

Kyrgyzstan: State of Affairs report

1. Country Snapshot

1.1 Internet Freedom State of Affairs

In the past few years Kyrgyzstan has maintained a relatively open national environment in terms of Internet freedom. Ranked “Partly Free” in 2014 and 2015 by the Freedom on the Net index of Freedom House, Kyrgyzstan was short of only several points to be considered “Free” according to the index’s methodology. Compared to neighboring countries in the Central Asian region, Kyrgyzstan continues to enjoy an open and competitive market for ISPs, lower levels of local filtering of Internet content and greater diversity of online media.

Yet, Internet freedom continues to be hampered by poor infrastructure, outdated or regressive legal frameworks and low capacity of regulatory bodies. The cyberspace is experiencing a strong onslaught by various government initiatives that seek to increase control, centralize access infrastructure and may soon result in a drastically different environment. Notable areas of concern include the increasing number of criminal proceedings against online content disseminated by both journalists and individuals, legislative and policy initiatives, which can significantly restrict free speech online, limit market competition in the telecommunications industry and deteriorate the quality of Internet services.

1.2 Brief Country Data

Kyrgyzstan is a semi-parliamentary republic in Central Asia, covering a highly mountainous territory slightly below 200 thousand square kilometers. Over 90% of the country lies above 1500 meters above the sea level, making geography a significant challenge for Internet connectivity. As of January 2016, Kyrgyzstan has a population of 6 million, of which about 1 million live in its capital, Bishkek.¹ The country is predominantly rural and only 34% of residents live in urban areas.² Ethnic Kyrgyz represent 73% of the total population, while ethnic Uzbeks and Russians account for 14.6% and 6% respectively.³

The economy of Kyrgyzstan is formed predominantly by the service sector, which accounts for 54% of GDP, while industry represents another 26%, and agriculture remaining 20%.⁴ In the past two years, the economy of Kyrgyzstan has been affected by the economic downturn in the CIS region. The country’s GDP in 2015 was \$6.5 billion, almost a billion less than in 2014⁵. Since 2014, the country is classified as a lower middle income country, even though in 2015 its GNI per capita was barely above the threshold at \$1170.⁶ External trade turnover has dropped from

¹ National Statistics Committee, “Kyrgyzstan: Brief Statistical Handbook” (Bishkek, 2016)

² Ibid.

³ Ibid.

⁴ World Bank, 2016

⁵ Country data for Kyrgyz Republic, World Bank, available at: <http://data.worldbank.org/country/kyrgyz-republic> accessed on September 30, 2016.

⁶ Ibid.

almost \$8 billion in 2013 to \$5.7 billion in 2015.⁷ The economy is dependent on flow of remittances, equivalent to 30% of GDP⁸ and generated by over 1 million citizens working abroad, with absolute majority in Russia.⁹

2. Access to Internet & Internet Services

2.1 Penetration

According to International Telecommunications Union (ITU) estimates, percentage of individuals using Internet in the Kyrgyz Republic reached 30.25% in 2015, up from 28.3% in 2014 and 23% in 2013.¹⁰ According to State Communications Agency (SCA), the aggregate number of active users of Internet has reached 4.54 million in 2015, while a total of 79% of the population has access to Internet.¹¹ The higher number from the state agency is explained by its focus on users with possibility of access, regardless of actual regular usage, which is the focus of ITU's approach. Other sources provide an estimate for percentage of households with Internet, which has increased from 8.7% in 2013 to 16.5% in 2016.¹²

According to ITU estimates (based off SCA-reported trends), in 2015 there were 211.5 thousand fixed broadband subscriptions in Kyrgyzstan, up from 170 thousand in 2014.¹³ According to SCA, only 3% of the population had access to fixed broadband Internet in 2014, compared to 21% of the population with access to wireless broadband.

