

# The Influence of the 'Censorship of Money' on Freedom of Speech in Ukraine

Alexander Belyakov

*This article will discuss the importance and direction of the media transformation processes in the Ukraine in the light of freedom of speech, and will address recent developments in journalism and their consequences for politics. Media processes are analyzed based on the transformation theory. The analysis particularly targets weak and strong points of changes, concentrates on predictions of further freedom of speech development in Ukraine and advocates further research on the similar processes across Eurasia. Generally, this study shows unsatisfactory coverage (partial coverage, selective attention, high prejudice, etc.) of elections in the last years and analyzes the probability of similar actions during the forthcoming Ukrainian presidential election. This study also strives to understand how freedom of speech is influenced by the 'censorship of money'. Further research is needed to determine how to maintain freedom of speech in light of the failure of 'Orange Revolution' ideas to be fully implemented.*

*Keywords: Ukraine; Mass Media; Journalism; Freedom of Speech; Transformation; Corruption*

## Introduction

Freedom of speech has various definitions. However, the definition given by an average citizen of the Western world would differ from that of a citizen from most Eastern European countries in transition, including the Ukraine. This difference has been diminishing since the collapse of the Soviet Union, but it still exists. There are some similarities in the perceptions of Western Europeans and Ukrainians about an opportunity to speak freely and share one's opinion without censorship or any limitation. The major differences are in understanding of the terms 'censorship' and 'limitations'.

Currently, there are still difficulties in the Ukraine in the common understanding of the term 'freedom of speech'. Generally, citizens believe that they have freedom of

speech as they can criticize the government and president. Nevertheless, many people, especially the older generation brought up during the Soviet period, still fear the consequences of criticism or even expect some kind of prosecution.

During the Soviet era Ukrainians were taught that the Communist Party already had an opinion and everybody should share it. It was a strongly enforced belief before and during Mikhail Gorbachev's *perestroika*. Furthermore, during the 27th Congress of the Communist Party of the Soviet Union (1986), Gorbachev shocked many people with a speech about *glasnost* that, as he said, was needed to build democracy. New media outlets were established in Moscow to fulfill this task.

Some time had passed before these changes in freedom of speech approved by Moscow reached Kyiv. However, the citizens and the media were not accustomed to formulating and communicating their own positions and were used to following the official views of the Communist. Thus, they had difficulties in fully and freely exercising their right to freedom of speech.

Currently, Ukrainian leaders are often accused of strongly deferring to the position of other political forces—now not necessarily Moscow, but Brussels or Washington. Following the advice of those forces and international organizations, laws in the Ukraine have been worded to reflect the importance of freedom of speech. However, the enforcement of these legal norms is still questionable.

The Ukraine has only just started developing a tradition of freedom of speech. Ukrainians need a variety of policies and communication tools that would ensure their practice of freedom of speech on a routine basis. The Ukrainian mass media is believed to be the best tool for teaching citizen rights, including freedom of speech. This research shows that the mass media creates rather an illusion of the freedom of speech through 'politainment', manipulating with agenda-setting and right on access to information.

The media's transformation plays a crucial role in support of as well as the further development of freedom of speech. Therefore, special attention is paid in this research to the Ukrainian mass media, which has gone through a complex development. It started during Mikhail Gorbachev's *glasnost*, challenged during a period of censorship in the early 2000s and was inspired by the 'Orange Revolution'.

Journalists lost their position as the elite in the Soviet Union during *perestroika*, and the 'golden age' of journalism has gone. Although many studies have focused on the stages of later censorship, the murder of journalists, pressure on the managers of the mass media etc., a few attempts have been made to investigate the development after the 'Orange Revolution' (also called the 'Journalists' Revolution' due to the freedom gained from the censorship).

As research shows, the problem of transparency regarding the ownership of mass media remained unsolved after the 'Orange Revolution', so politicians often simply buy media loyalty, especially during the current financial and political crisis (2008–2009). It is not a surprise that the *Media Sustainability Index 2008* gave professional

journalism in the Ukraine the lowest rating since 2001.<sup>1</sup> The corrupt state causes corruption of the mass media; this phenomenon is known as ‘*jeansa*’—the slang word indicating journalistic bribes.

The Ukrainian mass media are *de jure* free, but *de facto* they face the replacement of censorship by the president since the beginning of 2000s with a ‘censorship by money’ from oligarchs or just advertising customers (or even worse—‘black’ public relations designed to discredit or even destroy the reputation of political competitors). To better understand which factors influence stages of the current development of the freedom of speech, we should review the transformation processes in the mass media.

### ‘Orange Revolution’ as a Booster of Democratic Processes

The Ukrainian ‘Orange Revolution’ started at the end of 2004. It became one of the world’s ‘color revolutions’. This fact supports Samuel Huntington’s position on a consistent pattern of transformations being similar to waves.<sup>2</sup>

The majority of ‘color revolutions’ in the mid-2000s happened mostly simultaneously. However, electoral protests do not fulfill all the characteristics of a revolution. Michael McFaul calls these entire events democratic breakthroughs.<sup>3</sup> He analyses patterns of electoral breakthroughs in Eurasia, looking for similarities and differences of electoral protests in comparison to other democratic transitions or revolutions. Despite the fact that the ‘color revolutions’ are not classic revolutions, politicians still prefer ‘strong revolutionary words’. Therefore, we will refer to these events as revolutions. Political scientists should analyze ‘color revolutions’ and the changes they cause in the state in the context of freedom of speech.

The ‘color revolutions’ are almost as important as the historical changes of 1989 and 1991, according to Mark MacKinnon,<sup>4</sup> a former Moscow bureau chief for the Canadian newspaper *Globe and Mail*. He studied ‘managed democracy’ in the post-Soviet politics. MacKinnon observed conflict between Russia and the USA. At the time the USA had used ‘color revolutions’ to further its geopolitical interests; Russia did almost the same to retain control over the whole region. It is not beyond the bounds of credibility that both states contributed their financial resources and political influence to the ‘color revolutions’ competing against each other.

