

Internet and Regulation in Transition States

Office of the OSCE Representative on Freedom of the Media

Seminar: “Guaranteeing Media Freedom on the Internet”

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Information society

- Described at the WSIS as “a society where everyone can create, access, utilize and share information and knowledge, enabling individuals, communities and people to achieve their full potential and improve their quality of life in a sustainable manner”
- “Old” ICTs: radio, television and fixed telephones
- “New” ICTs: mobile telephones, personal computers and the Internet
- Most countries in transition tend to have data on the «older» ICTs, while most developed nations focus on the newer ones.
- New ICTs enable instantaneous exchange of information and the delivery of innovative applications (i.e. in government, commerce, education and health), but without access to ICTs, many people around the world are still excluded.

Internet in Transition Countries

- How far are many countries in transition from realizing the vision of everyone having access to the information society?
- Many of them fall behind the European Union in the field of introduction and implementation of ICT:
 - Lack of state strategies and competent human resources
 - Non existence of qualitative legal regulation that should create systematic conditions for ICT development
 - Very often unfavorable tax and custom policy

Access to the Internet [1]

PCs per 100 inhabitants*

■ Croatia:	17.38
■ Romania:	8.30
■ Bulgaria:	5.19
■ Serbia and Montenegro:	2.71

No data available for Bosnia and Macedonia

■ European average:	21.44
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*ITU Statistics for 2003

Access to the Internet [2]

Internet users per 10.000 inhabitants*

■ Croatia:	2.318.24
■ Serbia and Montenegro:	787.17
■ Macedonia:	484.50
■ Bosnia:	262.12
■ European average:	2.373.19

*ITU Statistics for 2003

Internet regulation

- Internet services – public telecommunications services realized by Internet technology and provided by Internet service providers (ISPs)

- Internet content – separated into various categories:
 - media outlets
 - electronic signature
 - advertising
 - cybercrime, etc.

Internet Regulation in Transition Countries

- Poor
- Laws are still in draft phase or newly adopted
- If existing, mainly not implemented properly

Internet Services in Transition Countries

- Regulated through telecommunications laws
- Treated as telecommunications services
- Very much attached to the state incumbents
- Expensive for average user

Internet as Media Outlet

- Mainly understood as new media, thus regulated through media laws, such as broadcasting law, electronic media law, public information law, etc.
- How can we ban the dissemination of the information in the online environment? Many web sites are hosted in other countries thus staying outside the state jurisdiction.
- Mechanism for imposing the right of reply and right of correction principles on the Internet?

- Judges are often not trained well to implement existing regulation

Electronic signature

- Data in electronic form which are attached to/logically associated with other electronic data and which serve as a method of authentication.
- Advanced electronic signature means an electronic signature which is uniquely linked to the signatory, capable of identifying the signatory, created using means that the signatory can maintain under his sole control and linked to the data to which it relates in such a manner that any subsequent change of the data is detectable.
- The law on e-signatures should ensure that electronic signatures become legally equivalent to hand-written signatures so that they may be used as evidence in legal proceedings

Advertising

- The law on advertising should, in terms of Internet regulation:
 - Restrict the use of automated calling systems without human intervention (automatic calling machines), facsimile machines (fax) or electronic mail for the purposes of direct marketing only to subscribers who have given their prior consent.

 - Not allow unsolicited communications for purposes of direct marketing either without the consent of the subscribers concerned or in respect of subscribers who do not wish to receive these communications, free of charge.

 - Prohibit the practice of sending electronic mail for purposes of direct marketing covering or concealing the identity of the sender on whose behalf the communications is made or without a valid address to which recipient may send a request that such a communications.

Cybercrime

- Criminal offences against security of computer data
- Most of the criminal laws are updated with articles covering cybercrime (e.g. Serbia has 7 new criminal offences)
- Although existing, not implemented in the practice
- Not all the criminal offences are covered

Problems in Transition States

- Very often, when exist, the legislation concerning Internet is not implemented at all
- Non existence of the regulatory agencies
- Licensing procedures should be transparent, non-discriminatory and objective
- Location data other than traffic data should be processed only when they are made anonymous or with the consent of the user
- Prosecutors and judges who do not understand new technologies/ need to be trained