Broadband penetration varies significantly across regions. Fixed broadband is available primarily in Bishkek, through cable and DSL connections, while regional cities rely on DSL. At the same time, according to SCA, 50% of the population had access to 3G mobile broadband coverage in 2014. Mobile broadband penetration is estimated at 33% in 2016.¹⁴

2.2 Demographics of the Internet audience and its uses of Internet

In line with the global tendencies, the average Internet user in Kyrgyzstan is likely to be younger, better educated, earn more and live in urban areas. The latest available research on demographics of Internet audience in Kyrgyzstan (conducted by M-Vector in late 2012) points to a large urban-rural gap – 64% of self-reported Internet users are urban residents, of which

⁷ National Statistics Committee, 2016

⁸ World Bank, "Competitiveness of the Kyrgyz economy in the wake of accession to the Eurasian Customs Union: Selected issues and opportunities" (Washington D.C., 2016)

⁹ Eurasian Development Bank, "Labor Migration and Human Capital of Kyrgyzstan: Impact of the Customs Union" (Saint Petersburg, 2013)

¹⁰ International Telecommunications Union, "Percentage of individuals using Internet", <https://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx> accessed on September 30, 2016.

¹¹ State Communications Agency under the Government of the Kyrgyz Republic, Report on activities in 2015, (Bishkek, 2016).

¹² Paul Budde Communications, "Kyrgyzstan - Telecoms, Mobile, Broadband and Digital Media -Statistics and Analyses", <https://www.budde.com.au/Research/Kyrgyzstan-Telecoms-Mobile-Broadband-and-Digital-Media-Statistics-and-Analyses> accessed on September 30, 2016

¹³ International Telecommunications Union, "Fixed broadband subscriptions", <https://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx> accessed on September 30, 2016

¹⁴ Paul Budde Communications, 2016

41% are in Bishkek, and another 8% in Osh, the second-largest city.¹⁵ The two regions with largest populations, Osh and Chuy account for 15% each. There is a 7% gender gap, as 25% of female respondents reported using Internet, against 32% of male respondents. There are significant differences among age groups as well: 53% of respondents aged 18-24 report using Internet, while the same figure is only 15% for the age group 35-44.

Usage patterns of Internet in Kyrgyzstan are not dissimilar from the global trend as well, ranging from general recreational use to professional use. According to the above mentioned M-Vector survey in 2012, 66% of respondents use it to access email, 49% to access social media, and 42% for news or information. Entertainment purposes are ranked lower, with only 33% using Internet to access music, and 20% to access video. Considerable differences are apparent within age groups – use of Internet for news and information is higher among respondents aged 25+, and conversely, entertainment use for video and music is higher among respondents 24 and below. In capital city of Bishkek, uses for social media and email are reported most often, by 71% and 70% of respondents respectively.

2.3 Barriers to access

In the past two years, Kyrgyzstan is seeing rapid expansion of the mobile broadband subscriber base, conditioned by greater availability of affordable smartphones, continuous fall in prices of data plans and rise in popularity of social media and communications apps, such as Whatsapp. Fixed broadband subscription is also seeing growth, albeit from a very low base.

Nevertheless, according to a late 2015 study by the Internet Society, the two main barriers to wider adoption of Internet in Kyrgyzstan are affordability and relevance.¹⁶

In terms of affordability, cost of mobile broadband averages 10% of average monthly per capita income, more than the 5% target threshold set by the ITU/UNESCO Broadband Commission for Development¹⁷. The cost of fixed broadband is lower - as of September 2016, the monthly connectivity fee for the cheapest unlimited DSL connection from the market leader Kyrgyz Telecom is 299 KGS in Bishkek (~\$4.4), and 550 KGS in regional capitals (~\$8).¹⁸ The factor of affordability also relates to total cost of setting up connections, including cost of devices and any set up fees.

The relevance factor includes low number of social connections, who are online, limited availability of content that is relevant to local context and language barriers. While majority of the country is Kyrgyz-speaking, over 80% of Internet traffic is international – generated mainly from Russian-language content providers. Digital literacy is another related obstacle, especially for schoolchildren and older generations of smartphone, desktop and tablet users.

¹⁵ M-Vector, “Media Consumption and Consumer Perceptions Baseline Survey 2012, 2nd wave” (Bishkek, March 2013)

¹⁶ Michael Kende, Maarit Palovirta, and Jane Coffin, “Kyrgyz Internet Environment Assessment”, (Internet Society, November 2015).

¹⁷ Ibid.

¹⁸ Jet.kg (Kyrgyz Telecom subsidiary), <http://jet.kg/jet/rates/> accessed September 30, 2016

Poor infrastructure for connectivity in the regions is a significant systemic barrier, especially at the “last mile” delivery of fixed broadband. No functional legal and technical provisions exist for shared use of existing infrastructure by ISPs, forcing them to build redundant and expensive infrastructure.