‘Color revolutions’ also result in a boost for Europeanization and globalization. They create a new situation in political development and a new context for stakeholders, including the media, which start promoting not just ‘home-made’

<sup>1</sup> International Research & Exchanges Board, *Media Sustainability Index 2008*, [http://www.irex.org/programs/MSI\\_EUR/2008/ukraine.asp](http://www.irex.org/programs/MSI_EUR/2008/ukraine.asp).

<sup>2</sup> Samuel Huntington, *The Third Wave: Democratization in the Late Twentieth Century: The Theoretical Framework for Understanding Democratic Transitions* (Norman: University of Oklahoma Press, 1991).

<sup>3</sup> Michael McFaul, ‘Conclusion: the Orange Revolution in a Comparative Perspective of Revolution in Orange’ in Anders Åslund and Michael McFaul (eds), *The Origins of Ukraine’s Democratic Breakthrough* (Washington, DC: Carnegie Endowment for International Peace, 2006), pp. 165–196.

<sup>4</sup> Mark MacKinnon, *The New Cold War: Revolutions, Rigged Elections and Pipeline Politics in the Former Soviet Union* (New York: Carroll & Graf, 2007).

freedom of speech, but rather a transparent system in a broader European context. This new wider European vision means involving many international actors, who often influence societal changes at the national level.

There is also Hans Kleinsteuber's proposal that they 'react to tendencies to globalization with demands for democratization, which corresponds with the general tendency in the direction of more democracy in the world' using a concept of 'democratizing communication'.<sup>5</sup>

Globalization puts the authoritarian rule of the post-Soviet space under pressure, limiting Russian influence. According to Ivan Krastev, the 'Orange Revolution' in the Ukraine 'contributes to the emergence of a dramatically new situation in the post-Soviet space' and is 'Russia's 9/11'.<sup>6</sup>

Thanks to the 'Orange Revolution', freedom of speech reached a new level, but this achievement seems to have been challenged in the last few years. In order to better understand why such damage occurred we will review the complex situation.

### Challenges of the Media Transformation on the Way to the Freedom of Speech

The transformation of media and society in the Ukraine started during *perestroika* and *glasnost* in the Soviet Union and continued during the independence of the young Ukrainian state. All the changes occurred during a very limited time, but have made relatively good progress.

Ukrainian journalism has gone through:

1. 1991—mid-1990s The 'golden age' of journalism;
2. mid-1990s—2002 Growing restrictions;
3. 2002—2004 Censorship (the time of '*temnyky*', written instructions, how to cover events);
4. 2004—2005 The 'Orange revolution' ('Informational Revolution' and 'Journalists' Revolution');
5. 2005—present Commercialization, transformation from state-sponsored to private media, growing corruption.

Hella Rottenberg acknowledges all the difficulties: 'Ukrainian journalism made a complicated transformation: from Soviet to Ukrainian media, from media under censorship to free speech and from state-sponsored to private media. It has been a process with ups, and many, many downs'.<sup>7</sup>

<sup>5</sup> Hans J. Kleinsteuber, 'Comparing Mass Communication Systems: Media Formats, Media Contents and Media Processes' in Frank Esser and Barbara Pfetsch (eds), *Comparing Political Communication. Theories, Cases, Challenges* (Cambridge: Cambridge University Press, 2004), p. 82.

<sup>6</sup> Ivan Krastev, 'Russia's Post-Orange Empire', *Open Democracy*, [http://www.opendemocracy.net/democracy-europe\\_constitution/postorange\\_2947.jsp](http://www.opendemocracy.net/democracy-europe_constitution/postorange_2947.jsp)

<sup>7</sup> Hella Rottenberg, 'Ukraine' in Dick van Eijk (ed.), *Investigative Journalism in Europe* (Amsterdam: Vereniging van Onderzoeksjournalisten, 2005), p. 204.

The opposition in 2004 has even benefited from the restricted media support. According to Michael McFaul, the necessary conditions for a democratic breakthrough include 'enough independent media to inform citizen about the falsified vote'.<sup>8</sup>

In 2004–2005, President Viktor Yushchenko promised freedom of the press and supported it. Unfortunately, media owners often misused this freedom. In 2005, Rottenberg was optimistic about changes after the 'Orange Revolution', expecting 'real reforms, leading to independent and free media in the long run'.<sup>9</sup>

MacKinnon doubts that the 'color revolutions' changed the mass media.<sup>10</sup> Furthermore, Kleinstauber provides an in-depth account of this process: 'looking at the present media situation of Russia and surrounding states, one may talk about "defective democracies" or "blocked transformation", reflecting the fact that not every transformation ends necessarily in a democratic system'.<sup>11</sup> However, Kleinstauber does not fully realize the potential of this region and is mostly thinking about 'the Arab world, the African World South of the Sahara and parts of Asia'.<sup>12</sup>

At the same time, MacKinnon acknowledges the opportunities of post-Soviet countries, taking as an example of the rapid change from censorship to free criticism in the Ukrainian media, including the publication of satirical cartoons without any restrictions on the subject.

This is an enormous difference compared to the limited freedom of speech under Vladimir Putin's rule in Russia. Therefore, Ukrainian journalists support their Russian colleagues and audience in different ways. The Ukrainian media company KP Media has developed the news web site and communication platform 'Correspondent Russia' (<http://korr.ru>) promoting impartial coverage of political events and everyday life in Russia from the Ukraine.

Furthermore, in the Ukraine, the existing political pluralism has attracted 'Russian journalistic refugees', as Chrystia Freeland calls the former Moscow TV stars, Savik Shuster and Yevgeny Kisiliev, who, being 'marginalized in Moscow', have moved to Ukrainian TV channels.<sup>13</sup> Hopefully, appearance on the Ukrainian *TVi* will help Yevgeny Kisiliev gain more freedom of speech and he is not attempting to beat Shuster's shows' commercial success.

