

UKRAINE

	2011	2012
INTERNET FREEDOM STATUS	n/a	Free
Obstacles to Access (0-25)	n/a	7
Limits on Content (0-35)	n/a	8
Violations of User Rights (0-40)	n/a	12
Total (0-100)	n/a	27

* 0=most free, 100=least free

POPULATION: 46 million
INTERNET PENETRATION 2011: 31 percent
WEB 2.0 APPLICATIONS BLOCKED: No
NOTABLE POLITICAL CENSORSHIP: No
BLOGGERS/ICT USERS ARRESTED: No
PRESS FREEDOM STATUS: Partly Free

INTRODUCTION

The citizens of Ukraine enjoy largely unhindered access to the internet. The country's internet infrastructure has been rapidly developing since the early 1990s, and today information and communication technologies (ICTs) are beginning to have a more notable influence over the political process, with diverse and generally independent online media and social networks playing a key role. This comes in part as a result of the 2005 Orange Revolution in which communication technologies played a significant role.¹

Ukraine has relatively liberal legislation governing the internet and access to information. In 2011, a number of state initiatives were introduced that aim to control electronic media and exercise surveillance over internet content in order to “protect public morality” and limit other forms of “undesirable” content. Although the initiatives are still up for discussion as of April 2012, the regulations embody the potential for indirect formal and informal controls over political and social content online.

Social media networks are also gaining ground, with activists increasingly using the platforms for organizing and promoting ideas. Political parties and the government have also started using the internet as another tool of political competition, engaging in both legitimate forms of communication such as social media profiles and blogging, and manipulative techniques such as trolling.

¹ Joshua Goldstein, “The Role of Digital Networked Technologies in the Ukrainian Orange Revolution,” Berkman Center Research Publication No. 2007-14, December 2007, http://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/Goldstein_Ukraine_2007.pdf.

OBSTACLES TO ACCESS

Internet penetration in Ukraine has been growing steadily, due in part to diminishing costs and the increasing ease of access, including to mobile internet. According to the International Telecommunication Union (ITU), Ukraine had an internet penetration of 30.6 percent in 2011,² a major increase from 4.5 percent in 2006.³ For fixed-broadband subscriptions, the penetration rate was approximately 7 percent in 2011.⁴ Meanwhile, Ukraine ranks eighth in the world for download speeds, with an average download speed of 1190 Kbps,⁵ and access to broadband internet in Ukraine is fairly affordable. A monthly unlimited data plan with a 1 Mb broadband channel costs 80-120 UAH (US\$10-15), while the average monthly wage in the country was 2,942 UAH (US\$368) in April 2012.⁶

Of current internet users, 56 percent live in urban areas, while internet penetration in smaller towns and rural areas is currently below 20 percent.⁷ The level of infrastructure differs between urban and rural areas, contributing to the gap in number of users. Most people access the internet from home and/or work, though internet cafes are present in most major cities, and many middle- and higher-end cafes and restaurants often provide free WiFi access. Access is also common in public libraries and schools.

Mobile phone penetration has also continued to grow, reaching 123 percent in 2011.⁸ Use of mobile internet is gaining in popularity, and an estimated 16 percent of Ukrainian urban dwellers have access to mobile internet.⁹ Cost continues to be the main barrier to higher mobile internet use. Third-generation (3G) mobile phone frequencies are still owned by the Ministry of Defense, but the ministry has stated plans to convert the networks for use by

² Differing from ITU statistics, the research company, InMind, found that there were 14.3 million Ukrainians ages 15 and up who used the internet at least once a month in September 2011,² comprising 36 percent of the total population. InMind, “Рост уровня проникновения интернета в Украине существенно замедлился” [Growth of Internet Penetration Level In Ukraine Has Slowed Significantly], AIN.UA, October 19, 2011, <http://ain.ua/2011/10/19/62100> (In Russian).

³ International Telecommunication Union (ITU), “Percentage of individuals using the Internet, fixed (wired) Internet subscriptions, fixed (wired)-broadband subscriptions,” 2006 & 2011, accessed July 13, 2012, <http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx#>.

⁴ “ШПД в Украине продолжает расти” [Broadband Internet Access in Ukraine Continues to Grow], iKS-Consulting, December 16, 2011, <http://www.iksconsulting.ru/news/4071555.html>.

