁰

The teaching curriculum and course syllabus content for universities providing journalism education has been developed in compliance with journalism bachelor educational standards, which were approved by the Resolution of the National Council of Standardization and Metrology in 2003. Both public and private universities and institutions that provide higher journalistic education still follow the traditional curricula model developed during Soviet times. The Mongolian University of Education and other universities offering journalism education have made attempts to innovate and have acquired some experience. For example, the University of Education renewed its journalism curricula based on the UNESCO standard curricula, changing the ratio between theory and practice in the curricula to favour more practical exercises and strengthening its technical capacities to emphasize practical aspects of education (for example, the establishment of a new television studio for practical exercises).¹⁴¹

UNESCO's Model Curricula for Journalism Education in Developing Countries and Emerging Democracies was translated and published in the Mongolian language in 2010 by the Press Institute's School of Journalism. The following year, the School implemented an adaptation project to introduce the UNESCO curricula into journalism education in Mongolia.

¹³⁷ http://sas.num.edu.mn/?page_id=380.

¹³⁸ Mongolian Ministry of Education, Culture and Science. Higher education enrolment registry. <http://www.meds.gov.mn/data/pdf/Grad%202011-2012%20-%202.pdf>

¹³⁹ Ministry of Education, Culture and Science. Registry of higher education graduates. <http://www.meds.gov.mn/data/pdf/Grad%202011-2012%20-%202.pdf>.

¹⁴⁰ *Ibid.*

¹⁴¹ Interview with Journalism Faculty. J. Batbaatar, Mongolian University of Education. February 5, 2014.

The Ministry of Education of Mongolia has been supporting efforts to introduce these UNESCO Model Curricula. In 2014, the Ministry of Education, Culture and Science tasked the Faculty of Journalism of the Mongolian National University with establishing a joint working group to renew the National Standard for Journalism Education. This process involved professors and media experts from various state and private universities and media institutions. However, the working group was yet to be set up as of June 2015.

Today, most journalism schools use an eight-course curriculum developed by the PI's School of Journalism and based on UNESCO's Model Curricula". However, there is a lack of qualified teachers and textbooks. In 2014, the PI's School of Journalism developing textbooks and handouts for students and to conduct training events for Mongolia's journalism professors and, at the time of this study, it was actively raising funds for these purposes.

Most universities offering journalism programmes have their own studios and computer rooms. Some also have reporting facilities and provide on-the-job vocational training. Since 2012, the Mongolian University of Culture and Arts had the best technical facilities for training in Mongolia, with a state-of-the-art television studio thanks to support from the Japanese International Cooperation Agency (JICA). However, the interviews and consultations carried out for this assessment revealed that there were insufficient material and technical resources to organize university or college classes resembling a newsroom environment or to provide "hands-on" vocational training education.

4.5 Academic courses equip students with skills and knowledge related to democratic development

Approximately 25-35 percent¹⁴² of all courses taught in undergraduate journalism programmes cover issues related to democratic development and the social and human sciences. This includes courses on Mongolian history, political affairs, economic theory, contemporary international relations (including the basics of state and justice), while journalism foundation courses consist of mass communication theory, international journalism, the history of Mongolian journalism, investigative journalism, civic journalism and practical journalism. During the interviews and consultations leading to the preparation of this assessment, however, there appeared to be an interest in enriching these courses to strengthen the skills and knowledge of students regarding democracy issues. The Department of Journalism of the Mongolian State University of Education currently offers a two-credit class called "Development Journalism" and the School of Journalism is planning to offer a similar course.

¹⁴² National Standard for Bachelor Education in Journalism. Mongolian Ministry of Education and Science. Ulaanbaatar, 2003.

C. Presence of Trade Unions and Professional Organizations

4.6 Media workers have the right to join independent trade unions and exercise this right

Under the previous political regime, journalists, following the Soviet model, were obliged to become members of the Trade Union of Cultural Workers. This monopolistic trade union system collapsed during Mongolia's shift to democracy. The new Constitution and the 1991 Law on Trade Union Rights gave Mongolian media professionals the rights to assembly and to form unions and, more generally, to freely protect their labour rights in line with international standards.

Several associations were created following this liberalization process, including the Mongolian Newspaper Association, the Mongolian Free Newspaper Association, the Daily Newspapers Association, the Local Newspapers Association, the Local Radio Association, the Mongolian Television Federation, the Academy of Television and Radio, the Association of News Websites, the Mongolian Website Association and the Association of the Parliamentary Reporters. However, issues of wages and social insurance as well as working conditions, safety and security are rarely discussed openly and collectively.