Savik Shuster started the political talk show 'Freedom of Speech' on the ICTV channel after the 'Orange Revolution'. At least in the beginning, the talk show's idea supported freedom of speech. Such shows had good viewer rankings and used to attract prominent people and politicians. Therefore, Shuster moved, with almost the same concept, to the leading channel Inter. Finally, he found a way to profit even more

<sup>8</sup> McFaul, op. cit., p. 166.

<sup>9</sup> Rottenberg, op. cit., p. 204.

<sup>10</sup> MacKinnon, op. cit.

<sup>11</sup> Hans J. Kleinstauber, 'Comparing Between West and East—A Comparative Approach to Transformation'. Paper for the conference 'Comparing Media Systems. West Meets East', University of Wrocław, Poland, 2007, p. 3.

<sup>12</sup> Ibid., p. 16.

<sup>13</sup> Chrystia Freeland, 'Russia's Free Media Find a Haven in Ukraine', *Financial Times*, 11 July 2009.

from his rankings, when he was hired by TRK Ukraina, a channel with a shabby reputation controlled by the Ukrainian oligarch Rinat Akhmetov. The new ‘old’ show is called ‘Shuster Live’ and is produced and sold by his own television production enterprise.

Unfortunately, this TV anchor migration produced program clones on different channels. This kind of ‘politainment’ causes a decrease in actual political participation and only promotes a political parody, as can be seen from Matvei Ganapolskiy’s reaction on ‘Shuster Live’: ‘The audience has acquiesced in the notion that deputies do not solve problems, find compromises or develop a common course of action, but rather act as performers. Citizens think this is the right way because those very showmen have explained to them that this is freedom of speech.’<sup>14</sup>

‘Politainment’ has replaced real political discourse in the Ukrainian mass media, a trend that requires more attention from scholars, especially investigations into how it contributes to freedom of speech. Nevertheless, this is a completely different level of expression, which has rarely been observed in the Ukraine before and is still absent in other countries.

In contrast, Mark MacKinnon provides an assessment of the regime of Georgian president Mikheil Saakashvili that led to the limitations of freedom of speech.<sup>15</sup> We should pay more attention to this case for better prognoses as to what may happen in Ukraine.

Georgia is an interesting example of a country in transition that still has to determine the real role of the mass media for the state’s transformation during the ‘color revolution’ and after it.<sup>16</sup> Already in 2006, monitoring conducted by the Georgian Young Lawyers’ Association within the frame of the Public Agencies Transparency Project warned about problems with the freedom of the Georgian media:

It was public support that catapulted Mikheil Saakashvili to power in the Rose Revolution. Soon, however, Saakashvili moved to form a centralized government. He listened to what a small group of policymakers—not the Georgian people themselves—had to say. And Saakashvili changed the rules of the game: the state bureaucracy started funding and controlling itself. Thus, there was no need any more for a robust and active media—journalists should remain quiet and obedient.<sup>17</sup>

Political processes resulted in further attacks on the media during the political crisis in November 2007. The private TV companies Imedi and Kavkasia have stopped broadcasting. Only one state-run TV channel remained operational during the emergency situation declared following the Tbilisi protests. According to the Associated Press, ‘the shutdown of Imedi dealt a blow to the Georgian opposition,

<sup>14</sup> Matvei Ganapolskiy, ‘All Show, No Go, On “Shuster Live”’, *Kyiv Post*, 26 March 2009.

<sup>15</sup> MacKinnon, *op. cit.*

<sup>16</sup> David Anable, ‘Role of Georgia’s Media—and Western Aid—in the Rose Revolution’, Joan Shorenstein Center on the Press, Politics and Public Policy, [http://www.internews.org/articles/2005/20051221\\_shorenstein\\_anable.pdf](http://www.internews.org/articles/2005/20051221_shorenstein_anable.pdf).

<sup>17</sup> Nino Lomjaria, Tamar Kordzaia, Nino Gobronidze and Natia Kemertelidze, ‘Freedom of Expression in Georgia’, The Georgian Young Lawyers’ Association (Tbilisi), <http://www.gyla.ge/files/publications/s3q0mz2ntk.pdf>.

which tried to consolidate their forces by naming a single candidate to challenge Saakashvili.<sup>18</sup>

Furthermore, the war in Georgia has enormously influenced the working environment for journalists. We can rely on opinions from the Tbilisi-based observers. As Corso shows in the report, 'some media analysts and journalists state that patriotism has outweighed objectivity or critical reasoning in the broadcast coverage of the war'.<sup>19</sup> Furthermore, Corso found that 'many Georgian viewers contend that the government already de facto controls the two remaining privately owned national broadcasters, Rustavi-2 and Imedi'. These observations were also supported by a statement from Davit Paichadze, head of the journalism program at Tbilisi State University's Department of Social and Political Sciences, saying that 'the overall situation indicates that the media in Georgia is not developing as it should'.<sup>20</sup>

The 'color revolutions' united Mikheil Saakashvili and Viktor Yushchenko as two presidents who won the strong support of their voters for democratic changes. The later developments, with weakened democracy, are bringing them together once again now as political losers. However, their will to keep in power challenges the same values that they protected before.

The Czech journalist David Svoboda has observed that there are some similarities in the changes in the mass media in Georgia and Ukraine. He discovered the 'Duranty effect'.<sup>21</sup> Walter Duranty, the *New York Times* correspondent in Moscow in 1932, is famous for the non-disclosure and denial of the Ukrainian famine caused by Stalin's politics.