3. ICT Actors & Infrastructure

3.1 Fixed Communication

KyrgyzTelecom (KT) is the leading provider of fixed communication services, with 60% market share of Internet services. The company is present in 90% of the country’s localities. According to its 2015 end of year report, KT’s fixed broadband subscribers reached 100 000, and due to negotiating a 53% lower rate for its external traffic, the consumer price of 1mbit was reduced by 40%.¹⁹ KT is the primary actor developing the fiber optic infrastructure, and stands behind projects building interregional fiber routes, connecting the northern and southern regions. By end of 2015, there were 2719 kilometers of main fiber optic routes, and the overall fiber optic network exceeded 12 thousand kilometers, growing by 35% compared to 2014.²⁰

Other companies offering fixed line internet services include EICat, Aknet, Asiainfo, Megaline, Saima Telecom, Citynet, Homeline, Totel (rebranded as Maxlink) and Fastnet. Several of these companies have also deployed wireless LTE and Wimax networks, targeting segments without reliable fixed line connections. In 2015, 10 new providers were issued licenses for fixed Internet connections.

3.2 Mobile Connection

As of 2015, Kyrgyzstan had slightly over 7 million mobile subscriptions, less than 7.5 million subscriptions in 2014. The decline is mainly related to a push for personification of accounts in 2015, whereby unregistered accounts were discontinued. The existing client base is divided among three mobile operators – Skymobile (brand Beeline), AlfaTelecom (brand Megacom) and Nurtelecom (brand O!). According to estimates by Civil Initiative for Internet Policy, in the 4th quarter of 2015, mobile market share of Beeline is 40.5%, of Megacom 32.4% and of O! 26.9%.²¹

All three companies heavily invest in next-generation data networks, now offering 4G service in almost all of the large urban centers across Kyrgyzstan. 3G and 2G coverage is much more

¹⁹ Kyrgyz Telecom, “Annual financial report 2015”, http://kt.kg/about_us/documents_and_tender/financial_statements/2015finotchet.pdf accessed October 2, 2016

²⁰ SCA, 2016

²¹ Civil Initiative for Internet Policy, “Assessment of the telecommunications industry in the Kyrgyz Republic, 2015”, http://www.gipi.kg/wp-content/uploads/telecom-survey-rev-2016.05.25_final-draft.pdf accessed October 1, 2016

widespread. According to SCA, in 2015, there were 1.8 million 3G connections, 3.3 million 2G connections and 95 thousand 4G (LTE) connections.²²

In May 2015, several mobile operators of Kyrgyzstan reviewed a potential joint decision to block the traffic for Whatsapp and Viber applications on their networks. The operators were concerned that increasing usage of these applications for voice calls has been negatively impacting their revenues. As October 2016 no such blocking is in place.

Several companies that are not mobile operators provide mobile Internet connection services, based on LTE (Saima Telecom) and Wimax (Maxlink) technologies. Their coverage is limited to large cities of Bishkek, Osh, Jalalabad, Karakol and Cholpon Ata, with focus on users that have difficulty accessing the fixed Internet infrastructure.

Four companies – KT, Asiainfo, Transfer and Isatel – are locally accredited providers of satellite Internet, which always had a negligible market share in Kyrgyzstan. It is possible to set up satellite Internet connection through foreign providers as well, with subscription packages available from numerous Russian and European companies. Due to high cost of data traffic, the focus of satellite providers has mainly been on the corporate sector, especially in connection with emergency telephone services. Relevance and attractiveness of satellite Internet is decreasing due to rapid growth of mobile Internet, but it remains an important alternative or emergency channel of access.

3.3 International Communication

Absolute majority of the international Internet traffic arrives to Kyrgyzstan through terrestrial fiber optic connections, with no viable alternatives. Kyrgyz ISPs have 22 physical connection points at its international borders, allowing traffic exchange with Kazakhstan, Uzbekistan, Tajikistan and China. Among the ISPs with own trans-border connection points are KT, Elcat, Megaline, Beeline, Saimatelecom and O!. All the other ISPs rely on these ISPs to gain access to global Internet traffic.