The Mongolian Free and Democratic Journalists Association (MFDJA) was actively engaged in the introduction of a new democratic media culture and in the promotion of media freedom. From 1992 to 1999, they successfully implemented two projects: "Media for Democracy" and "The Right to Vote". These projects were funded by the European Union (TACIS programme) and were implemented with technical assistance from the International Federation of Journalists (IFJ). The MFDJA was created as an alternative to the Mongolian Journalists Association (MJA), which was perceived as a post-communist version of the Trade Union of the Cultural Workers, with strong links to the government.

The MJA and the MFDJ overcame their initial distance and in 2005 they freely decided to merge in the interest of their members, creating the Confederation of Mongolian Journalists (CMJ). The Confederation was re-named the Mongolian Journalists Association (MJA) by its Congress in 2011. By 2015, MJA had 969 members (490 male and 479 female). It is a mixed association representing both media employees and media senior editors and managers.

There are a number of employers' organizations representing professional publishers and broadcasters such as the Mongolian Publishers' Association and the Union of Mongolian Televisions.

There are also two non-membership NGOs working to support the rights of journalists (among other tasks): the Globe International Centre and the Press Institute. These organizations are

governed by boards with representatives from the media and the CSOs and they are active in influencing public policy concerning the media.

Given that no surveys had been conducted on journalists' labour rights and awareness of trade unions, the authors of this report conducted such a survey. The sample included 40 journalists (20 males and 20 females) from 32 media outlets: ten television channels, two radio stations, five websites, nine newspapers, five magazines and one news agency (MONTSAME). The results showed that most media employers establish labour contracts when they hire new journalists. Small media outlets rarely have contracts. In some small media organizations, journalists work for a year without a contract. Some progress has reportedly been made regarding the payment of employees' health insurance. The results from this study show that journalists lack awareness of trade unions and labour rights. The majority (73 percent) believe that in order to form a trade union, they need permission from their employers or representatives from the Mongolian Journalists Association. However, the Mongolian Journalists Association is an NGO that does not play the role of a trade union; and it is not legally entitled to negotiate salaries and labour rights with employers. It is also common understanding among journalists that by establishing a trade union, they fall under the strict scrutiny of their employers and jeopardize their job security. Some journalists (26 percent) thought their editors or directors would not welcome the idea of a trade union. Many journalists did not know the benefits of a trade union.

Furthermore, the survey suggests that young journalists tend to avoid talking about trade unions due to a belief that it will harm their careers. On the other hand, more senior and experienced journalists expressed an interest in trade unions but were rarely active in promoting their importance. Out of the 40 participants surveyed, eight were editors or managers. Almost all of them (seven persons) answered that they would not be opposed to the active participation in trade unions of the journalists under their supervision.

There have been some efforts to establish trade unions within media outlets but these have had little success. For example, employees of Bolovsrol Suvag TV attempted to establish their own trade union in 2010 but, according to one interviewee, they faced resistance from the station's management.¹⁴³ In 2011, the Udriinshuudan newspaper formed and registered its own trade union and started collecting membership fees of 5,000 MNT (approximately US\$ 2.5). After less than five years, the union's chairperson resigned and the union stopped operating. Shuud TV formed and registered a trade union in March 2013. Soon after forming this union, the station merged with Eagle TV and was renamed as Eagle live-2. After a change in management, it declared that employees could not be members of a trade union and so the union dissolved in the same year.¹⁴⁴ This action violated the 1991 Law on Trade Union Rights,

¹⁴³ Interview with Bolovsrol Channel TV employee (anonymous) in February 2014.

¹⁴⁴ Results of the survey conducted for this report.

which states that “trade unions cannot be negatively affected or dissolved by decision of the management” (Article 6.1)¹⁴⁵.

4.7 Trade unions and professional associations provide advocacy on behalf of the profession

The CMJ works towards protecting journalists’ rights. It represents journalists in various discussions and law drafting working groups as well as at local and international events. It also organizes various training events. However, the MJA is financially weak and needs capacity-building.

Media organizations usually pay their permanent staff, i.e. those with labour contracts, the minimum wage and a social insurance fee. They usually do not pay for overtime. There is no trade union in the media sector that represents journalists in negotiations with employers to improve their wage and social care. A low salary is often the reason behind journalists leaving the profession.

Since 1990, there have been two prominent cases in which media trade unionism has enabled the journalism community to speak up collectively and defend their rights. The first case involved the MNB. Disagreement between staff and the management of the MNPRTV led to a sit-in on 14 June 2007. A group initially calling itself the Temporary Committee, and later the Collective Committee, claimed that six of the 15 members of the National Council of MNPRTV had been appointed and approved by the Parliament through pressure from political parties without prior selection criteria. In addition, it claimed that the National Council had not followed approved rules when appointing deputy directors and heads of departments for radio and TV. The National Council ignored the decisions of three levels of courts by pressuring, discriminating against and dismissing dozens of employees. This triggered a three-day hunger strike by representatives of the Collective Committee that began on 6 July and ended when the MNPRTV National Council agreed to implement an eight-point set of demands.