Svoboda warns the Western press against reactive, oversimplifying coverage that betrays the function of the press as the 'Fourth Estate'. He says, 'such reporting notices only the fire, while the events, which caused the first spark, are only hastily and superficially covered after the fact'.<sup>22</sup> As we can learn from events following the 'color revolutions' years, this warning is still a high priority in Georgia and to some extent in the Ukraine.

At the same time, the Ukraine has made some progress. If we think about the last politically manipulated electoral projects, 'all were vulnerable to the Ukraine's new media freedom. Armed with better information, Ukrainian voters are harder to fool'.<sup>23</sup>

Media and society have experienced similar problems during the transformation, including the problem of corruption, which became even more acute at the time of

---

<sup>18</sup> Associated Press, 'Georgian Court Lifts Freeze on Assets of Top Independent TV Station', *Kyiv Post*, 6 December 2007.

<sup>19</sup> Molly Corso, 'Critical Television News: Another War Casualty for Georgia?' *Eurasianet*, 17 September 2008, <http://www.eurasianet.org/departments/civilsociety/articles/pp091708.shtml>.

<sup>20</sup> *Ibid.*

<sup>21</sup> David Svoboda, 'Opinions: The Ghost of Duranty', *The New Presence*, no. 1 (Spring 2005), available at the Central and Eastern European Online Library, <http://www.ceeol.com>.

<sup>22</sup> *Ibid.*

<sup>23</sup> Andrew Wilson, "'Virtual Politics' in the Ex-Soviet Bloc", *Open Democracy*, 17 July 2007, [http://www.opendemocracy.net/article/democracy\\_power/ukraine\\_orange/soviet\\_political\\_technology](http://www.opendemocracy.net/article/democracy_power/ukraine_orange/soviet_political_technology).

the ‘color revolutions’ and after. Anders Åslund points out this risk: ‘a popular belief evolved that transition has boosted corruption, widely seen as the greatest bane of the transition.’<sup>24</sup> As the Ukrainian experience will show further in this work, a corrupt state causes the corruption of the mass media after they achieve freedom from censorship.

### Freedom of Speech for Sale?

Does the transition also boost media corruption? Unfortunately, there is strong evidence of this in the Ukraine. One of the serious problems of Ukrainian journalism is the violence done to journalistic ethics. This is very damaging for freedom of speech. Inspired by an easy way to improve their financial situation, media owners are developing their media into sale outlets and editors distribute price lists for positive coverage among the campaign headquarters.

It is also caused by the widely accepted view that the Ukraine has become a semi-democratic oligarchic state. Its new ideology has been created with the help of the mass media that manipulates citizens’ opinions.

Oligarchs who own the mass media not only manipulate the *vox populi* themselves, with the help of the well-paid editors, but also allow manipulation by third parties. The media owners agree to do it, if paid and if the expected consequences do not contradict the oligarchs’ own interests.

As a result, society needs to understand this problem. One of the new trends in informing average citizens about this issue is a recent social advertising campaign in the Kyiv underground with rare billboards that partly show a news anchor on a TV screen with the warning ‘They are also for sale’.

Despite the challenging facts, the mass media are not leading the list of most corrupt institutions, which include such as political parties, parliament, courts and police. These institutions received a rating 4.2 based on the five-point system of assessment in Transparency International’s *The Barometer of Global Corruption–2006*. Nevertheless, the mass media almost follows them with 3.1 points. According to Transparency International’s Corruption Perceptions Index, the Ukraine occupied 118th place among 180 world countries listed by corruption levels in 2007 and went down to 134th place in 2008.

All respondents were asked: ‘How would you assess your current government’s actions in the fight against corruption?’ Ukrainians consider such activities as follows: ‘not effective—33 per cent, does not fight at all—29 per cent, does not fight but actually encourages it—20 per cent, effective—six per cent, very effective—one per cent’.<sup>25</sup>

These responses confirm that some actions to combat corruption are visible, but not really effective yet. The mass media actively covers attempts of Ukrainian

<sup>24</sup> Anders Åslund, *How Capitalism was Built. The Transformation of Central and Eastern Europe, Russia, and Central Asia* (Cambridge: Cambridge University Press, 2007), p. 249.

<sup>25</sup> Transparency International, *Report on the Global Corruption Barometer*, Berlin, 2006, p. 22, [http://www.transparency.org/policy\\_research/surveys\\_indices/gcb/2006](http://www.transparency.org/policy_research/surveys_indices/gcb/2006).

authorities to prevent the growth of corruption. At the same time, the media are mostly avoiding the issue of media corruption. Instead they prefer to speak about a national phenomenon of '*jeansa*'.

The euphemistic word '*jeansa*' (similar to 'money in the pocket') is slang used by professionals for journalistic bribes in the Ukraine. As a result, a serious problem for Ukrainian journalism is the violence done to journalistic ethics at a time of growing commercialization of the mass media.

'*Jeansa*' is caused by indirect advertisements or so called 'black' public relations. This is a serious problem in Ukrainian mass media. According to media law, all paid publications have to be marked with the following sentence *Published based on the advertisement rights*. However, even the serious analytical press covers some issues on a paid basis without informing its audience about it. Journalists are motivated by editors to break some laws. Fifty-three per cent of journalists in one of the earlier studies were unsatisfied with the enormous influence of owners or clients, who pay for publications. Some journalists claim that editors recommend publishing pre-paid articles, not declaring that these are a kind of paid media coverage and a tool of a hidden advertising campaign on 'black public relations'.<sup>26</sup>

Journalists may be penalized for corrupt actions in a few cases. Such cases include when journalists do not share a profit with editors, violating internal rules. This kind of activity is definitely strictly prohibited by law *de jure*. In practice, every election time is a golden opportunity for media owners to profit.

