

Ukraine

Access to Internet content in Ukraine remains largely unfettered. However, despite a generally liberal media and telecommunications policy, the authorities have enlisted special bodies and regulations to survey Internet content in order to “protect national security” and limit other forms of “undesirable” information content. These regulations embody the potential for expanded formal and informal controls, although such constraints are unlikely in the near future.



Background

Among the Commonwealth of Independent States (CIS) countries, Ukraine is second only to Russia in the size and strength of its IT establishment. Ukraine was the birthplace of Soviet computing and Kyiv remains a major center for IT development. The country was an early adopter of policies to support information communications technology (ICT) for development as a pillar of national development, and the government has invested in building out the country's ICT infrastructure.

The Ukrainian government recognizes the significance of the Internet for economic development and for the development of information society. The state has demonstrated the political will to undertake vital reforms in the telecommunications sector, although much remains to be done to promote a favorable environment for developing the Internet, fostering e-commerce, and introducing e-governance. The World Economic Forum ranks Ukraine 76th out of 115 countries for 2005–2006 in the Internet readiness index.¹

The January 2005 “orange revolution”—when opposition groups successfully challenged the outcome of the November 2004 presidential

RESULTS AT A GLANCE

| Filtering | No evidence of filtering | Suspected filtering | Selective filtering | Substantial filtering | Pervasive filtering |
|-------------------|--------------------------|---------------------|---------------------|-----------------------|---------------------|
| Political | ● | | | | |
| Social | ● | | | | |
| Conflict/security | ● | | | | |
| Internet tools | ● | | | | |
| Other factors | Low | Medium | High | Not applicable | |
| Transparency | | | | ● | |
| Consistency | | | | ● | |

KEY INDICATORS



Source (by indicator): World Bank 2005, 2006a, 2006a; UNDP 2006; World Bank 2006c, 2006c; ITU 2006, 2005

elections that were thought to be unfair—highlighted the latent political power resulting from the “convergence” of information infrastructures (cell phones, Internet, and independent media) and political mobilization. The opposition made full use of these technologies to mobilize and direct supporters in acts of civil disobedience, sit-ins, and general strikes. Although the Internet did not play a determining role in the success of the “orange revolution,” its use by the opposition helped to foster the perception that these technologies served an important strategic role in organizing political opposition (which observers have termed “hyper-democracy”). This perception, in turn, prompted neighboring authoritarian governments such as that of Belarus to crack down on Internet openness.

Internet in Ukraine

The partly liberalized Ukrainian telecommunications market is relatively undeveloped. Fixed-line penetration remains low and the telephone system requires modernization. The demand for mobile services has expanded rapidly, to reach a penetration of nearly 50 percent. The largest telecom and top-tier Internet service provider (ISP), Ukrtelecom, has 92.9 percent state ownership.

The parliament has legalized its privatization,² but this has been delayed in anticipation of the company increasing in market value.³ The state monopolies Ukrtelecom and Utel, which is controlled by Ukrtelecom, together own 95 percent of the long-distance and international calls market.⁴

State-owned Ukrtelecom is the largest ISP in the country, but does not decisively control the country's other major ISPs. As of June 2006 some sixty ISPs connected to six Internet traffic exchange points.⁵ Recently the number of ISPs offering broadband access services has rapidly increased.⁶ The government, recognizing the need for attracting foreign investment and stimulating favorable Internet environment, has also announced plans to introduce Wi-Fi and WiMAX technologies.⁷

The Ukrainian national country code top-level domain (“ua”) is administered by the Hostmaster Company, a specialized nonprofit organization.

Internet penetration in the country was estimated at 9.8 percent in 2005,⁸ well below the European average of 36.1 percent. Several obstacles compromise expansion, including high access costs, poor infrastructure in the regions,

high call rates, and low levels of personal computer (PC) ownership. The International Telecommunication Union (ITU) 2005 estimates show that only 4 percent of the population owns a PC.⁹ Although ISPs have considerably reduced their access costs (for example, by leasing outdated or redundant infrastructure from Ukrtelecom) and a few providers offer free access during the night, most Ukrainians cannot afford to use the Internet: 46.8 percent of the population identified themselves as poor.¹⁰ Men are more frequent users than women (at 59.3 percent), and most users access Internet at the office, cybercafés, or home. The most popular search engines in Ukraine are Ukrainian www.BigMir.net and www.Ukr.net, Russian Yandex and Rambler, and Google.