The second case occurred in December 2012, when 40 staff members of TV9 channel convened a press conference to protest against the appointment of a new director. According to the employees, the new director did not have the professional and leadership capacities to manage the organization. The board did not accept their demand, which led 30 journalists to leave the station.

The Television Federation and the Television Academy actively enhances the reputation of journalism by organizing annual award ceremonies as well as representing the broadcast media in discussions concerning broadcast regulations. The Association of the Parliamentary Reporters (APR), a growing organization, is also increasingly seen by the authorities as a leader in the media sector. The Association of Daily Newspapers actively lobbies government

145 <http://www.legalinfo.mn/law/details/42?lawid=42>.

agencies to protect the interests of their membership. Since 2014, associations representing online media are increasingly active in connection with the government's decision to introduce Internet regulation.

D. Presence of Civil Society Organizations

4.8 CSOs monitor the media systematically

Two press-freedom NGOs, the Press Institute (PI) and the Globe International Center (GIC), have been monitoring media development in Mongolia. GIC is the only Mongolian member of IFEX, the global network defending and promoting freedom of expression.¹⁴⁶

Since 1999, the PI has been offering comprehensive statistical information on the media. The annual media reports are produced without any external financial assistance and are thus sold at a price of US\$20 in order to sustain their data collecting activities. Since 2000, PI has also been preparing “advertisement monitoring” at the request of the World Association of Newspapers and News Publishers (WAN-IFRA).¹⁴⁷

In 2002, the international NGO ARTICLE 19, in partnership with GIC, produced a report titled *Mongolia in Transition: An Analysis of Mongolian Laws Affecting Freedom of Expression and Information*, which made a number of recommendations to the Mongolian government to create a more favourable legal environment with regard to freedom of expression laws.

GIC actively works to improve Mongolia's media environment and has been producing its annual “Media Freedom Report” since 2005. UNESCO supported the development of the “Mongolian Media Landscape: Sector Analysis” report in 2007, with contributions from both PI and GIC. In 2012, the Mongolian media was assessed according to the media barometer criteria created by the Friedrich Ebert Foundation and the country's score totalled 3.0 on a scale from 0 to 5 (with 5 as optimal).¹⁴⁸ PI also conducts media consumer surveys every quarter. The comprehensive audience research reports are sold to media organizations and business entities at a price of US\$70 in order to sustain research activities. In 2014, the Press Institute stopped its regular audience surveys due to a lack of funding. Since 2011, MAXIMA LLC has been monitoring the television market. The Independent Research Institute of Mongolia (IRIM) is another research organization that conducts media research.

In 2006, GIC monitored the transition process of the state broadcaster into a public service broadcaster. The Press Institute conducted monitoring surveys to evaluate programming of the public service broadcaster in the years 2007, 2011 and 2012.¹⁴⁹

146 www.ifex.org.

147 World Press Trends data base. World Press Association. <http://www.wptdatabase.org>.

148 http://www.fesmedia-asia.org/uploads/media/MONGOLIA_2012.pdf.

149 http://www.forum.mn/res_mat/2011/MNB%20monitoring%20report%20editfinal.pdf.

On 1 July 2008, a riot in Ulaanbaatar, sparked by alleged election fraud, led to the first ever state of emergency being declared in Mongolia. During the four-day state of emergency, the sale of alcohol was banned, the police were authorized to use force to stop the protesters and all televisions except the public service broadcaster were prevented from broadcasting. During this time the GIC monitored the media to identify and document potential violations of freedom, speech and information.¹⁵⁰

The first media monitoring on election coverage was conducted by the International Federation of Journalists (IFJ) during the 1996 parliamentary election, in cooperation with the Mongolian Free and Independent Journalist's Association. Since the 2004 parliamentary election, both GIC and PI have monitored presidential and parliamentary election coverage. These two organizations work in partnership when necessary and they continuously perform both quantitative and qualitative research during election times.¹⁵¹

Gender issues have also been a part of the media monitoring activities conducted by the two organizations since 2001. Monitoring on the portrayal of women and a comparative content analysis of coverage of female politicians were carried out in 2000, 2008 and 2012.¹⁵² (For results, refer to indicator 3.1.).

