

# *Mapping The Online Media Market in Armenia*

## *2016 Country report*



*Prepared by Media Diversity Institute – Armenia*

## ICT Market

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Armenia was one of the first post-Soviet countries to privatize the telecommunication industry. Since the mid-2000s, the Armenian mobile and ISP market became increasingly diverse, with Armenian users able to choose from three mobile service operators and dozens of ISPs, 46 percent of which are foreign-owned. Internet service providers offer ADSL, fiber-optic and cable access, WiFi and WiMax wireless technologies, general packet radio services (GPRS), EDGE, CDMA and 3G technologies (UMTS/WCDMA), and 4G LTE. All three current mobile operators offer 2G and 3G+ networks, and two operators offer 4G LTE network services. However, 4G LTE services are available only in limited locations, including Yerevan, Gyumri, Vanadzor, Dilijan, and Tsakhkadzor.

According to the Public Services Regulatory Commission (PSRC) there are 89 ISPs in Armenia. However, according to the data the service provided to Hetq.am, five leading operators together control approximately 95 percent of the market for broadband internet access. The regulatory authorities in Armenia primarily focus on companies with significant market power, one of which is Armenian, while the other three are foreign-owned.

The four major providers are Ucom with 39,22 percent market share, Armentel (Beeline) with 36,89 percent, Vivacell-MTS with 13,49 percent, and Rostelecom with 7,39 percent.

There are three mobile operators in Armenia. The largest mobile internet provider is Vivacell-MTs, followed by Beeline and Ucom. Armentel (Beeline) is owned by Vimpelcom, one of largest mobile operators in Russia; Vivacell-MTS is owned by Mobile TeleSystems, another of the largest mobile operators active in Russia. Ucom is an Armenian company, which acquired Orange Armenia from France Telecom in August 2015 instead of building up its own network.

## Regulatory Bodies

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The concept of an independent regulatory authority was implemented in 2006 with the adoption of the Law on Electronic Communication. Armenia has chosen a multi-sector regulatory model in which one body, the PSRC, is in charge of the regulation of energy, water supply, and telecommunications services. The PSRC's authority, mechanisms of commissioners' appointments, and budgeting principles are defined under the Law on State Commission for the Regulation of Public Services. The Law on Electronic Communication contains provisions guaranteeing the transparency of the decision-making procedures of the commission: all decisions are made during open meetings with prior notification and requests for comments from all interested persons posted on the website. The PSRC is accountable to the National Assembly in the form of an annual report, but the parliament merely takes this report into consideration and cannot take any action.

However, one of the weakest provisions of the Armenian regulatory framework is the absence of term limits for commissioners. The members or commissioners of the PSRC are appointed by the president of Armenia in accordance with the recommendations of the prime minister. Once appointed, a commissioner can be dismissed only if he or she is convicted of a crime, fails to perform his or her professional duties, or violates other restrictions in the law, such as obtaining shares of regulated companies or missing more than five PSRC meetings.

*Amendments to the Law on Electric Communication removed the need for internet service providers to obtain a license, instead requiring that they simply notify the regulator of their provision of internet services or the operation of a telecommunication network. Public access points such as cafes, libraries, schools, universities, and community centers are also not required to obtain a license to offer internet access unless they offer services for a fee. According to a separate licensing law, nonprofit entities are not required to obtain a license for the provision of internet services.*

*In spite of three well-established ICT-related nonprofit associations, self-regulation of the industry is significantly underdeveloped in Armenia. The oldest nonprofit institution is the Internet Society (ISoc), which is the national chapter of the worldwide ISoc network. At the early stage of internet development in Armenia (1995 through 1998), ISoc Armenia was the primary internet policy advocate and industry promoter. However, after the establishment of the independent regulatory authority, ISoc no longer plays as much of a regulatory role, as most industry disputes are filed with the PSRC.*

*ISoc continues to maintain the registration of domain names, and despite the lack of formal dispute resolution policies, it carries out the registry function effectively with minimal influence from government authorities or the regulator. As a result, the Armenian ICT market enjoys a liberal and non-discriminatory domain name registration regime. ISoc Armenia registers domain names according to ICANN recommendations and best practices. ISoc's board is composed of service provider managers, and in general, the Society's policy agenda is strongly influenced by the interests of traditional providers that started their business in the mid-1990s.*

*Another well-established industry association is the Union of Information Technologies Enterprises (UITE). Though industry self-regulation is one of the main goals of the Union, so far it has not developed any significant policies for industry regulation. Both ISoc Armenia and UITE are founders of a third notable nonprofit institution, the ArmEx Foundation, which was established with the sole purpose of creating a local data traffic exchange point. Other founders include leading ISPs as well as mobile and landline telecommunication operators.*

## **Limits on Content**

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*In general, online content is widely accessible for internet users in Armenia. However, during times of civil unrest, the government has been known to restrict access to social networks and other websites. On July 17, 2016, as a group of opposition gunmen stormed a police station in Yerevan after calling for an armed rebellion via Facebook, users reported that they were unable to access Facebook through major ISPs, including Armentel (Beeline) and Ucom. Connectivity was reportedly restored within approximately 40 minutes.*