Legal and regulatory frameworks

The 2003 Law on Communications established the National Communication Regulation Commission, which regulates the IT and telecommunications market. Under this law telecommunications operators require a license before starting activity.¹¹ With the present government, the Internet enjoys a high degree of freedom. Internet activity is not subject to licensing or other forms of regulation. Liberalization of the market has led to a rapid increase in the number of ISPs, which numbered 260 in 2006.

At present there are no controls on Internet access or content. However, this may be changing as government figures have made public calls for stricter regulation of the internet, citing national security concerns.¹² Suggested measures include licensing ISPs, registering Internet resources, and monitoring content related to obscene or harmful material. The threat of Internet censorship was raised in 2005 when the Ministry of Transport and Telecommunications introduced, and subsequently withdrew, a decree regulating registration of Web sites hosted in Ukraine for the purposes of national security.¹³ An earlier Act to introduce mechanisms for Internet monitor-

ing (the 2002 Order of the State Committee on Communications) required ISPs to install a state monitoring system in order to provide Internet access to state organizations. The purpose of this monitoring was to control unsanctioned transmission of data containing state secrets. However, a "state secret," as provided in current regulations, lacks concrete definition, allowing authorities broad discretion in interpretation. The difficulties in separating state from nonstate users expose the latter to monitoring. Human rights groups have suggested that the Security Service has been intercepting messages and carrying out surveillance on over approximately 50 percent of Ukrainian traffic.¹⁴

The Council of National Security and Defense is the main governmental body responsible for national security and defense; this body is chaired by the president. The Council monitors information security policy and coordinates the work of the other executive bodies in this field. The Security Service of Ukraine is empowered to initiate criminal investigations and use wiretapping devices on communications. Legislation has not made clear either the circumstances that justify interception of information from communication channels, or the time limits of any such interception.¹⁵ The recently established State Service for Special Communications and Information Protection Service implements governmental policy on protecting state information and confidential communication, and exercises control over cryptographic and technical information security.¹⁶

The Law on Protection of Public Morals of November 20, 2003, enacted during the term of the previous government, is still effective. It prohibits production and circulation of pornography; dissemination of products that propagandize war or spread national and religious intolerance; humiliation or insult to an individual or nation on the grounds of nationality, religion, or ignorance; and the propagation of "drug addition, toxicology, alcoholism, smoking and other bad habits."

The National Expert Council for the Protection of Public Morals has authority to inspect media, including the Internet, in order to start a procedure for revocation of the license in case of violation. The National Expert Council, however, has not issued any decision yet because it lacks legal mechanisms for enforcement.

ONI testing results

ONI conducted testing on seven ISPs: Adamant, Cornel, Elvisti, Ukrtelecom, Volia, Goldentelecom, and Ukr.net. The testing did not detect any filtering, although a few Web sites with content related to alcohol and drugs, public health, human rights, and minority faiths were temporary inaccessible.

Conclusion

Citizens of Ukraine enjoy an unfettered access to the Internet. The country has an Internet infrastructure oriented toward European providers, and thus the ISPs are not influenced by the policies of Russian providers. However, the country has built up an intricate system of bodies and regulations that could be geared to surveillance of information carried on telecommunications networks, including the Internet.