During the 2012 parliamentary elections, GIC conducted media monitoring on the coverage of female politicians. The aim was to expose the facts about the portrayal of female politicians/candidates and attitudes towards them in the Mongolian media. Monitoring was conducted in two stages (the first on 13-19 June 2011 and the second on 1-7 February 2012) and involved five daily newspapers, nine news portals and three television channels. Compared to the first stage of monitoring in 2011, the number of the female politicians covered by the media had increased in February 2012 from 42 to 52. A comparison of the results of the monitoring showed that direct coverage and interviews of female politicians were still low, at 13, and in most cases a second or third person was talking on behalf of the female candidates or politicians.¹⁵³

Some CSOs and international projects carry out occasional monitoring. For instance, in 2010, the research institute IRIM conducted a study on gender issues in media content. The following year, the Press Institute's School of Journalism conducted a media monitoring study on gender-sensitive reporting, entitled "Who makes the news?", which was part of the Global Media Monitoring Project funded by UNFPA.¹⁵⁴

¹⁵⁰ <http://www.globeinter.org.mn/?cmd=Record&menuid=359>.

¹⁵¹ Examples of these research reports can be retrieved in Mongolian from http://www.forum.mn/index.php?sel=resource&f=resone&obj_id=295&menu_id=3&resmenu_id=1 <http://globeinter.org.mn/images/upld/2007%20globe%20tailan-last.pdf>.

¹⁵² Representation of Women Politicians in the Mongolian Daily Newspapers in 2000 and 2008. Critical analysis report. Press Institute 2012.

¹⁵³ <http://globeinter.org.mn/?cmd=Record&id=942&menuid=393>.

¹⁵⁴ Gender Sensitivity in Media. UNFPA, National commission for gender equality under government of Mongolia. IRIM, 2010.

GIC, together with the National Committee on Gender Equality, have conducted surveys using UNESCO's Gender-Sensitive Indicators for Media in three media organizations: MNB, UBS TV and CMJ from December 2014 to February 2015. According to the survey report from three media organizations, women prevail at all levels of the MNB except at the National Council. The UBS board has more men than women, but this trend is reversed on the administrative board. Men dominate the decision making level in the CMJ but membership and voting presence records show a gender balance. There is no need to take specific action to increase the percentage of women producing news content at MNB and UBS, as women prevail in this sector.

Currently there is no gender officer or desk to assess gender equality in the workplace at either television station. Other officers, however, such as human resource personnel or legal officers, can combine this position with their main occupation. Equal conditions of employment and benefits, including pension schemes, were provided in accordance with the Labour Law. None of the surveyed organizations' human resource policies discriminate by gender. Rather, they are based on merit, performance, knowledge and experience. However, men heavily dominated news and current affairs content in both stations.

The MNB assessment on gender portrayal results showed the men were significantly over-represented in news and current affairs content, making up 81 percent of coverage versus only 19 percent in the case of women. Meanwhile, the UBS assessment showed a prevalence of men in all news coverage, with 80 percent of information sources being men.¹⁵⁵ (Refer to point 3.1.).

4.9 CSOs provide direct advocacy on issues of freedom of expression

In the 1990s, the most active CSO was the Mongolian Free and Independent Journalists Association. Since 1999, the Mongolian Civil Society, often with a coordinating role played by the Globe International Center (GIC), has been advocating on issues such as public service broadcasting, protection of sources, freedom of information, safety of reporters, decriminalization of defamation, state secrecy law reform and community media. GIC is actively engaged in UN mechanisms to enable a favourable media legal environment. It has been monitoring free expression violations since October 2005, with the support of the Open Society Institute's Media Network Programme and OSF Mongolia, and it is the only Mongolian member of the International Freedom of Expression Clearing House (IFEX).¹⁵⁶ Furthermore, GIC provides journalists with legal aid.

PI has also been active in advocating public service broadcasting and participation in the discussions of the new version of the Law on Media Freedom, drafted by the President along

¹⁵⁵ GSIM Assessment report. GIC, 2015.

¹⁵⁶ https://www.ifex.org/ifex_members_region.

with professional associations such as the Mongolian Journalists Association (MJA) and the Association of Parliamentary Reporters (APR).

The Open Society Foundation (OSF), the Friedrich Ebert Foundation and UNESCO's International Programme for the Development of Communication (IPDC) have been supportive partner organizations in advocating free expression. Policy studies carried out by OSF are good references for policy makers, public officials, researchers and media practitioners working to advance freedom of expression.

4.10 CSOs help communities access information and get their voices heard

CSOs help communities access information. One of the most recent examples of this is the work of the Globe International Center in supporting the establishment of ten radio stations in minority areas which defined themselves as “community media” (as described under indicator 2.5). The project was supported by UNESCO within the framework of a project funded by the United Nations' Human Security Fund. Most of these radio stations broadcast in minority languages and work with the population in a participatory way, with an elected board, a manager, producers and volunteers.