Almost all of the traffic is channeled through Kazakhstan, making Kyrgyzstan almost completely dependent on that country to access the global Internet. In 2014-2015, fiber lines were set up in the southern regions of the country, allowing Kyrgyzstan to become a transit country between China and Tajikistan.

In July 2016, according to the State Agency for Antimonopoly Regulation, Kazakh Internet providers notified Kyrgyz providers of plans to increase the cost of transit from \$14.9/mbps to \$29/mbps which would significantly increase the cost of consumer data plans.²³

²² Civil Initiative for Internet Policy, 2015

²³ Tazabek news agency, “День 4 Октября: Казахстан снова поставил на колени Кыргызстан. На этот раз в интернете”, <http://kg.akipress.org/news:1334301?from=kgnews&place=mainimpnews>, accessed October 4, 2016

In early 2016, the government initiated a draft instruction and amendments to the law on communications, introducing the monopoly of KyrgyzTelecom for trans-border Internet communications. If passed the initiative modelled after Uzbekistan and Tajikistan would severely restrict market competition and significantly facilitate online censorship.²⁴ As of October 2016, the initiative has not transformed into draft legislation.

4. Regulatory ICT Policy

4.1 Regulatory/governing bodies and standards (National & International)

Within the current structure of the Government of the Kyrgyz Republic, the **State Committee for Information Technology and Communications** is the main body that are responsible for regulation, policy development, implementation and other oversight relating to Internet. The committee itself is a new institution, created in July 2016 to incorporate the State Communications Agency and the Center for Electronic Governance under the Government of the Kyrgyz Republic, as well as some of the communications components from the Ministry of Transportation. Within this structure, the State Communications Agency remains the regulatory body, which undertakes state regulation functions in the areas of electric and postal communications, including the use of the radio frequency spectrum and the number pool. The overall State Committee for Information Technology and Communications is responsible for policy development and implementation. It implements the state policy and executes cross-sectoral coordination in the areas of informatization, electronic governance and electronic government, electronic services, electric and postal communications, including radio and TV broadcasting.

The decision to integrate SCA into the newly created committee was intended to consolidate the scattered elements of the electronic governance reform agenda. Yet, the new structure effectively merged policy making and regulatory functions, depriving the SCA of its politically independent regulatory role. As a result, Kyrgyzstan would be going against the requirements of WTO, which states in its telecommunications protocol that the regulatory body should be shielded from the political influence of state institutions.

The State Committee for Radio Frequencies is a separate body that coordinates the activities of ministries and agencies in using the radio frequency spectrum. The Committee also can suspend and prohibit development, production of radio electronic, electric equipment and other technical equipment, which does not meet the norms for radio emissions, radio reception or allowed industrial radio interference.

Endorsed by a June 2013 decree of the Government, there is also a functioning **Council on ICT**, a consultative and advisory body under the Government. The Council plays an important role in defining the policy priorities and delivering the voice of telecommunications actors to highest

²⁴ <https://digital.report/kyrgyziztelekom-nameren-monopolizirovat-dostup-k-internetu/>

offices of government. Still, the Council has not been active in recent period and no formal sessions have been held within the past year.

5. Information Security, Data Protection and Privacy

5.1 Internet Infrastructure (susceptibility to cybercrime, terrorism, and attacks)

Overall, Kyrgyzstan's Internet infrastructure is not sufficiently secure and resilient in face of external threats emanating from criminal and terrorist networks, as well as from attacks sponsored by other governments. Kyrgyzstan ranked 25th (out of 29 ranks available) in the first Global Cybersecurity Index, behind all of its CIS neighbors.²⁵ According to the index, Kyrgyzstan lacks any "officially approved national or sector specific cybersecurity framework for implementing internationally recognized cybersecurity standards", and it also does not have an officially recognized national CIRT (Computer Incident Response Team).²⁶

In terms of international connectivity, dependency on Kazakhstan and Russia as transit routes fully exposes the country to risks faced by those countries. In case of major attacks against those countries disrupting connectivity, majority of Kyrgyzstan's users may find themselves without reliable access to the global network.