NOTES

1. World Economic Forum, Global Information Technology Report 2005–2006, <http://www.weforum.org/en/initiatives/gcp/Global%20Information%20Technology%20Report/index.htm> (last accessed May 2, 2007).
2. For more about Ukrtelecom's privatization and the alternatives to public sale, see "Ukrtelecom's policy" (in Russian), <http://proit.com.ua/telecom/2006/05/15/114501.html> (last accessed May 2, 2007).
3. Serhey Malyhin, Events Digest (Review of Events in ICT Policy in Ukraine over July: First part of August 2005), Global Internet Policy Initiative, 2005, http://gipi.internews.ua/eng/events_digest/digest_events_july_eng.pdf (last accessed May 2, 2007).
4. Andriy Vorobyov, Ukraine Telecommunications Market Report, BISNIS, 2005, <http://www.bisnis.doc.gov/bisnis/bisdoc/0602UkraineTelecomReport.htm> (last accessed May 2, 2007).
5. For further information about the UA-IX Internet Traffic Exchange, see Ukrainian traffic exchange network at <http://www.ua-ix.net.ua/eng>.
6. News Wire Feed, "Ukrtelecom uses Cisco routers: Light reading: IP & convergence," March 23, 2005, http://www.lightreading.com/document.asp?doc_id=70731; Thomson Press Release, "Thomson Pioneers Next Generation Telecoms in Ukraine and Estonia," May 19, 2006, <http://www.thomson.net/EN/Home/Press/Press+Details.htm?PressReleaseID=ca229b68-c6ba-4e69-9b95-bbc7dd8540f0> (accessed May 2, 2007); News@Cisco News Release, "DataGroup to deliver DWDM network in Ukraine with Cisco Optical Technology," February 15, 2006, http://newsroom.cisco.com/dlls/2006/prod_021506.html (accessed May 2, 2007).
7. A statement by Victor Bondar, Minister of Transport and Telecommunication, quoted in "Minister promises to cover Ukraine with Internet" *Ukrainskaya Pravda*, January 18, 2006 (in Russian), <http://www.pravda.com.ua/ru/news/2006/1/18/36834.htm> (last accessed May 2, 2007).
8. See International Telecommunication Union, *World Telecommunication Indicators 2006*. For comparison, Internetworldstat estimates the data at 11.5 percent for 2006; see Internet World Stats, Usage and Population Statistics, 2007, <http://www.internetworldstats.com/stats4.htm> (last accessed May 2, 2007).
9. International Telecommunication Union, *World Telecommunication Indicators 2006*.
10. United Nations Development Programme in Ukraine, Prosperity Through Poverty Alleviation, <http://www.undp.org.ua/?page=areas&area=2> (accessed May 2, 2007).
11. Law on Telecommunications of November 18, 2003. The law abolished the provisions of the 1995 Communication Law, including the charges for incoming calls for all kinds of telephone communications. See the text of the law at <http://ilaw.org.ua/> (in Ukrainian).
12. The Director of Ukraine's Security Service Konstantyn Boyko pointed out the imminent danger that Internet may cause to the country, stating: "Foreign political forces, intelligence departments and extremist organizations, which are able to direct resources and endowments of the Internet to harm our nation," See "Security service to take totalitarian control over Internet," *Ukrainskaya Pravda*, May 27, 2006 (in Russian), <http://www.pravda.com.ua/ru/news/2006/5/27/41096.htm> (last accessed May 2, 2007).

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13. The decree asked for compulsory registration of Web sites, and specified criteria that sites had to respect before being launched. International Press Institute, 2005 World Press Freedom Review:,Ukraine, http://www.freemedia.at/cms/ipi/freedom_detail.html?country=/KW0001/KW0003/KW0087/&year=2005 (last accessed May 2, 2007).
 14. Kharkiv Human Rights Protection Group, Human Rights in Ukraine: IV. Right to Privacy, February 7, 2006, <http://www.khpg.org/en/index.php?id=1151854687> (last accessed May 2, 2007).
 15. This justification in the draft decree was in part drawn from an existing law, the "Law on Operative Investigative Activity" of February 18, 1992, No. 2135-XII.
 16. The agency is established by the Law of February 23, 2006, No. 3475-IV. For excerpts of the law translated into English, see Yaroslav the Wise Institute of Legal Information, The Law of Ukraine: On the State Service for Special Communications and Information Protection of Ukraine, http://www.welcometo.kiev.ua/pls/ili/docs/a_law_eng/E3475-IV.html (last accessed May 2, 2007).