In 1999, the Mongolian Foundation for Open Society (MFOS) – now known as the Open Society Forum – helped set up the first FM radios in Selenge and Darkhan-Uul aimags. They also trained their staff with the purpose of enhancing access to information for rural populations. Later, the organization extended its technical assistance to seven other provinces. International NGOs, such as Mercy Corps Mongolia and World Vision, have also been helping local communities to build up their radio knowledge and infrastructure.

The Association of Rural Radio was founded in 2004 and is based in Darkhan city. It produces various programmes and supplies its members with radio stations. Some rural NGOs and individual activists also publish small newspapers to reach their communities. For example, journalist D. Batjargal, who is originally from Darkhad, has been publishing the Maanar newspaper since 1993. This publication totals 46 issues a year and has a print run of 1,000 copies.

Recommendations

- Increase training opportunities for journalists, particularly in rural areas, on ICT skills.
- The Ministry of Education should review its process of development and adoption of the curriculum for journalism education at universities in Mongolia and set up a clear procedure consistent with best international practices.
- Support training for media NGOs.
- Create programmes for intensive and specialized learning in journalism and media for practicing professionals.
- Organize capacity building activities specifically targeting media executives.
- Develop media management programmes as joint programmes between faculties of journalism, media and economics.
- Set standards for labour relations in the media sector.
- Promote the activities of trade unions among media management and staff.

Category 5

**Infrastructural capacity
is sufficient to support
independent and
pluralistic media**



Key Indicators

A. AVAILABILITY AND USE OF TECHNICAL RESOURCES BY THE MEDIA

- 5.1 Media organizations have access to modern technical facilities for news gathering, production and distribution

B. PRESS, BROADCASTING AND ICT PENETRATION

- 5.2 Marginalized groups have access to forms of communication they can use
- 5.3 The country has a coherent ICT policy which aims to meet the information needs of marginalized communities

Category 5

Infrastructural capacity is sufficient to support independent and pluralistic media

A. Availability and use of technical resources by the media

5.1 Media organizations have access to modern technical facilities for news gathering, production and distribution

Television remains the most popular medium in Mongolia, followed by the Internet. Television channels reach the entire population through terrestrial and satellite distribution and in most cases use digital production technologies.

The programmes of the Mongolian National Broadcaster are delivered through analogue and digital systems via terrestrial, satellite and cable networks. Its studio, production and mobile equipment are fully digitalized. Six channels, including MNB and five others, broadcast nationally.

At present, six Ulaanbaatar-based television channels (Mongol, Royal, ETV, MNC, Ekh Oron and Bloomberg Mongolia) and the local station MBS TV in Erdenet broadcast in high definition.

The multi-channel environment is also developing rapidly. Digital TV has been present in Mongolia since 2011, with IPTV offered by the companies Univision (owned by Unitel) and Skymedia (owned by Skytel).

The Communication Regulation Commission (CRC) has granted licenses for two mobile television stations. Internet television is available for live parliamentary broadcasting.¹⁵⁷ Internet connection is affordable, reliable and fast for journalists based in the capital.

Journalists use laptops, smart phones and tablet devices for news gathering, and these are easily connected to the Internet via 3G and widespread Wi-Fi hotspots. Many Ulaanbaatar media outlets no longer use landline telephones or fax machines.

157 <http://www.parliament.mn/live-tv>.

The situation is different for rural media. All 21 provincial centres have Internet access, however use is limited due to poor Internet speed and lack of computer literacy. The Internet is mainly used for e-mails and chat via Yahoo messenger. In 2014, mobile phone users in remote rural areas were provided with Internet data and 3G services as part of a nationwide project, but the 3G network coverage is not universal. So far, 160 soums are connected through fibre optic cables. The work to cover all soums with fibre optic cables was in progress at the time of assessment.¹⁵⁸

Between 2011 and 2013, 118 soums were provided with wireless network connections, thanks to support from the Universal Service Obligation Fund (USOF). In 2014, state funds were used to connect the majority of secondary schools to the Internet using fibre optic cables. Mongolian Telecom LLC has started to provide Internet services for the public by establishing a fibre optic cable network that connects public bodies (such as the Governor's Office, schools, hospitals and police departments) in 138 soums. They are also creating two or three Wi-Fi base stations.¹⁵⁹

Outdated office computers are also a problem for many provincial media outlets. There are some small radio and television stations in the soums that have adequate computers, production equipment and transmitters but some of these are hindered by slow Internet speed or no Internet connection at all.

