

TAMING THE INTERNET: THE KAZAKH EXPERIENCE

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On May 3, 2001 amendments to the Law on Media became effective after long debates. One of the amendments is a unique case of legitimate taming of the Internet through classifying web sites as the media.

The government initiated the Media Law amendments first of all to reduce re-transmission of foreign broadcasting. The amendment identifying web sites as a media had less response in the journalist community; hence it did not go through the due process of broad public debates.

As a result, web sites have been recognized as mass media. The Law provides the following definition of the new data transmission channels: "a web site is an electronic representative page of a legal or physical entity of the Republic of Kazakhstan which has been prepared using special hardware and software, where the proprietor places his information for mass dissemination."

The only concession was the decision to make it unnecessary for website registration with the Ministry of Culture, Information and Public Accord (MCIPA). However this fact exempts neither web site owners, nor those who use their services to place information, from criminal and administrative responsibility. With this in mind, two reasonable questions arise: (i) Can the Internet be 'muzzled'? And (ii) what is the reason for such a radical measure?

UNIQUE EXPERIENCE

Given that there is no technical process to control the content of Internet sites, Kazakhstan's experience is quite unique. Kazakh functionaries did not try to 'invent the wheel', but decided instead to use what they had at hand. Why create a new and deliberately ineffective law on the Internet when an existing enactment can be adjusted? Amending the effective Law on the Media was the easiest way.

It is somewhat symbolic that the first reading of the amendments bill was delayed due to a bad draft but the deputies found some time to vote - including the issue of websites in the media. Meanwhile the question remains open concerning the criteria according to which websites not registered with MCIPA will be identified within the media. "The project drafters have not taken into account the multifunctional nature of the worldwide web and therefore included Internet shops, for example, and other virtual pages into the media - although they have nothing in common with the media," believes Sergey Vlasenko, a lawyer with Internews Kazakhstan.

Another disregarded fact is that only half of the sites registered

in the .kz domain are located in Kazakhstan. Over 30% of them are in the USA and the rest are throughout the world. Therefore it was at least rash of the then MCIPA minister Altynbek Sarsenbayev to say that the amendments were intended to defend rights of Internet resource owners because "providers can 'unplug' sites through court judgment only, like any other media."

INFORMATION SECURITY

The key argument used by the official power to underpin this step and an effort to rebuke alleged infringement of freedom of speech was concerned about the country's information security. As said Altynbek Sarsenbayev, "those who advocate fascism or other ideology in the Internet must be responsible under the Media Law; any other state control over Internet space is out of the question."

In parallel, the Kazakh National Security Committee (NSC) has embarked on preparing the Bill of Guaranteeing Information Security of the Republic of Kazakhstan, Internews Kazakhstan reports. The term 'net war', identified by NSC Academy Assistant Professor Zh.Baisalbayeva, is an imperative in determining trends in virtual space development. The list of groups waging 'net war' includes, "warlike fighters for social justice who use the Internet to hit their specific goals, in particular, infecting young and

inexperienced Internet users with the virus of political and legal demagoguery.”

On the other hand the situation is paradoxical in Kazakhstan where information access through the worldwide web is being legally restricted, while in parallel moves are being made towards developing Kazakhstan's Internet space as an indispensable condition for “drawing the country into the world globalization processes.” The Agency for Strategy Planning predicts that number of Internet users in Kazakhstan will very soon reach 30% of the population. Remarkably, according to official data, Kazakhstan currently has only some 300,000 Internet users, or 2.01% of a population of 14,953,000.

THE PANDORA'S BOX

Explications concerning the expediency of website related amendment have encountered strong opposition from web journalists - who have their own interpretation of the events.

The effort to classify websites as mass media is absurd, believes Sergey Duvanov, journalist and

editor-in-chief of Kazakhstan's International Human Rights Bureau. In his view, this is an effort to lawfully try “to rule out dissemination of the information unwished by Kazakh powers through the Internet and to limit access to information coming from abroad, mainly from Russia.” Remember, the first detailed reports about the ‘Kazakhgate’ scandal appeared in Europe in late 2000 on the Eurasia.org.ru site, with reference to a Russian information source.

Duvanov points at some motives for the website-related amendment: firstly, “establishing state control over the website opening by Kazakh users; secondly, expanding silent political censorship to the Kazakh Internet area; thirdly, obtaining legal conditions to close disagreeable Internet sources.” In support of his words access has been restricted to the Eurasia site and the personal site of ex-premier A.Kazhageldin; and the Asiopa site has been sued and then ‘unplugged’ for ‘insulting the honor and dignity of a high-ranking functionary.’

However the Internet has

sufficient economic potentials for Kazakhstan. Experts instance some leading Kazakh telecoms operating in the Internet service market. New wireless Internet access technologies are appearing, the development of which can seriously press natural monopolists in this communication market sector.

If we omit political and economic determinants of the current virtual space situation, in Kazakhstan the Internet - offering a variety of resources - remains the sole medium where an individual has the chance to choose information rather than taking selected and reviewed text. The majority of experts compare what is good and bad in the unlimited freedom of speech provided by the Internet. The western world has decided unequivocally: regardless of all its vices freedom of speech is a supreme value. At least it makes it possible to control the army of functionaries. However the Kazakh statesmen treat the Internet as a sort of Pandora's box, which if opened would expose to light all the sins and inflictions of the local political elite.