The physical infrastructure of Internet in the country has evolved with minimal investment and may lack the qualities of built-in redundancy and resilience to withstand potential attacks on its critical elements. In January 2015, several ex-officials of KT were arrested on charges of corruption and fraud, in connection with the construction of the fiber optic route linking the southern city of Osh with a trans-border port Irkeshtam at the Chinese border.²⁷

In recent years, Kyrgyz government websites have frequently been targets of attacks by foreign hackers and the full extent of damage is not known. Domestic threats to critical government infrastructure have been of concern as well – in June 2016, the State Registration Service disclosed politically motivated "hacker attacks" on its databases and offers of bribes up to \$1.5M by political groupings, interested in electronically controlling the results of parliamentary elections in fall 2015.²⁸

5.2 Types of attacks, actors, and those targeted

The cyber space in Kyrgyzstan is exposed to threats and vulnerabilities facing the rest of the online population across the world and often adapted to local context. Companies and individuals routinely become victims of malicious software, internet fraud, phishing, resulting in

²⁵ ITU, Global CyberSecurity Index 2014 (April 2015), http://www.itu.int/dms_pub/itu-d/opb/str/D-STR-SECU-2015-PDF-E.pdf accessed October 4, 2016

²⁶ Ibid.

²⁷ Azattyk news website, RFE-RL, <http://rus.azattyk.org/a/26793187.html> accessed October 4, 2016

²⁸ Sputnik news agency, "Заказчики взлома биометрической базы ГРС сидят в Жогорку Кенеше?" (June 11, 2016) <http://ru.sputnik.kg/politics/20160614/1026510958.html> , accessed October 4, 2016

such consequences as cyber-extortion and unauthorized access to online banking accounts, social media accounts. According to Center for Information Security, the number of cyber-incidents is doubling every year.²⁹ Commercial activity that highly dependent on secure Internet infrastructure is particularly vulnerable, including the banking and telecommunications sectors.

Use of the cyber space as a platform for extremism and terrorism is on the rise in Kyrgyzstan as well, and many cases of recruitment of Kyrgyz citizens into the ranks of fighters, supporting the Islamic State in Syria, are alleged to have happened online, with use of specialized media websites and social messaging tools.³⁰

State institutions' websites are seeing increased number of attacks, attempting to alter content and exploiting known security gaps. According to KG Cert, a local group of information security experts, multiple government websites were targeted by attacks throughout 2015.³¹ In January 2015, the website of the muftiyat, or the Muslim spiritual authority, was defaced, as well as the Council for Selection of Judges.³² In June 2015, the same happened to the website of the State Defense Committee, and in to the website of the State Committee for National Security³³. In September 2015, similar attacks took place against the websites of the SCA, Agency for Environmental Protection, National Library, Fund for Obligatory Medical Insurance. In November 2015, the website of the Ministry of Culture, Information and Tourism was targeted, requiring a two-month overhaul. In all of those instances, it appears that attacks did not go beyond creating reputational damage.

5.3 Government surveillance

A surveillance system called System for Operational Investigative Activities (SORM) has been in place in Kyrgyzstan since 2009, and briefly discontinued after the April 2010 regime change. The system provides real-time, full access to all communications networks, bypassing judicial oversight. In mid-2014, a government decree was adopted instructing ISPs and mobile operators to install a newer version of SORM. In April 2015, the Constitutional Chamber held a hearing reviewing a complaint by the human rights defender Nurbek Toktakunov and LLC Winline that this instruction was unconstitutional, and found that complaint unsubstantial (more information in section 6.2 of this document).

²⁹ Digital.Report, Центр информационной безопасности (Кыргызстан): «Вопросами ИБ больше обеспокоен частный сектор, а не государство», <https://digital.report/tsentr-informatsionnoy-bezopasnosti-kyrgyzstan-voprosami-ib-bolshe-obespokoen-chastnyiy-sektor-a-ne-gosudarstvo/> accessed on October 2, 2016

³⁰ Noah Tucker, “Central Asian involvement in the conflict in Syria and Iraq: drivers and responses”, (USAID, May 2015) https://www.usaid.gov/sites/default/files/documents/1866/CVE_CentralAsiansSyriaIraq.pdf accessed October 8, 2016

³¹ Digital.Report, Информационная безопасность Кыргызстана: Главные вызовы впереди”, <https://digital.report/informatsionnaya-bezopasnost-kyrgyzstana-glavnyie-vyizovyi-vperedii/> accessed on October 3, 2016