The CRC has high requirements for technical standards and television stations in Ulaanbaatar are therefore well-equipped. Television channels such as MNB, UBS, MN-25, TV-5, TV-9, SBN, NTV, EDUTV, ETV are available live online through their own and other websites.¹⁶⁰

In accordance with the CRC Broadcast Regulation, television stations must archive their productions for two months; in practice, they surpass this requirement. Archives of newspapers are not fully digitized. In the past, media outlets used to have their own libraries and archives in order to check data or information for their publications and productions. Journalists now mainly use the Internet to search for data and information. Most newspaper publications are posted online immediately, upon printing or after a few days.

A problem for media workers is that older issues of publications are not digitally available. They can access some – but not all – back issues at public libraries. The Press Institute (PI) has a library which contains a collection of rare Mongolian periodical publications ranging from 1923 to 1996. It also has a collection of digital copies of 51 newspaper titles published from 1990 to 1995. In 2005, PI received a grant from the British Library's Endangered Archives Programme to preserve rare periodical publications. Despite their relatively recent publication date, newspapers published in the early 1990s are particularly rare because other cultural institutions in Mongolia did not collect periodical publications during the transition

¹⁵⁸ http://itpta.gov.mn/new/?page_id=6788.

¹⁵⁹ ICT White Book-2014.

¹⁶⁰ http://wwitv.com/tv_channels/b6695-edu-tv-mongolia.htm.

period. The UNESCO-supported Greenstone, an open source digital collection software, was selected for building the online collection because it supports the Mongolian language and Cyrillic alphabet.¹⁶¹ The online collection provides multiple browsing pathways, full-text search capabilities and a collection of all newspapers in PDF format.

Regarding circulation, the number of traditional newspaper subscribers is decreasing – in line with world trends – due to the fact that many newspapers can now be accessed online. Nine out of 14 daily newspapers have their own news portals and four offer online subscriptions. The *Udriin Sonin* is also accessible on mobile phones through applications.

The production capability side of the newspaper business is positive. Newspapers in Mongolia have sufficient printing facilities; in 2015, five daily newspapers out of 14 had their own printing houses. Others were able to use the services of private commercial printing houses and nearly half of newspapers were printed in non-profit and independent printing houses. The Free Press Foundation was established in 1994 through international funding with the purpose of providing not-for-profit and accessible printing facilities and this service is still available today.

Concerning the print press, while production is diversified and independent, the newspaper distribution market is monopolized by the Mongol Post Company, a government-owned enterprise. Some private companies such as *Ulaanbaatar Post*, *Skypost*, *Tugeemel Shuurkhai Post*, *Mongol Buuhia* logistics and *Morning Post* provide subscription and delivery services.

The situation is not so positive for smaller publications. Small local newspapers are struggling to survive as local media markets are too small to reach the critical mass necessary to sustain themselves through advertising revenue. There are also insufficient printing facilities in the provinces so newspapers must often be printed in the capital city and must rely on the postal service to be distributed to their readers. Generally, such periodical newspapers are issued one-three times a month, with an average maximum circulation of 500 copies. Until 2011, a distribution fee of 20 percent of the subscription income had discouraged the distribution of newspapers in the countryside. The daily newspapers then reached an agreement with the government to reduce the distribution fee to five percent. A state subsidy of 400 million MNT (US\$200 million) was directly transferred to the account of the Mongol Post Company so the media could benefit from subsidies according to their circulation size.¹⁶²

The local press often relies on local public funding to operate, thereby making it dependent on local authorities. This renders it more vulnerable to editorial interference from local officials.

161 www.bibliotecadigital.unicamp.br/document/?down=23448.

162 <http://news.niigem.mn/content/25500.shtml?selected=10>.

B. Press, Broadcasting and ICT Penetration

5.2 Marginalized groups have access to forms of communication they can use

All Mongolia's citizens have unrestricted online access to both national and international mass media. Multi-channel delivery reaches 367 local hubs in the provinces, soums and villages, which was made possible by the government's Action Plan for 2008-2012.¹⁶³

In accordance with this plan, Ku Band satellite technology was introduced in order to supply nationwide broadcasts for 10 television stations based in Ulaanbaatar. A bid to obtain broadcasting permission for these 10 televisions was subsequently announced and the government agreed to pay for the satellite transponders using state funds (Government Decree of 2009).

DDish TV LLC, a winner for the bid in 2015, has the capacity to transmit 57 television stations in Ulaanbaatar; two local televisions; and 26 foreign channels to all aimags' centres and soums; and to herders in remote areas.¹⁶⁴

Despite the increase in television stations and broadcast penetration, there is still a problem of access for those of lower socio-economic status who cannot afford to purchase television sets or essential satellite television decoders to access programming. No data currently exists on this. Another issue is inequality of Internet access and literacy between rural and urban populations.