⁵ Pando Networks, “Report: U.S. Broadband Speeds Remain Slow, 26th in the World,” SiliconFilter, September 20, 2011, <http://siliconfilter.com/report-u-s-broadband-still-slow-ranks-26th-in-the-world/>.

⁶ State Statistics Service of Ukraine, “Average monthly wage by region in 2012,” accessed on June 15, 2012, http://www.ukrstat.gov.ua/operativ/operativ2012/gdn/reg_zp_m/reg_zpm12_u.htm.

⁷ InMind, “Рост уровня проникновения интернета в Украине существенно замедлился” [Growth of Internet Penetration Level In Ukraine Has Slowed Significantly], AIN.UA, October 19, 2011, <http://ain.ua/2011/10/19/62100>.

⁸ International Telecommunication Union (ITU), “Mobile-cellular telephone subscriptions,” 2011, accessed July 13, 2012, <http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx#>.

⁹ Erik Johannisson, “Ericsson 2011 Ukraine Country Study: ConsumerLab Research Results,” MaxKutik on SlideShare, December 22, 2011, <http://www.slideshare.net/MaxKutik/erik-johannisson-consumerlab-research-results-10663813>.

mobile operators in 2012.¹⁰ The only commercial 3G license was previously owned by state-run Ukrtelecom. Now that Ukrtelecom has been privatized and its 3G division is a separate company, the chances for frequency conversion are said to be much higher.¹¹

YouTube, Facebook, Twitter, and international blog-hosting services such as Wordpress and LiveJournal are freely available. There are no known instances of the authorities demanding internet service providers (ISPs) to block any Web 2.0 applications, protocols, or instant communication tools. The backbone connection of UA-IX (Ukrainian internet exchange, a mechanism of traffic exchange and connection to the wider internet for Ukrainian ISPs) to the international internet is not centralized, and major ISPs each have their own channels, managed independently.

The Ukrainian telecommunications market is fairly liberal and in the process of slow development. The largest telecom company and top-tier ISP, Ukrtelecom, previously had 92.7 percent state ownership but was privatized in March 2011.¹² Though no longer state-owned, Ukrtelecom is the largest ISP in the country and possesses Ukraine's primary network, trunk, and zone telecom lines,¹³ but it does not decisively control the other major ISPs. Other telecommunications providers are dependent on leased lines, since Ukrtelecom owns the majority of the infrastructure, and many alternative providers do not have sufficient resources to build their own networks. Among the major private ISPs are Volia, Triolan, Vega and Datagroup; however major mobile service providers, like Kyivstar and MTS, are also starting to provide broadband internet access.¹⁴ There are about 400 ISPs in Ukraine according to the State Commission on Communications and Informatization.¹⁵ Regional ISPs are usually smaller local businesses, and regional dominance largely depends on business and power connections in a specific region, making the market prone to corruption.

Ukrchastotnagliad, the Ukrainian frequencies supervisory center, reports that 86 operators have licenses to provide satellite communications services in Ukraine, and companies providing internet access using satellite technologies in Ukraine include Ukrsat, Infocom-

¹⁰ Ihor Burdyga, "Операторов свяжут с третьим поколением" [Operators To Be Connected To Third Generation], *Kommersant Ukraine*, December 12, 2011, <http://www.kommersant.ua/doc/1833438>.

¹¹ "Частоты для 3G-связи освободят в следующем году" [Frequencies for 3G Communications to be Freed Next Year], *AIN.UA*, December 8, 2011, <http://ain.ua/2011/12/08/67725>.

¹² 92.8 percent of shares sold to ESU, a Ukrainian subsidiary of the Austrian company EPIC. Source: "Укртелеком продан" [Ukrtelecom Sold], *Dengi.Ua*, March 11, 2011, http://dengi.ua/news/77761_Ukrtelekom_prodan_.html.

¹³ "Ukraine: Country Profile 2010," OpenNet Initiative, December 21, 2010, <http://opennet.net/research/profiles/ukraine>.

¹⁴ "Количество пользователей широкополосного доступа в Украине достигло 5,6 млн" [Number Of Broadband Internet Users in Ukraine Reaches 5.6 Million], *AIN.UA*, December 16, 2011, <http://ain.ua/2011/12/16/68574>.

¹⁵ "Во 2 квартале количество абонентов провайдеров Интернет увеличилось на 6,4%" [In Second Quarter Number Of Subscribers Of Internet Providers Grew By 6.4%], *Delo.Ua*, July 26, 2007, <http://delo.ua/tech/vo-2-kvartale-abonentov-provaj-44242/>.