³² Zanoza.kg news website “Контент сайта Совета по отбору судей сменили арабские надписи”, http://zanoza.kg/doc/331138_kontent_sayta_soveta_po_otboru_sydey_smenili_arabskie_nadpisi.html accessed on October 1, 2016

³³ Zanoza.kg news website, “Хакеры взломали сайт ГКНБ” http://zanoza.kg/doc/342202_hakery_vzломali_sayt_gknb.html accessed on October 1, 2016

In the past few years, tapped phone conversations of politicians have been regularly leaked online, suggesting continued use of systems similar to SORM by unknown actors. In 2014, to facilitate identification of mobile phone users through SORM, a law was passed requiring personal identification of all mobile communication accounts, through registration of SIM-cards, and went fully in effect in February 2016.³⁴

Given the dependence of Kyrgyzstan on Kazakhstan and Russia for Internet access, domestic Internet routed via those countries is exposed to surveillance activities by Kazakh and Russian governments. There are no reliable sources confirming or approving such a conclusion, as Kyrgyz ISPs only distinguish between the traffic filtered in accordance with the transit country requirements and traffic that has not been filtered.

6: Legal Overview

6.1 Current Laws

The core legislation governing Internet in Kyrgyzstan includes the 1999 Law on informatization and electronic governance, which outlines the basis for information infrastructure, as well as associated legal, economic and institutional relationships. More specifically, there is a Law on electronic and postal communications, passed in 1998 and providing the legal grounding for communications networks, services and their providers. Recent bylaws include regulations on telecommunications licensing, rules for provision of mobile communication services and mandatory certification of communications equipment. There is also a law on licensing of the radio frequency spectrum. Various other laws and bylaws provide the basis for media, broadcast media, access to information and protection of personal data.

In terms of policy documents, the National Strategy for Sustainable Development of the Kyrgyz Republic, 2013-2017 (NSSD) is a core national planning document that provides the basis for much of the reform agenda of the Kyrgyz government. NSSD set out a goal of ensuring every locality in the Kyrgyz Republic is provided with “full-scale access to Internet” by 2017. The issues of improving the legal frameworks of information security are addressed in the Concept of National Security, passed in June 2012.

In November 2014, the government passed a program for the years 2014-2017, on introduction of e-governance in state and local self-governance bodies. The document outlines several priorities in this field, including improvement of the legal frameworks, technical infrastructure and public service delivery. It also includes an indicator of achieving by 2017 100% adoption of online platforms by the state institutions to engage citizens in public decision-making processes.

³⁴ Digital.Report, “В Кыргызстане вступил в силу закон об обязательной регистрации мобильных пользователей”, <https://digital.report/sotovyie-operatoryi-kyrgyzystana-vyinuzhdenyi-otklyuchat-abonentov-iz-zakona-trebuyushhego-ih-registratsiyu/> accessed on October 5, 2016

Overall, the legal framework remains dated and does not reflect the latest technological advances, such as in the areas of cloud computing, mobile applications as well as the growing sophistication of cybercrimes. For instance, the current version of the criminal code does not have clear provisions for penalizing cybercrimes, creating difficulties in prosecuting the identified criminals.³⁵

6.2 Litigation

Recent litigation related to Internet freedom can be loosely grouped into two different sets. The first set represents the instances of strategic litigation by civil society and business groups seeking to overturn government decisions that negatively affect the Internet environment. The second set includes the cases, when state law enforcement agencies seek justice against individuals or organizations, implicated in violations perpetrated in the cyber space or creating ramifications for freedom of Internet.

In recent period, a notable case of litigation within the first set is that of Toktakunov and Winline against the Government of the Kyrgyz Republic. In April 2015, the Constitutional Chamber held a hearing reviewing a suit by human rights defender Nurbek Toktakunov and LLC Winline that a government decree, issued in 2014 and instructing ISPs to set up the SORM surveillance system violates the constitutional rights of citizens related to privacy and confidentiality, under Article 29 and such violations should be regulated by laws, rather than bylaws. The Constitutional Chamber ruled that use of SORM was in line with the Constitution and that a court decision has to support any limitations of constitutional rights of citizens under Article 29.