Mongolia is a country with a high literacy rate (97 percent, according to UNESCO's 2006 Education for All Report).¹⁶⁵ Radio and television coverage are available in all areas of Mongolia and the MNB has national coverage. MNB also has a second channel targeting minorities, which was established with UNESCO support and broadcasts around 30 percent of its content in the Kazakh and Tuva languages and in the ethnic Mongolian dialect, Buryat. It includes prime time news, children's cartoons, magazine information and interviews. MNB and TV5 use sign language in their prime time newscasts.

By the end of 2014, there were an estimated 1,962,100 Internet users (90 percent were individual users, while 10 were organizations). This represents a doubling of Internet users since the end of 2013, when the number reached only 841,000. A total of 59 companies provide Internet services (12 at the national level, 12 in the capital and 35 in the provinces). For mobile phone users, the number was 4,971,719 by the end of 2014 and the penetration rate was 165.9 – higher than the world average of 96. Mobile phone service is offered by

¹⁶³ Parliament Resolution No 35, <http://www.legalinfo.mn/law/details/6187>.

¹⁶⁴ www.ddishtv.mn.

¹⁶⁵ Education for All Global Monitoring Report, 2006, "Literacy for Life", <http://en.unesco.org/gem-report/report/2006/literacy-life#sthash.TIN9x6BG.dpbs>, page 257.

four operators - Mobicom, Skytel, Unitel and G-mobile - and a 3G network operates across the country.¹⁶⁶

Regarding television, channels reached viewers through both terrestrial and satellite distribution. Herders in remote areas can receive programmes from national channels and from local and international channels via satellite. They also purchase antennas and television boxes to suit their analogue television sets.

The number of households with television sets was 292,659 in 2012 and there were 242,650 cable users in Ulaanbaatar. A total of 57,905 households in aimag and soum centres, out of a total population of 154,085, received programmes via cable. The estimated number of households receiving STV was 170,455.

By the end of 2014, the total number of multi-channel users had reached 669,881. Forty-eight percent of these received their feed via satellite; 19 percent via IPTV, 18 percent via Multichannel Multipoint Distribution Service (MDDS) and 15 percent via cable.¹⁶⁷

Mongolia uses the Digital Video Broadcasting – Second Generation Terrestrial (DVB-T2) for terrestrial digital transmission and Digital Video Broadcasting - Satellite - Second Generation (DVB-S2) for digital satellite distribution. Under the framework of the government's digitalization programme, digital transmission networks were established in 2012 in the eastern provinces, namely South Gobi, Middle Gobi and Gobi-Sumber, and radio transmission was also digitalized in Bayan-Ulgii, Kazakh province.

Regarding government support, the government allocates about US\$1.2 million annually to support satellite distribution for ten channels in order to provide quality and sustainable services to rural populations.¹⁶⁸ The service is operated by the private company DDish, which holds a monopoly on satellite broadcasting in Mongolia. In addition to MNB, five commercial television channels (ETV, TV9, MN Channel 25, UBS and EDUTV) operate only in the aimag and soum centres. The government had not yet decided on the four remaining channels; the criteria to be used during the selection process was not publicly available at the time of this report. The government has decided to use the digital spectrum 470-686 MGtz for digital television broadcasting.

An economic survey on designing the transmitting network for the digital switchover (including the budget required for the infrastructure and a converter) has been completed. Policy documents on transferring digital technology, regulations, allocation of radio frequencies and the schedule for switching off the analogue signal have been developed and adopted. Currently, all IPTVs, entire satellite networks as well as 70 percent of cable channels operate digitally. Equipment for the terrestrial network for digital televisions has also been installed.

¹⁶⁶ CRC report, <http://crc.gov.mn/k/2C3>

¹⁶⁷ CRC report, <http://www.crc.gov.mn/k/2BV>

¹⁶⁸ Government Resolution No 119, 2008, <http://www.legalinfo.mn/law/details/2121?lawid=2121>.

There is a plan to set digital transmitter DVB-T2 in 347 soums. It has been installed in 220 soums and is ready to be activated. Six televisions in Ulaanbaatar and two local televisions will be transmitted using this digital transmitter. Eight business entities obtained official permission to supply DVB-T2 set-top boxes. The price for each box costs between 68,000 and 90,000 MNT (US\$47). The analogue signal was scheduled to be switched off between 15 July and 15 October 2015. The switching off process was to begin in the Tuv and Umnugovi aimags on 25 September and finish with and Ulaanbaatar on 5 October 2015.¹⁶⁹

To achieve greater broadcast penetration, the government has also established the Universal Obligation Fund through the Law on Special Government Fund (Article 6.6) to deliver telecommunication services to remote rural areas (Article 22.3.1) and to build, renew and extend communications (Article 22.3.2).¹⁷⁰ The fund collects the outlay from ICT and broadcast companies and equals two percent of the total taxable income. The fund has been used to provide mobile phone coverage to remote rural areas; to provide Internet access in local centres through a fibre-optic cable network; and to install transmitters in order to broadcast MNB and commercial channels across all provincial areas. However, the financial report of this fund, as well as the current projects and programmes it has supported, were not available at the time this report was drafted.