SK, Spacegate, Adamant, LuckyNet, Ukrnet, and Itelsat. With the exception of Infocom-SK,¹⁶ all these companies are private.¹⁷ The three major players in the mobile communications market are Kyivstar (owned by Dutch VimpelCom Ltd.), MTS Ukraine (owned by Russian AFK Sistema), and life:) (owned by Astelit, whose main shareholders are Turkish Turkcell and Ukrainian System Capital Management). Together these players hold over 93 percent of the mobile communications market.¹⁸

There are no obvious restrictions or barriers to entry into the ICT market, but any new business venture, be it an ISP or an internet cafe, faces the usual bureaucracy, corruption, and legal/tax hurdles common to the Ukrainian business environment. In particular, the Ukrainian ICT market has been criticized for its difficult licensing procedures for operators. Under the 2003 Law on Communications, operators are required to have a license before starting activity.

The ICT sector is regulated by the National Commission on Communications and Informatization (NCCIR), which was reformed from the previous National Commission on Communications (NCCR) in November 2011. Members of NCCIR are appointed by the President of Ukraine.¹⁹ Because of widespread corruption in the political system and the lucrative nature of business in the ICT sector, appointments to the Commission are often not transparent. The 2003 Law on Communications does not guarantee the independence of the NCCIR. Instead, industry experts point to a number of inconsistencies between sector laws, and the NCCIR's work has often been obstructed by claims of non-transparent decisions and operations. For instance, in July 2011 the NCCIR (then NCCR) refused to prolong the operating license of mobile provider Kyivstar for GSM 900/1800 frequencies.²⁰

¹⁶ Infocom-SK was founded in 1991 jointly by state-owned Ukrtelecom and Controlware, a German telecommunications company. "History," Infocom, accessed on June 15, 2012, <http://infocom.ua/catalogue.jsp?catalogueId=3000&cataloguerId=6070&lang=3>.

¹⁷ "Ukraine: Country Profile 2010," OpenNet Initiative.

¹⁸ iKS-Consulting, "«Киевстар» потерял более 80 тысяч абонентов" [Kyivstar Has Lost Over 80 Thousand Subscribers], AIN.UA, November 1, 2011, <http://ain.ua/2011/11/01/63452>.

¹⁹ National Commission on Regulation of Communications and Informatization, accessed on January 10, 2012, <http://en.nkrz.gov.ua/>.

²⁰ "НКРС отказалась продлевать «Киевстар» лицензию на мобильную связь" [NCCR Refused to Prolong Kyivstar's mobile communications license], ITC.ua, July 8, 2011, http://itc.ua/news/nkrs_otkazalas_prodlevat_kievstar_licenziyu_na_mobilnuyu_svyaz_54417/. The NCCR said Kyivstar first acquired their license in 1996 for 15 years under the acting Law on Telecommunications, while in 2004 a new Law on Telecommunications came into power, thus making the old Law (and any agreements under it) void. NCCR believed Kyivstar was not entitled to simply pay 30 percent of the license price to prolong said license, but ought instead to pay 200 percent of the license price to acquire two new licenses for GSM 900 and GSM 1800 each. This would cost Kyivstar around 19 million UAH. As a result, in September 2011 Kyivstar had to pay the full price for two new licenses in order to continue their activities in the market. See also, "Киевстару выдали новые лицензии на мобильную связь" [Kyivstar Given New Mobile Communications Licenses], LigaNet, September 8, 2011, <http://biz.liga.net/all/it/novosti/2048038-kievstaru-vydali-novye-licenzii-na-mobilnuyu-svyaz.htm>.

LIMITS ON CONTENT

There is no practice of institutionalized blocking or filtering, or a regulatory framework for censorship of content online, although indirect attempts at creating legislation which could help censor or limit content are occurring. For example, a new set of amendments to the law “On Protection of Public Morals”²¹ (#7132) was adopted at its first reading on October 18, 2011 by the Ukrainian Parliament and has caused widespread concern from the Ukrainian media and international media rights groups. The law deals with pornography, eroticism, hate speech, violence, and explicit language; however, it has been criticized for being written in such a way where the definitions of these terms are so vague that anything could be considered erotic, hate speech, or explicit and vulgar language, especially on the internet. The proposed amendments would obligate ISPs to remove or block the offensive content for 24 hours or, if such content is found to be hosted outside of Ukraine, ISPs would have to limit Ukrainian users’ access to such content, effectively introducing a practice of filtering content. This, some experts believe, opens a potential area for manipulation and indirect censoring of unwanted online political/social content or websites.²²