The association 'Journalists' Initiative' completed a project to promote the establishment of self-regulation mechanisms in the media environment. The association came to the conclusion that journalists have become a self-regulatory environment themselves without interference of the state, other regulative institutions, court decisions, non-journalistic NGOs proposals etc. In fact, the Ukraine has a national ethics commission established by journalists, for journalists. However, it seems to be weak in dealing with all complicated issues, such as owners' interference in journalistic work, established corruption schemes and regulation of salaries and honorariums.

This is especially dangerous because journalists already have some privileges from the state, which makes them more dependent on it. Apart from easier access to extra sources and benefits (such as state housing, health services and retirement benefits similar to those of state servants, if the media is state-owned), Ukrainian journalists are allowed to use firearms with traumatic effect.<sup>27</sup> There are reported cases of misuse of firearms regulation by people posing as journalists. People posing as journalists with the undiscovered false documents can participate in the election procedure at all its stages referring to the law protecting journalistic access to the information. They can influence observation or interfere in the vote counting, create a chaos during the

---

<sup>26</sup> Asociazija 'Zurnalistykaja Iniziativa', *Profesija: Zhurnalist. Otzet o Projekte 'Pressa i Obshestvo. Prava i Otvettvennost'* (Kharkov: Centr Obrasovatelnyh Iniziativ, 2003).

<sup>27</sup> Ministry of Internal Affairs of Ukraine, Order No. 379, 13 June 2000, with changes and additions made by the Order No. 995, 9 November 2001.

closed for public stages of the election procedure. It would be even more dangerous, if working media staff were to ignore the existing ethical norms and decide to support one particular party, for example, through acting in its interests or also creating chaos during the closed for public stages of the election procedure.

Sociologists asked journalists: 'Do you think that journalism should be ruled by ethical norms?' Eighty-nine per cent said that such regulation is necessary. At the same, time every tenth journalist, mostly young professionals, believes that it is possible to break moral norms, if such actions increase their readership/viewership.<sup>28</sup>

The Democratic Initiatives Foundation interviewed 37 mainstream journalists in 2008. They were asked to evaluate the current level of freedom of speech in the Ukraine on the scale from 1 (very bad) to 10 (excellent). The average answer was 6.6. For comparison, the same rating was 5.9 in 2007 and 7.0 in 2005. Twenty-one journalists answered the question, 'Do you think that freedom of speech is protected in Ukraine?' by saying that there were good prospects for freedom of speech, but currently there were cases of pressure being put on journalists by media owners. Twelve journalists believed that a part of the mass media served those in power, while another part served opposition. Respondents were asked to evaluate major risks for freedom of speech in Ukraine. Money pressure took the first place, in answers judged by the number of replies; absence of personal position, bribability and apathy of media workers were ranked second; pressure of media owners was ranked third.

Furthermore, respondents were asked about their attitude towards one of the statements. The sociologist Iryna Bekeshina believes that journalists in Ukraine have turned from the guard-dogs of democracy into 'yelping puppies' serving politicians. Six journalists completely agreed and 16 almost agreed (a total of 22 out of 37) with this statement, while 12 almost disagreed and three completely disagreed (a total 15 out of 37).<sup>29</sup>

There is hope that the situation will change with the emergence of a public broadcaster at last, which is supposed to stop the practice of being dependent on the money of politicians and oligarchs, but progress is rather slow. Journalists strongly emphasize the missing opportunities of public service broadcasting in Ukraine. It should have started in 2009, but nothing has been done. President Victor Yushchenko's political failure is also connected with his own promises (including the introduction of public service broadcasting in Ukraine).<sup>30</sup>

According to the *Media Sustainability Index 2008*, 'panelists rated all five indicators lower than for the past two years, some even lower than in 2004. The Ukraine's overall score was 2.00, down 0.37. Objective 2, professional journalism, was the

<sup>28</sup> Asociazija 'Zurnalistykaja Iniziativa', *Profesija: Zhurnalyst. Otzet o Projekte 'Pressa i Obshestvo. Prava i Otvetstvennost'*. (Kharkov: Centr Obrasovatelnyh Iniziativ, 2003).

<sup>29</sup> The Democratic Initiatives Foundation, 'The Modern Political Crisis and the Mass Media: Journalists' Opinion Poll', <http://dif.org.ua/ua/poll>.

<sup>30</sup> Yushchenko would have gained 2.9 per cent support if presidential elections had been held in December 2008–January 2009, according to a survey by the Democratic Initiatives Foundation. Interfax-Ukraine, 'Poll: Yushchenko Has No Chance to Win Re-Election', <http://www.kyivpost.com/nation/33078>.

lowest-scoring objective, as it has been every year since 2001.<sup>31</sup> Paid-for reports were present on all TV channels during the 2004–2008 election campaigns. It is practiced to a different degree on different channels, but the situation remains mostly the same everywhere.

In 2007, Ukrainian journalists encouraged a protest in the capital against the practice of paid-for news. Journalists published a statement about corruption in the mass media stating that its level is enormous, almost a distinct industry with its own rules: ‘Paid stories in news broadcasts, guests buying airtime, and wholly ordered TV programs are no longer just single cases. They have become a widespread phenomenon, a well-managed industry, which drives out real news, analysis and discussions.’<sup>32</sup> It is no surprise that this action did not receive wide support from other journalists and the media owners. Some just observed it as a public relations event by a relatively young organization—the Independent Media Trade Union.

At that moment, the initiative ‘We Don’t Sell Ourselves!’ had united about 50 professionals and activists from about 20,000 Ukrainian workers.<sup>33</sup> As a result, only a few channels mentioned this event in their news. This initiative received moderate support from media experts. Although they acknowledged this step, the representatives of the media watchdog organizations were skeptical.