This information should be available under the terms of the Freedom of Information Act.¹⁷¹ With the development of the country's telecommunications sector, another noticeable trend is that politicians are becoming digitally active and increasingly Internet-savvy. The President as well as many MPs and ministers have created their own accounts on social media platforms including Facebook, Twitter, and YouTube as well as blogs and websites.¹⁷² Political parties and candidates started using online spaces including social media and mobile phones during the 2012 parliamentary elections in order to distribute election platforms and messages, conduct opinion polls and directly call people to canvass their votes.

The new Law on the Presidential Election (adopted in December 2012) allows candidates to promote their election platforms through advertisements on radio, television (Article 33.2.6), websites and through SMS (Article 33.2.7).¹⁷³ At the same time, this Law prohibits the organization of any type of competition designed to determine political ratings or disseminate libel, insult or false information using media and websites (Article 33.5.4).

¹⁶⁹ <http://www.crc.gov.mn/k/38>.

¹⁷⁰ Law on Special Government Fund, <http://www.legalinfo.mn/law/details/278?lawid=278>.

¹⁷¹ <http://www.crc.gov.mn/k/40/3b>.

¹⁷² Tsahia Elbergorj, President of Mongolia, <https://www.facebook.com/CahiaElbegdorjFanFage?fref=ts>,
Temuujiin Khishigdemberel Member of Parliament of Mongolia, twitter.com/Temuujiin_Kh.

¹⁷³ <http://www.legalinfo.mn/law/details/8910?lawid=8910>.

5.3 The country has a coherent ICT policy which aims to meet the information needs of marginalized communities

As part of the objective to develop information technology, the government of Mongolia has adopted and has been implementing the following national programmes: Digital Mongolia (2005); “Unified information structure” (2008); and E-Governance (2012). A total of 316 soums have been connected to high-speed broadband Internet.¹⁷⁴ Five companies, including Telecom Network (a joint venture of private and government owners and private companies), the Mobicom Corporation, Railcom, Jemnet and Skynetwork have built a fibre-optic network measuring 34,029 km.

In order to regulate prices, two documents from a cabinet meeting held on November 17, 2010 (reference number 67) as well as the 2012 CRC resolution, entitled the “Tariff Review” (reference number 65), have been adopted. According to cabinet meeting minutes (reference number 67), dating back to 2010, IPTA is obliged to upgrade Internet service provision, including measures such as reducing the price and doubling the download speed. A study of fees for Internet service provision between October 2012 and July 2013 reveal that Mongolian Telecom LLC gave customers the opportunity to double their Internet speed for the same price as rival Internet service providers. At the time of compiling this report, action to implement a solution had been taken and measures were underway to eliminate gaps in prices paid by city and rural users.¹⁷⁵

In accordance with this trend, the public-private joint venture Telecommunication Network has decreased the price of Internet provision for households. The minimum Internet speed should not be less than 256kb and prices should not exceed 20,000 MNT (US\$10), including VAT per month for this speed. However, this minimum speed requirement is rarely available as telecommunication networks rent the fibre optic network from private providers such as Mobicom, G-Mobilnet and Skynetwork, with whom they failed to come to an agreement.¹⁷⁶

Mongolia had planned to be a fully digitalized country by July 2014, in accordance with the National Programme on Transferring the Radio and Television Network to Digital Technology, adopted by the Government (Resolution No. 275, 2010). In reality, analogue and digital systems co-exist. By 25 March 2015, the CRC had issued Order No. 66 and approved a switch-off schedule, which stated that Mongolia would become fully digital by 5 October 2015. Mongolia has chosen the European standard DVB-T2 system.

¹⁷⁴ <http://itpta.gov.mn>.

¹⁷⁵ http://itpta.gov.mn/new/?page_id=6793.

¹⁷⁶ <http://www.crc.gov.mn/k/16/14>

Recommendations

- Preserve media pluralism, in part by clearly supporting all local and community media in the digital switchover with subsidized equipment and technical assistance from the Communication Regulation Commission and the Universal Obligation Fund.
- Eliminate direct government control over the broadcasting and ICT sectors by ensuring the independence of the CRC and that it is able to effectively engage civil society in its monitoring activities.
- Launch a state-supported education programme that provides formal and continuous education on media and information literacy to students, the general public (especially marginalized and rural groups), as well as traditional and online media practitioners.

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