Critics of the amendments include Reporters Without Borders, who said the amended law would be in violation of Article 10 of the European Convention of Human Rights and the Declaration of Human Rights, both ratified by Ukraine.²³ Aside from the vague definitions, experts are worried that the law gives extraordinary powers to the National Expert Commission on the Protection of Public Morals (NECPPM), allowing it to issue orders to block websites and access to content within 24 hours without a court order or any provisions for website owners/content authors to appeal. At the moment, access providers and content hosts are not responsible for the content transmitted or hosted, and may block or require a user to remove content only when provided with a court order.

A bill attempting to regulate copyright issues online was introduced in parliament by Minister of Parliament (MP) Maksym Lutsky and passed the first reading in February 2011.²⁴

21 “Проект Закону про внесення змін до Закону України “Про захист суспільної моралі”” [Draft Bill on Introducing Changes to the Law of Ukraine “On Protection of Public Morals”], #7132, Official Website of Ukrainian Parliament, September 15, 2010, http://w1.c1.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=38551.

22 Natalka Zubar, Olexander Sevryn, Viktor Garbar, “New Ukrainian Law Could Block Any Site Including Facebook or Youtube,” Mайдан, October 20, 2011, <http://world.maidan.org.ua/2011/new-ukrainian-law-could-block-any-site-including-facebook-or-youtube>.

23 “Генсек “Репортерів без кордонів” стурбований наміром депутатів обмежити ЗМІ” [Reporters Without Borders General Secretary Concerned With MP’s Intention To Limit Mass Media], *Ukrainska Pravda*, October 28, 2011, <http://www.pravda.com.ua/news/2011/10/28/6711923/>.

24 “Проект Закону про внесення змін до деяких законодавчих актів України щодо врегулювання питань авторського права і суміжних прав [Draft Bill on Introducing Changes to Some Legislative Acts of Ukraine on Regulation of Copyright And Adjacent Rights Issues], Ukrainian Parliament Website, accessed on June 15, 2012, http://w1.c1.rada.gov.ua/pls/zweb_n/webproc4_1?pf3511=37985.

Opposition MPs believe the bill is aimed at censoring unwanted content rather than fighting piracy and copyright theft and are especially worried about creating a precedent that would allow authorities to close down websites that violate the bill for seven days without a court order. Other changes the bill proposes include introducing civil and criminal responsibility for illegal content for users, ISPs, and hosting providers. Opposition MPs believe a bill like this to be an attempt at controlling the online information sphere in anticipation of the next parliamentary election in the fall of 2012.²⁵ The second reading of the bill was scheduled to take place on May 16, 2012, however, due to protests by activists of the Internet Party of Ukraine and critical comments from other MPs and the public, the bill was removed from the agenda, and the second reading was postponed indefinitely.²⁶

There have been periodic instances of state pressure to remove online content. Most recently in February 2012, the activist website Road Control, which collected crowd-sourced information about the corrupt behavior of road police officers, was taken offline after the website hosting company was approached by officials with a court order saying the website was involved in a civil lawsuit and therefore had to be temporarily taken down. The website soon resumed its work on a different host, but founders said they believed the civil lawsuit against Road Control was initiated by a road police officer who was featured in one of the videos on the website and filmed saying to the driver, “Stop reading Road Control, we’ll close it down soon, I promise you.”²⁷

The internet often serves as a last reserve outlet for news and content that is prevented from being aired or published in traditional media. Such was the case with the now ubiquitous video from May 2010 of a wreath blown over by the wind that fell onto the head of President Victor Yanukovich during a joint honor ceremony with the Russian president in Kyiv. Although filmed by all, the video did not run in the evening news of most national channels due to calls from the authorities or self-censorship by the editorial staff,²⁸ which is often exercised on certain topics that relate to the business/political interests of media owners. However, the video leaked onto YouTube and quickly became an internet sensation, gaining 700,000 views during the first 18 hours online.²⁹

²⁵ “Нардеп ПР хочет добиться закрытия сайтов без суда в течение 7 дней” [Party of Regions MP Wants To Take Down Websites Without Court Order In 7 Days], AIN.ua, April 20, 2012, <http://ain.ua/2012/04/20/81836>.