Victoria Syumar, director of the Institute of Mass Information, claimed that all broadcast video materials about the election process were paid for on some TV channels as a result of a conscious policy of their management. She stated that it would be logical to accuse the media owners of this practice during the peak of election campaign when most payments were made. Syumar showed disappointment with the previous developments and stressed the new censorship forms: ‘We’ve been fighting with censorship from the authorities for so long that we’ve eventually been censored by money.’<sup>34</sup>

Natalya Ligachova, chief editor of the *Telekritika*, has calculated the possible sum of the dubious media earnings: ‘during the [parliamentary] election campaign, some TV station owners made \$30–40 million. Television became a mere mouthpiece of messages from big business and politics, whose interests usually diverge from those of civil society.’<sup>35</sup>

---

<sup>31</sup> International Research & Exchanges Board, *Media Sustainability Index 2008*, [http://www.irex.org/programs/MSI\\_EUR/2008/ukraine.asp](http://www.irex.org/programs/MSI_EUR/2008/ukraine.asp).

<sup>32</sup> Zayava Ukrayins’kikh Zhurnalistiv: ‘Ne Prodayemosya!’, <http://www.telekritika.ua/media-corp/2007-11-06/34748>.

<sup>33</sup> There are limited official statistics, as journalism is an open occupation in Ukraine. Calculations based on the data from the National Union of Journalists of Ukraine and other sources give the total number of journalists as about 20,000. However, Kyryll Zhyvotovskyy, expert of the National Commission on Freedom of Speech and Development of the Media under the Secretariat of the President of Ukraine, evaluates the number of journalists as smaller, if judged by the membership base of the National Union of Journalists of Ukraine, which about 6,000 people.

<sup>34</sup> Dariya Orlova, ‘Journalists Stage Protest Pledging to Eliminate Paid-For News’, *Kyiv Post*, 7 November 2007.

<sup>35</sup> *Ibid.*

The Kyiv mayoral elections in 2008 had an enormous influence on the working environment for many journalists in the capital. The low level of media independence should be evaluated based more on the lack of objective coverage of the Kyiv mayoral elections. The coverage of these elections was unsatisfactory (partiality, selective attention, high prejudice). According to Egor Sobolev, a media investigator who analyzed the paid coverage, 'politicians bought media loyalty wholesale. And there is no one to resist this.'<sup>36</sup>

One more issue of concern is the influence of the financial crisis on the media landscape in Ukraine (loss of advertising revenue, increase of oligarch competition in the mass media business, etc). Many mass media cannot survive and some have already closed (for example, the magazine *Novynar*, the newspapers *Obzor* and *15 minut*, *Vezerkom*). A few of them have changed owners. The crisis even forced the previously successful KP Media to close all new publications and suddenly sell *Kyiv Post*, the leading English-language newspaper which had survived even worse times since 1995.

Furthermore, the business structures affiliated with the Kyiv Mayor bought newspapers *RIO-Sens* and *Metro* for a bargain price, taking advantage of the financial crisis prior to the elections. Unfortunately, Ukraine still cannot solve the problem of transparency regarding the ownership of mass media and their misuse.

Some media have already recommended their staff look for new jobs (*Gaseta po-ukrainski*); others have dramatically cut the number of personnel (the newspaper *24*), reduced the number of pages (*Gaseta po-kievki*, *Dseralo tyznja*), used cheaper, lower quality paper printing (*Kyiv Post*) or rebranded a newspaper into a magazine (*Kyiv Weekly*).

Furthermore, some media administrators and owners use these difficulties as an excuse to fire journalists and producers whose positions are independent or challenging to media owners; for example, the situation at the channel *1+1*.<sup>37</sup> The leading journalists and anchors Alla Mazur, Ludmyla Dobrovolskaia, Oles' Tereshenko, Anna Bezulik and others have left the channel.

The financial crisis has caused further reorganization of the media industry. The *1+1* telecommunications group (*Studio 1+1*, *Studio 1+1 International*, *Kino*) agreed to sell its shares to the Ukrainian oligarch Ihor Kolomoisky. He also received the right to buy a 51 per cent stake in the Central European Media Enterprises Ltd for \$300 million.<sup>38</sup> Even though this price was paid in cash, the value of business has recently decreased because of the economic crisis, so it is a good deal. It seems that Kolomoisky's persistence in getting this business will be paid back during the coming

<sup>36</sup> James Marson, Dariya Orlova, 'Nation's News Media: Free or Still Captive to their Owners?', *Kyiv Post*, 16 October 2008.

<sup>37</sup> Viktor Kovalenko, '1+1, Roby Sobi Imja', *Ukrainska Pravda*, <http://blogs.pravda.com.ua/authors/kovalenko/493916401ebbc>.

<sup>38</sup> Central European Media Enterprises Ltd also has stations in Bulgaria, Croatia, the Czech Republic, Romania, Slovakia and Slovenia. 'Co-Owner of Largest Bank in Ukraine Privatbank Ihor Kolomoisky Gains Control over 1+1 Group', *Kyiv Post*, 3 July 2009.

presidential elections in 2010, because is already known that political broadcasting will be strengthened.

In a situation of growing pressure over the mass media, journalistic ethics should be enforced with corporate business ethics of the media enterprises. Journalists should avoid the further commercialization of their work and look for opportunities of their engagement in a social and communities' life based of civic journalism principles.<sup>39</sup> Furthermore, profit orientation and public interest can be connected with each other, so the mass media have solutions, but they do not apply them.

It was an important stage in the development of the mass media in the Ukraine that they became more independent. This factor made them more attractive as a separate business and also for investment. However, not all business practices of Ukrainian oligarchs are appropriate. The next stage requires the development of business ethics standards for the media enterprises.

Society has already recognized this need. For example, the United Nations in the Ukraine promotes the idea of corporate social responsibility of the mass media. International Media Forum on the Role of Media in Corporate Social Responsibility in 2007 in Kyiv has concluded that the media in Ukraine should not only promote corporate social responsibility in other sectors of economy, but being a business itself, must share responsibilities as well. Furthermore, the mass media has additional responsibilities that separate this kind of business from others. The experts mention responsible editorial policy, freedom of expression, creative independence, etc. The participants agreed to take some steps that include: creation of a manual *Corporate Social Responsibility for Journalists*; organizing training for journalists on related topics; establishing a group for developing a Code of Ethics for Journalists; and creating country-wide rating of the mass media that follows standards of social responsibility etc.