Another case is related the May 2014 law on amendments to the Criminal Code, which introduced a concept of “knowingly false messages about commission of crime”, punishable with fines and up to 3 years in prison. The Association of NGOs and NCOs, led by Toktayim Umetalieva filed a suite with the Constitutional Chamber against the amendment. In January 2015, the Chamber ruled that the amendment was constitutional.

The case by Umetalieva has implications for freedom of speech in the online space as well, as soon confirmed by a case from the second set of litigation. The October 2014, a criminal proceeding was initiated against Dayir Orunbekov, editor-in-chief of the online news agency Maalymat.kg, based on the above mentioned amendment, after Orunbekov published an online article criticizing president Almazbek Atambaev. The case was dismissed in court, but later a new defamation suit was filed against Orunbekov, which in June 2015 resulted in awarding of 2 million Kyrgyz soms in moral compensation (~\$28 500).³⁶

Regarding the second set of litigation cases, traditionally the Kyrgyz law enforcement bodies have reacted to offensive online content by blocking the source through a court decision. By

³⁵ Internet Society, 2015

³⁶ Freedom House, 2016

end of 2015, there were 19 instances, when websites or groups of websites were blocked in Kyrgyzstan for containing extremist content or advertisement of prostitution.

However, this year a negative precedent was set for prosecuting individuals merely “liking” social media content. In late 2015, Abdulloh Nurmatov, a resident of Osh region was arrested after “liking” an Odnoklassniki social media posting in support of religious leader Rashod Kamalov, imprisoned on charges of extremism. In July 2016, a local court found Nurmatov guilty of disseminating extremist content online, and his social media account at the Odnoklassniki network was used as evidence, resulting in a one-year conditional sentence.³⁷

6.3 Recent legislative initiatives

The Kyrgyz authorities are increasingly introducing changes to the legal framework, often borrowed from countries with repressive political environments and having a negative impact on the level of Internet freedom.

In May 2016, several deputies of parliament initiated a draft law on amendments to the law on media. The amendments seek to institute a 20% threshold for foreign-funded share of media outlets in Kyrgyzstan, and introduce a concept of “network publications” to the list of media in the law. The draft law was passed in its first reading in June 2016 and the second reading is expected before of end of the year. Kyrgyzstan has a long history of legislative initiatives pursuing the goal of adapting media laws to include online media outlets, but actual changes were never adopted.

In July 2016, a law on amendments was signed by the President of the Kyrgyz Republic, taking into effect regulatory changes that allow swift blocking of websites with extremist content. According to changes, websites can be blocked as soon as the court accepts a case from the Prosecutor’s Office, until a court decision is issued. Court decisions on such cases are now prescribed to take no more than 5 days and can be processed without the defendant.

In August 2016, another law on amendments brought changes to seven different legislative acts, introducing stricter norms against terrorist and extremist activity. The changes now allow prosecution for public support of terrorist and extremist activity, including on the Internet and including “unintentional use of symbols and attributes of terrorist and extremist organizations.” Criminal Code provisions for incitement of national, interethnic, racial, religious or interregional hatred now criminalize such activity on the Internet as well.

All of the amendments associated with extremism remain problematic, as the existing Kyrgyz legislation on countering extremism still does not have a clear definition of what constitutes extremism, leaving open the possibility of legal interpretations that are too wide and will stifle free speech.

³⁷ http://central.asia-news.com/ru/articles/cnmi_ca/features/2016/08/16/feature-02

6.4 Limitations and opportunities for advancing Internet freedom through legal means

Kyrgyzstan has a relatively open environment for Internet freedom advocacy through legal instruments. In general, the existing legislation on access to information is actively practiced and enforced, with very few exceptions. There is a well-established pattern for strategic litigation on behalf of public interests by human rights and media organizations. Some of the litigation processes have exhausted domestic judicial recourse and turned to international courts, achieving rulings that instruct corrective measures by the Kyrgyz government. Even though the legal system is not based on judicial precedents, court decisions are widely publicized and can play both educational and deterrent roles in preventing encroachments on freedom.

In addition, civil society watchdogs have established a long track record of responding to various policy and legislative initiatives restricting freedoms in the online space, by proactively launching public discussions, attracting media attention and engaging policy and law makers in open conversations. As a result, many regressive initiatives have been postponed or revised for better to include civil society feedback.