²⁶ “Законопроект об интернет-цензуре стал большой проблемой для его инициатора” [Internet Censorship Bill Becomes a Big Problem For Its Author], InternetUA, May 22, 2012, <http://internetua.com/zakonoproekt-ob-internet-cenzure-stal-bolshoi-problemoi-dlya-ego-iniciatora>.

²⁷ “Сайт «Дорожного контроля», на котором собирались жалобы на сотрудников ГАИ, заблокирован по решению суда (обновлено)” [Website of Road Control, which collected complaints about road police officers, blocked by court order (updated)], AIN.ua, February 14, 2012, <http://ain.ua/2012/02/14/73581>.

²⁸ “Журналісти "1+1" розповіли, як їм "зарізали" відео про вінком” [“1+1” Journalists Told of How Their “Wreath” Video Was Cut], Ukrainska Pravda, May 21, 2010, <http://www.pravda.com.ua/news/2010/05/21/5064773/>.

²⁹ Maksym Savanevsky, “Янукович з вінком б’є всі рекорди українського інтернету” [Yanukovich With Wreath Beats All Records Of Ukrainian Internet], Watcher, May 18, 2010, <http://watcher.com.ua/2010/05/18/yanukovych-z-vinkom-bye-vsi->

Attempts to manipulate the online news landscape are not numerous, but there are some pro-government news websites, as well as online media which support certain political figures or political ideas. Some online news websites belong to media holdings owned by oligarchs close to the ruling Party of Regions and other political forces. By and large, though, online media are varied and represent many opinions on the political spectrum, with a key cluster of independent media playing the role of watchdogs and conducting investigative journalism. Discussion of political and social issues is free on internet forums and in comments on news sites like *Ukrainska Pravda* and *Korrespondent*. Access to international media websites is also unfettered.

A more common method of manipulation is the use of paid commentators or “trolls” on news websites and on social networks.³⁰ This phenomenon becomes especially active around election time, when various political supporters engage in defamatory and offensive comments on issues of politics, nationality, language, etc. on media websites. Most political analysts, however, do not see this as an effective political strategy, as users quickly recognize the trolls and do not take the commenters seriously. Increasingly, Ukrainian politicians are realizing the value of social media, and many have started accounts on Facebook and Twitter, LiveJournal, or YouTube in the hopes of engaging their voters.³¹

The Ukrainian blogosphere is fairly active, although less so than the Russian LiveJournal community, which houses many more politically-active citizens. According to Yandex, in 2011 there were 1.1 million Ukrainian blogs, up from 700,000 in 2010, and blogs are increasingly appearing as a genre of online news websites.³² In addition, there are about 500,000 Ukrainian Twitter accounts, with a large majority of them in Kyiv.³³ The Ukrainian segment on Facebook continues to grow, with nearly two million users as of April 2012.³⁴

Ukrainian bloggers, online personas, NGOs, and citizen movements are joining forces and creating online projects aimed at scrutinizing government policies, monitoring elections, and

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³⁰ Viktor Bishchuk, “Є вакансія: інтернет-українофоб на півставки” [Job Opening: Part-Time Ukrainophobe], ZIK, August 17, 2011, <http://zik.ua/ua/news/2011/08/17/304029>.

³¹ Yelena Gladskih, “Как используют блоги украинские политики” [How Ukrainian Politicians Use Blogs], Delo.Ua, February 12, 2011, <http://delo.ua/ukraine/kak-ispolzujut-blogi-ukrainski-152081/>.

³² Yandex, “Антон Волнухін, Яндекс «Дослідження української блогосфери 2011»” [Anton Volnukhin, Yandex “Research on Ukrainian Blogosphere 2011”], presented at Microsoft BlogFest 2011, shared by Microsoft Ukraine, November 19, 2011, <http://docs.com/G65I>.

³³ “Яндекс дружит с Твиттером” [Yandex Gets Friendly With Twitter], Yandex Company Blog, February 21, 2012, <http://clubs.ya.ru/company/43938>.