Pavlo Moisev, the juridical director of the *Internews-Ukraine*, promoted this idea during other journalistic events, for example, at the international seminar 'Corruption in the Mass Media: Ukrainian Reality and Polish Experience' supported by the Council of Europe in 2007. Moiseev also insists that the mass media are businesses now, so they have to follow standards of social responsibility. He sees at least three components to this:

- responsibility for employees that includes official payments after taxation, social benefits, developing and official registration of statutes of the mass media editorial offices;
- responsibility to consumers in providing quality information, impartial coverage, absence of paid-for news;
- responsibility to business partners.

---

<sup>39</sup> Alexander Belyakov, 'Civic Journalism as a Tool for Democratic Citizenship Education in Ukraine', *Perspectives in Higher Education Reform*, 13/14 (2007), pp. 12–18.

Moiseev welcomes international capital on the Ukrainian media market and believes that foreign investors are ready to work under social responsibility conditions.<sup>40</sup>

However, the reaction of the Ukrainian journalists to the international seminar mentioned above was unexpected. One of them published a commentary entitled 'We Have Not Even Dreamed of It'. Journalist Otar Dorzhenko, was surprised that the Polish journalists call corrupt some actions that are considered normal and acceptable by Ukrainian journalists.<sup>41</sup>

Different kinds of corruption can be observed in the media: clientelism, nepotism, petty corruption, cronyism, patronage, etc. Advertising placements in many cases also depend on kickback payments. Unfortunately, the media prefer to cover the issue of corruption timidly. As a result, radical action is needed to prevent such practices.

One more issue is the economic situation. Employees need to be paid a salary which guarantees an elementary standard of living. Improving the overall economic situation will lead to the growth of the media, consumption, advertising, etc. It will also help prevent corruption in the mass media business. The development of the media is affected by poverty as well, therefore eradication of poverty will in the end help to improve the standards of journalistic work.

International organizations such as the UN, USAID and the Organization for Security and Co-operation in Europe, also participate in the process of combating corruption. However, real progress is expected with the expanding entry of competitors to the Ukrainian media market from the Western countries. The Warsaw-based Agora Group is also looking for business opportunities in Ukraine. 'It is a good time to enter Ukrainian media market to beat out competitors, especially German media groups. Ukraine's market is currently at the stage Poland was in the 1990s, and [Agora's] experience with *Gazeta Wyborcza* proved that it can perform successfully in such conditions,' reported the Polish newspaper *Puls Biznesu*.<sup>42</sup>

Nevertheless, the Ukrainian market needs to develop ethical norms rather than investments. Furthermore, the European integration of Ukraine requires a transparent environment for the media business. Another important benefit of European integration is the follow-up of the code of ethics developed by the European journalists. However, this is an optimistic scenario.

Some experts are concerned that a pessimistic scenario may be more probable. The parliamentary election of 2007 has not radically changed the situation in the country. Ukraine faced an even worse political crisis in 2008 and 2009.

Natalya Ligachova warns that the same problems the society faced before the Orange revolution remain unresolved. Ukrainians are again witnessing a conflict of power and money among politicians who have quickly forgotten their electoral promises. In this context, the top management of the Ukrainian channels continues

---

<sup>40</sup> Otar Dovzhenko, 'Nam i Ne Snylosja, Telekritika', <http://www.telekritika.ua/media-suspilstvo/2007-11-29/35228>.

<sup>41</sup> Ibid.

<sup>42</sup> Maria Aksyonova and Stephen Bandera, 'Speculation Over News Site Mounts', *Kyiv Post*, 5 December 2007.

their manipulations. Ligachova calls for a ‘compulsory moving into adulthood’ of the Ukrainian mass media. She thinks there should be progress on the establishment of the long-expected public service broadcasting. She is concerned about the non-transparent character of Ukrainian media landscape that did not change after the last parliamentary elections.<sup>43</sup> The transition of the mass media is still on the agenda.

### **Is the Freedom of Speech Sustainable in Ukraine?**

Political instability presents a new challenge. The Ukrainian parliamentarians voted first for the election of the President of Ukraine on 25 October 2009, but later the Verkhovna Rada (Ukrainian Parliament) decided to hold elections on 17 January 2010. Political changes have put additional pressure on the freedom of the press because all parties need more influence over voters during the shortened time of the forthcoming election campaign. Failed political talks have already uncovered the fact that politicians have planned to curb freedom of speech by changing the Constitution. After the collapse of the coalition agreements in June 2009, two scandals involving the mass media came to light.

At least four channels, 1 + 1, Inter, Novy, and TVi, broadcast some technical parts of the Prime Minister Yulia Tymoshenko’s speech, in which she said ‘Everything is lost!’ This had a double meaning (about a problem with an autocue in the studio and about collapse of the coalition itself). The prime minister could not punish all editors, but Volodymyr Pavlyuk from Novy channel was asked to resign.

Furthermore, it became obvious that Tymoshenko and the opposition leader Victor Yanukovych were involved in planning an amendment to the Constitution’s Article 34-1, which will forbid ‘the use of the mass media for misinformation of the society and for anti-constitutional purposes’, so misinformation will be ‘prohibited and shall be punishable; licenses (permissions, certificates) of the mass media to disseminate such information shall be revoked by a court decision without the right to reinstate’.<sup>44</sup>

Paradoxically, the amendment was planned at the time when officials themselves started a trend of so-called ‘economic censorship’. The Ukrainian government decided not to release GDP data. With almost a 45-day delay, Ukrainians learned that GDP had decreased in the first quarter of 2009 by 20.3 per cent.