At the same time, the judicial system in the Kyrgyz Republic is not seen as a truly independent branch of power. There is significant undue influence by political elites in the executive and legislative branches. This limits the potential for successful domestic litigation overturning the decisions, negatively impacting the freedom of Internet. Given the protracted, costly nature of litigation, the resources of civil society organizations are very limited in pursuing legal instruments of change. Their level of preparation is often dependent on a handful of experienced individuals.

7. Information Campaigns and Internet Activism

7.1 Advocacy work on IF

- Topics of activism, activist networks and campaign
- Mediums: social media, journalism, blogs, etc

Advocacy efforts focusing on Internet freedom in Kyrgyzstan can be grouped into two main categories. The technical aspects of Internet freedom, including legal and regulatory frameworks on use and development of technical infrastructure, such as in licensing, are one major area of advocacy. Specialized public interest groups, including telecommunications industry associations, the Civil Initiative for Internet Policy and more recently the local chapter of the Internet Society are active in promoting improved technical environment. All of the leading companies in the telecommunications sector are active contributors as well. Recent campaigns have included the efforts to counteract monopolization of trans-border access points by KyrgyzTelecom and clarify the legal basis and technical procedures for operating the surveillance system SORM.

The rights-related aspects of Internet freedom, related to protection of human rights and freedoms in the cyber space are another major area. Human rights groups, along with media organizations traditionally take the lead in monitoring violations and the legal initiatives that restrict civic and political rights in the cyberspace. Such human rights and civil society organizations as Precedent, Bir Duino, Legal Clinic Adilet, Association of NGOs and NCOs are among the more active advocates. Media advocates include the Institute for Media Policy, Center for Information Law and Public Foundation Journalists. All of these organizations actively make use of international activist networks and civil society groups, mobilizing technical assistance, media coverage and regional solidarity to achieve their advocacy goals.

Both components of advocacy efforts rely on broadcast, print and online/social media channels to deliver their messages and create public recognition and support. If direct contact with policymakers is missing or limited, media platforms often provide the space for indirect dialogue and exchange. Specialized events, such as the first Central Asian Internet Governance Forum, held in June 2016 in Bishkek, also provide an important platform for informed multi-stakeholder debate, advocacy and interaction with policy makers.

7.2 Government Response

In general, the government in Kyrgyzstan, especially as represented by the line ministries and agencies is generally open and responsive to advocacy engagement by civil society, business and other interested stakeholders. Parliament remains an institution with sufficient space for public consultation and dialogue and the legislative and representative functions of MPs are exercised with multiple opportunities for citizen engagement. In the past few years, several instances problematic legislative initiatives were put on hold or rejected, following critical feedback from stakeholders, as for instance was the case with the “foreign agents” law, modelled after similar legislation in Russia and pursuing tighter regulation of civil society organizations.

7.3 Opportunities for additional/alternative advocacy

From the standpoint of Internet freedom, the advocacy agenda in the Kyrgyz Republic common to all stakeholders has several key levels.

At the level of policy and regulatory institutions, ensuring the full independence of the regulatory body – the State Communications Agency - is important in order to support predictable, fair and open regulation of the telecommunications industry. SCA should be separated from the Committee for Information Technology and Communications. Re-energizing the Council on ICT under the Government of the Kyrgyz Republic will have a positive impact on the industry and reactivate another platform for continued dialogue of state institutions, businesses and civil society on issues of Internet freedom. There is also a need to create a specialized state authority responsible for personal data protection. Currently the legislation on data protection includes provisions for such a state authority, but there is no such an institution within the government structure.

At the level of substantive priorities, a number of issues in Kyrgyzstan should receive high attention. In light of active state efforts targeting terrorist and extremist activity, it will be important to monitor and prevent unwarranted censorship on the Internet under the pretext of countering extremism. Mass surveillance by government, along with existing legal basis and due process should remain under the spotlight of civil society watchdogs.

Promoting equitable access to affordable and reliable Internet across Kyrgyzstan should also remain on top of the agenda. Here, avoiding centralization of Internet connectivity infrastructure and exploring alternative channels linking the country to global Internet are essential advocacy priorities.