³⁴ “Кількість українських користувачів Facebook опустилась нижче 2 млн” [Number Of Ukrainian Users On Facebook Fell Below 2 Million], Watcher, April 20, 2012, <http://watcher.com.ua/2012/04/20/kilkist-ukrayinskyh-korystuvachiv-facebook-opustylas-nyzhche-2-mln/> [In Ukrainian].

uncovering corruption in the higher ranks of power.³⁵ Among successful examples is the Save Old Kyiv movement³⁶ against illegal construction in the city, which originated on LiveJournal. Another example involved the use of Twitter to engage users in citizen journalism in the Elect_Ua project during the 2010 local elections, when a group of activists and journalists popularized the hashtag “#elect_ua” and called on Twitter users to report violations from their polling stations in every region. Out of 19,450 tweets with the hashtag, over 1,700 were confirmed as possible violations of electoral process.³⁷ The “#elect_ua” hashtag remains active and is still used by Twitter users today.

VIOLATIONS OF USER RIGHTS

The right to free speech is granted to all citizens of Ukraine in Article 34 of its Constitution, although in practice this right is frequently violated. Part three of Article 15 of the Constitution also forbids censorship, though this norm is also routinely violated, with especially grave violations observed during the time of President Leonid Kuchma (before the 2004-2005 Orange Revolution). In addition, Article 171 of the Criminal Code of Ukraine provides fines and detention sentences for obstructing journalists’ activity. The Ukrainian judiciary, however, is prone to the same level of corruption evident in other branches of power, and for many businesses, including media companies, bribes remain the main guarantee of successful consideration of their affairs in courts.³⁸

The law “On Protection of Public Morals” (discussed above) in its 2003 primary incarnation, along with the National Expert Commission for the Protection of Public Morals, was instrumental in the case of one of the most popular Ukrainian file-exchange networks, Infostore.org. In December 2008, the Ministry of Internal Affairs searched the premises of the website and confiscated servers and other equipment, accusing the service of hosting pornographic materials. While there were such materials among files hosted on the website, the owners and their supporters believe the ministry had ulterior motives for taking down

³⁵ Examples include the New Citizen partnership's initiative ЧЕХО³⁵ (Honestly, a movement for transparent and fair parliamentary elections), and PRYAMA DIYA³⁵ (Direct Action, a movement of student unions organizing street protests on relevant issues).

³⁶ Save Old Kyiv movement, <http://saveoldkyiv.org/>. During its activity, Save Old Kyiv activists were able to stop several instances of construction in historical areas of Kyiv, such as Peyzazhna Alley³⁶ or the corner of Prorizna in the heart of the city. “Прорізна, 3-5 (сквер)” [Prorizna, 3-5 (Corner Park)], Save Old Kyiv, accessed on January 10, 2012, <http://saveoldkyiv.org/hotspot/prorizna-skver>.

³⁷ “(прес-реліз) 1700 повідомлень про можливі порушення – результат Twitter-трансляції місцевих виборів” [(press-release) 1700 Tweets About Possible Violations – Result of Local Elections Twittercast], Blog of Elections Twittercast Project, November 3, 2010, <http://electua.blogspot.com/2010/11/1700-twitter.html>.

³⁸ “Судова реформа не розвіяла сутінків у бізнес-настроях” [Judiciary reform does not banish twilight in business mood], Deutsche Welle, June 1, 2012, <http://www.dw.de/dw/article/0,,15992775,00.html>.

Infostore.org and have accused the ministry of limiting freedom of speech. Since this incident, Infostore.org has been unavailable.³⁹

Criminal responsibility for libel/defamation has been abolished in Ukraine since 2001, and despite several attempts by various MPs to reintroduce it, libel is currently considered a civil offense, punishable by fines.⁴⁰

In 2011, online journalists achieved similar status and privileges as traditional journalists, such as being able to get accreditation for parliament sessions and other official meetings frequented by the press. Nevertheless, there has been an ongoing discussion about the need for online media to register, with some suggesting that registration would provide additional mechanisms for protecting journalists, while others refute the idea, considering any form of registration to be an inhibition to press and internet freedom.⁴¹

While there have been no instances of journalists arrested for posting content online, there have been several cases of law enforcement action against ordinary users. The most notorious case is that of Oleg Shinkarenko, a LiveJournal blogger and journalist, who in July 2010 was visited by representatives of the Ukrainian Security Service claiming they had allegedly found threats aimed at President Yanukovich on Shinkarenko's blog.⁴² The blogger was asked to attend a meeting at the Kyiv Prosecutor's office, where he was told his posts constituted a crime according to Article 346 of the Criminal Code. The blog posts had contained sharp criticism of the current government and ruling party, as well as comments used to question the authority of President Yanukovich and "curse" him. While Shinkarenko himself saw no crime or threats in his words, he was released after providing a written promise to never again threaten the authorities in such a form online. The offensive posts were also removed from his blog but not by him, prompting suspicions that the Security Service had broken into

³⁹ Alexey Mas, "Сервис Infostore и МВД!" [Service Infostore and MIA!], Alexey Mas on the Internet, Business and Infostore Blog, December 31, 2009, <http://alexeymas.livejournal.com/> (entry later deleted).