Recently, the National Expert Commission on Public Moral Protection—an institution which was almost unknown earlier—is becoming very active. It recommends avoiding the broadcasting of some popular programs, forbidding publication of some books, etc. It also accuses the mass media of the distribution of negative information that causes depression and suicides of Ukrainians. However, such statements have not been proved by serious research or investigation of media coverage.

---

<sup>43</sup> Natalya Ligacheva, ‘Primusove Doroslshannya’, *Telekrytyka*, <http://www.telekritika.ua/media-continent/authorcolumn/nl/2007-11-27/35177>.

<sup>44</sup> Diana Dutsyk, ‘Freedom Under Attack’, *Kyiv Post*, 19 June 2009.

Alongside that, the lawmakers have taken a step further. They have introduced criminal liability for possession of pornographic materials with the purpose of selling or circulating. The idea behind that was to protect children's rights. However, the referenced law, 'On amendments to Article 301 of Ukraine's Criminal Code', with fines and three to seven years of restriction of freedom, is too controversial.

The National Council for Television and Radio Broadcast and other stakeholders called the president to veto this document. The appeal signed by journalists, writers, human rights activists, and others, states:

It unwarrantedly and disproportionately restricts freedom of expression, and intrudes into the individual's inner freedom. It also fails to achieve the aim for which it was created, while posing a serious risk of abuse of this norm by law enforcement officers who could use it for corruption or blackmail.<sup>45</sup>

Despite all critics, the law has been adopted and enforcement started. It can be misused because the danger of authoritarianism is not completely eliminated. Some politicians still promote the Russian model of governance. However, it is most likely that corrupt employees of the law-enforcement agencies may 'plant' something, in this case pornography on someone.

Other institutions are already misinterpreting the regulation. Imaging to plan safe, some officials do not approve many things that could be approved under other conditions. For example, the Minister of Culture and Tourism of Ukraine decided to ban the comedy *Bruno*. Some scenes with the British comedian Sascha Baron Cohen present nudity and sexual content. However, this movie is only restricted for young audiences in other countries, not as in Ukraine for bidden utterly.

The Ukrainian Ministry of Public Health faces the unexpected consequences of a questionable and unclear pornography definition. Officials have ordered four video clips with a social advertising about HIV/AIDS, as the country has the most severe epidemic rates among all states in Europe. Prominent musicians, football players and other celebrities were interviewed about their sexual behavior. However, Tetyana Nikitina, a bureaucrat of the National Committee for Television and Radio Broadcast, has refused to allow the clips to be broadcast, arguing that these interviews promote 'brutal and aggressive sex'.<sup>46</sup> It is likely that this opinion is based on self-censorship and the personal understanding of this employee. The involved parties called the National Expert Commission on Public Moral Protection for clarification. However, the 'manual management' of such cases has boosted public discussion.

It is possible to prevent such scenarios through promoting democratic values and governance transparency. Furthermore, regular attention to the professional sphere and political development can ensure progress in these issues. Only under these conditions can freedom of speech be sustained in Ukraine.

---

<sup>45</sup> 'Call to Veto Inept Amendments and Properly Protect Children's Rights', Maidan, An Internet Hub for Citizens Action Network in Ukraine, <http://eng.maidanua.org/node/975>

<sup>46</sup> Osman Pashaev, Vladimir Zavadyuk, Valerij Ratoshnyuk, Timofej Koschej and Vikna-Novyny, STB Channel, evening news broadcast at 22.00, 14 July 2009, <http://stb.ua/news.php?item.28378>.

## Conclusion

Despite all the existing challenges, changes relating to the freedom of speech in the Ukraine after the 'Orange Revolution' are important for the transformation processes and for the region. The general development trends are in contrast to the situation in the neighboring countries, such as Russia and Belarus. The Ukraine attracts 'refugees of freedom of speech' persecuted by more authoritarian regimes.

Both the media and Ukrainian society (as well as political system) have started with more authoritarian, corrupt, less participatory conditions and are gradually (or more rapidly at some points) non-violently transforming so as to increase democracy, participation, and diversification of positions, even though these changes are not always irreversible or sustainable over time and do not necessarily finalize after 'revolutions'. A legal framework would create better conditions for sustainability of the freedom of speech.

At the same time, a large number of the independent mass media still support freedom of speech, diversity of political opinions and diversification of media ownership. The state and commercial media have difficulty in presenting statements supported by the state administrations or oligarchs and in manipulating the actual situation in the country at a time when other media (especially on the Internet) and independent journalists, together with the media watchdog institutions, warn about misleading processes in the informational space.

The new trend of 'politainment' makes politics more understandable for the average audience, but replaces a real political discourse in the Ukrainian mass media. This tendency requires more attention from scholars, especially in investigating how it contributes to freedom of speech.

Unfortunately, media and society experience similar problems during transition, including the problem of corruption. 'Censorship by money' is replacing or supporting censorship by the authorities. Ukraine should combat corruption in all sectors of the state.

This situation is especially challenging during the financial crisis (bankruptcy of the mass media outlets, loss of advertising revenue, increase of oligarch competition in the mass media business, etc.). Ukraine still needs to improve information access regarding the ownership of the mass media and their misuse.

The new trends also include 'economic censorship' and legal reinforcement of moral norms. This increases self-censorship and leads to misuse and various misinterpretations as a case with a lack of pornography definition shows. Political turbulence presents a new challenge and should be carefully observed.

Nevertheless, the transformation processes has become more transparent, and the susceptibility of the media landscape to democratic changes increases. It would be interesting to go further and discuss the role of the mass media and journalists in changes that occurred in Ukraine regarding freedom of speech during and after the forthcoming 2010 elections. An additional comparison with the situation in the post-soviet and Eastern European countries will also benefit further research.