⁴⁰ Due to generally lax libel case attitudes in Ukraine, rich and powerful Ukrainians use libel tourism as a mechanism of punishing the media. Britain, where the burden of truth is on the defendant, has seen two such cases. In the most recent case, Ukrainian businessman Dmytro Firtash sued the *Kyiv Post* newspaper and website at the end of 2010 for libel in Britain over an article on RosUkrEnergo, a company owned jointly by Firtash, a Ukrainian partner, and Russian Gazprom. The lawsuit prompted the *Kyiv Post* to block access to its website from the United Kingdom. The British judge eventually dismissed the case for its weak link to English jurisdiction. Source: "Ukraine: free speech vs. Firtash," Beyondbrics blog, *Financial Times*, February 24, 2011, <http://blogs.ft.com/beyond-brics/2011/02/24/ukraine-free-speech-vs-firtash/#axzz1y8aSZXqA>.

⁴¹ Ukrainian Internet Association, "Підсумки прес-конференції: "Саморегулювання вітчизняних електронних медіа як альтернатива державному регулюванню в Українському сегменті Інтернет" [Summary of Press-Conference: "Selfregulation of Ukrainian Electronic Media As An Alternative To State Regulation In The Ukrainian Internet Segment"], InAU (Ukrainian Internet Association), July 19, 2011, <http://www.inau.org.ua/170.3675.0.0.1.0.phtml>.

⁴² "СБУ: блоггер угрожал Януковичу" [SBU (Ukrainian Security Service): Blogger Threatened Yanukovich], TSN.ua, July 30, 2010, <http://ru.tsn.ua/ukrayina/sbu-blogger-ugrozhal-yanukovichu.html>.

his site. Commentators saw this as a precedent for political censorship and a sign that it would now be harder to criticize government officials online.⁴³

In another case in December 2011, the news website *Levy Bereg (Left Bank)* was contacted by the Kyiv Cybercrime and Trafficking Administration with a demand to disclose all information about the website's owner and the identity of the website's registrar. The administration claimed they were investigating complaints from a user about vulgar and obscene comments on the website. However, the website's editors believed they were being pressured for their controversial reporting, including investigations on key politicians abusing their powers.⁴⁴ With support from media NGOs and activists, the publication asked the Ministry of Interior and prosecutor general to explain the legal grounds for disclosing the requested information, after which the demands were dropped.

There is no obligatory user registration that supplies data to the authorities for either internet users or mobile phone subscribers. Nevertheless, it is unclear how pervasive or widespread extralegal surveillance of Ukrainians users' activities online really is at present. From 2002 to 2006, mechanisms for internet monitoring were in place under the State Committee on Communications' Order No. 122, which required ISPs to install so-called "black-box" monitoring systems that would provide access to state institutions. This was mainly done to monitor the unsanctioned transmission of state secrets. Caving to the pressure of public protests and complaints raised by the Internet Association of Ukraine and the Ukrainian Helsinki Human Rights Union, the Ministry of Justice abolished this order in August 2006. Since then, the Security Service has seemingly acted within the limits of the Law on Operative Investigative Activity and must obtain a court order to carry out surveillance.⁴⁵ Nevertheless, some human rights groups believe that the Security Service is still keeping intercepted messages and carrying out internet surveillance on a large scale.⁴⁶

Physical attacks against online journalists and activists have not been recorded, but there have been periodic instances of intimidation against users for their online activities. For example, internet entrepreneur Denis Oleynyk had his online printing business closed down and equipment confiscated by law enforcement in September 2011 over allegations of copyright violations.⁴⁷ Oleynyk denied the copyright infringement claims and believes he

⁴³ "Януковича проклял сам блог" [Yanukovich Cursed by The Blog], Glavred, August 2, 2010, <http://glavred.info/archive/2010/08/02/102221-4.html>.

⁴⁴ "Готується "наезд" міліції на LB.ua (документ)" [Law Enforcement Prepares Attack On LB.ua (document)], Levy Bereg, December 1, 2011, http://lb.ua/news/2011/12/01/126411_gotovitsya_naезд_militsii_na_lbua.html.

⁴⁵ "Ukraine: Country Profile 2010," OpenNet Initiative.

⁴⁶ Kharkiv Human Rights Group, "Права людини в Україні - 2006. V. Право на приватність" [Human Rights in Ukraine in 2006. V. Privacy Rights], Human Rights in Ukraine, March 5, 2010, <http://www.khpg.org/index.php?id=1186147137>.

⁴⁷ Maksym Savanevsky, "Офіс компаній Prostoprint та futbolka.ua захопив УБОЗ (оновлено 23:15)" [Offices Of Prostoprint And futbolka.ua Taken Hostage By UBOZ (Unit on Fighting Organized Crime) (updated at 23:15)], Watcher,

and his business were being persecuted for using a controversial slogan that made fun of the president on their t-shirts. The slogan itself earlier became a YouTube hit after being recorded at a football match, and the video was repeatedly taken down from YouTube, only to reappear again and again.⁴⁸ Oleynyk eventually left the country out of fear for his and his family's wellbeing. He continues to run his company from Croatia and has reportedly applied for political asylum in Latvia.⁴⁹

In another example on May 17, 2011, blogger Nikolay Sukhomlyn published a story on his Facebook page about the corrupt practices of then Donetsk governor Anatoly Blyzniuk, including a video of the governor riding in an S-class Mercedes said to be worth up to 700,000 UAH (over US\$87,000). The news and video went viral, and the next day Sukhomlyn began receiving private messages telling him to take down the content and stop criticizing Ukrainian politicians. The next week he received an anonymous phone call telling him he would be "dealt with."⁵⁰ Then on June 1, 2011, Sukhomlyn's Facebook profile was deleted by website administrators.⁵¹

Cyberattacks are not very common in Ukraine, and most of the few recent cases relate to users' discontent with the actions of authorities. On February 5, 2012, there were reports of the independent investigative journalism website *Ukrainska Pravda* being inaccessible due a distributed denial-of-service (DDoS) attack,⁵² but the website itself did not confirm these reports and denied that the access issues were connected with hacker attacks.⁵³

September 6, 2011, <http://watcher.com.ua/2011/09/06/ofis-kompaniy-prostoprint-ta-futbolka-ua-zahopyv-uboz/>.

⁴⁸ Maksym Savanevsky, "«Спасибо жителям Донбасса» став найпопулярнішим запитом в Google" ["Spasibo zhitelyam Donbassa" ("Thank You, Citizens of Donbass") Becomes Most Popular Search Request in Google], Watcher, August 16, 2011, <http://watcher.com.ua/2011/08/16/spasybo-zhytelyam-donbassa-stav-naypopulyarnishym-zapytom-v-google/>.

⁴⁹ "Создатель Prostoprint будет просить политического убежища в Латвии" [Prostoprint Founder To Apply For Political Asylum In Latvia], Internet.UA, September 27, 2011, <http://www.internetua.com/sozdatel-Prostoprint-budet-prosit-politicseskogo-ubejisha-v-latvii>.

⁵⁰ "Профиль журналиста в Facebook заблокировали из-за машины Близнюка" [Journalist's Facebook profile blocked because of Blyzniuk's car], Focus, June 2, 2011, <http://focus.ua/politics/187290/>.

⁵¹ When approached for explanations, the Russian Facebook office representative said that "...upon receipt of legitimate claims of violations of intellectual property rights, we will immediately remove or disable access to the risk of unauthorized materials." Open Letter To Mark Zuckerberg, UAINFO, June 8, 2011, <http://uainfo.censor.net.ua/news/2917-otkrytoe-pismo-k-marku-cukerbergu.html>.

⁵² "Українську правду атакували хакери?" [Ukrainska Pravda attacked by hackers?], Реально, February 5, 2012, <http://realno.te.ua/novyny/hot/українську-правду-атакували-хакери/>; "В Україні хакери атакують опозиційні сайти" [In Ukraine hackers attack opposition sites], Prometey Information Agency, February 5, 2012, <http://ia-prometei.org.ua/?p=9628>.

⁵³ Ukrainska Pravda on Facebook, February 5, 2012, <https://www.facebook.com/ukrpravda/posts/377158162298850>.