*The most prominent case of online censorship occurred in March 2008 during post-elections clashes. The government declared a state of emergency and restricted certain media publications, including independent internet news outlets. The security services demanded that the Armenian domain name registrar suspend the domain names of opposition and independent news sites, and requested that ISPs block certain outside resources, such as some opposition pages on social network platforms, particularly the blog platform LiveJournal, which was popular among opposition and civil society activists. Armenian authorities were strongly criticized by international observers for restrictions on access to internet resources. After the events of 2008, Armenian authorities have been very cautious about restricting internet content, though the most recent Facebook restriction could indicate that the government remains willing to block social media platforms.*

*According to Article 11 of the Law on Police, law enforcement authorities have the right to block particular content to prevent criminal activity; in practice, such blocking cases have been limited to locally-hosted, illegal content such as illegal pornography or copyright-infringing materials. For example, in 2012 the police blocked the website Armgirls.am for disseminating pornographic content and for hosting bulletins of women working in the Armenian sex industry. Article 263, section 20 of the criminal code stipulates that the production and dissemination of pornographic materials or items, including printed publications, films and videos, images or other pornographic items, advertisements, or sales is punishable by a fine in the amount of five hundred times the minimum monthly salary in Armenia, or imprisonment for up to two years.*

*Any decision of a law enforcement body to block particular content can be challenged in court by the resource or content owners, and if the court rules that the measure was illegal or unnecessary, the resource or content owners may claim compensation. Additionally, Armenia is a signatory to the European Convention on Human Rights; therefore, any such decision can also be challenged at the European Court of Human Rights.*

### **Content Removal**

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*In May 2015, an episode of a web series satirizing the police response to protests in Yerevan was removed by YouTube. The video was flagged by the police for removal for copyright infringement since it contained a copyrighted clip of a news report, though it was likely targeted because it was mocking police behavior. The Armenian police also took the authors of the web series, SOS TV, to court claiming the episode contained insults towards the police. The trial ended on March 14, 2017. The court ruled that the authors of the satirical program must publicly apologize to the police, however, it rejected the fine of AMD 2 million (US\$4,200), which was demanded by the police. SOS TV continued to refuse to apologize for their satirical clip and have appealed the verdict. The process is ongoing as of the moment of writing.*

*Internet service providers involved in transmitting illegal content, such as child pornography, or content related to online crime or cyberterrorism, are not liable for carrying such content, provided that they had no prior knowledge of it.*

### **Media, Diversity and Content Manipulation**

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*Armenian internet users are able to access a wide array of content online, though online media outlets based within the country are subject to financial and political pressures. Similar to traditional media outlets such as television or printed press, Armenian internet news resources are exposed to political pressure. In some cases, journalists are not allowed to deviate from the editorial policy of online media outlets, which are often linked to one of the political parties. Such pressure has the potential to affect the overall situation of freedom of speech in the country, though online publishers and individual bloggers strongly resist self-censorship. Indeed, there is a wide diversity of opinion on social media, and virtual battles between supporters and opponents of the government are often observed. A variety of independent and opposition web resources provide Armenian audiences with politically neutral, or oppositional opinions.*

*However, throughout the flare up of hostilities between Armenia and Azerbaijan over the disputed Nagorno-Karabakh territory, expression online was skewed by the Defense Ministry's appeals to citizens to refrain from discussing the situation on the frontline on the internet, for fear of revealing "war secrets" to the other side. Online commentators practiced self-censorship, and discussions online often turned hostile when publications or*

users were perceived to be publishing unfavorable information or figures about Armenia's standing in the conflict.

## **Legal Environment**

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The Armenian constitution was amended following a referendum held on December 6, 2015. The new constitution continues to guarantee freedom of speech in Article 42, irrespective of the source, person, or place, applying to both individuals and media outlets.

In 2003, Armenian media legislation changed significantly with the adoption of the Law of the Republic of Armenia on Mass Media (also referred to as the Media Law). One of the most positive changes was the adoption of unified regulation for all types of media content irrespective of the audience, technical means, or dissemination mechanisms. The Television and Radio Law contains additional requirements on content delivery, but it does not regulate news, only erotic or violent programs, as well as advertising, the mandatory broadcast of official communications, and rules on election coverage and other political campaigns. Content delivered through a mobile broadcasting platform or the internet is subject to the same regulations.

Overall, Armenian criminal legislation grants journalists certain protections related to their profession. According to Article 164 of the criminal code, hindering the legal professional activities of a journalist or forcing a journalist to disseminate or withhold information is punishable by fines or correctional labor for up to one year. The same actions committed by an official abusing their position is punishable by correctional labor for up to two years, or imprisonment for up to three years, and a ban on holding certain posts or practicing certain activities for up to three years. However, neither criminal law nor media legislation clearly defines who qualifies as a journalist or whether these rights would apply to online journalists or bloggers.

In May 2010, the Armenian National Assembly passed amendments to the administrative and penal codes to decriminalize defamation, including libel and insult, and introduce the concept of moral damage compensation for public defamation. The initial result was an increase in civil cases of defamation, often with large fines as penalties. In November 2011, the Constitutional Court ruled that courts should avoid imposing large fines on media outlets for defamation, resulting in a decrease in the number of defamation cases. Defamation has been used by Armenian politicians to restrict public criticism (see *Prosecutions and Detentions for Online Activity*), though it is not considered to significantly curb oppositional viewpoints or media independence.

Since 2003, when the concept of cybercrime was first introduced in the Armenian criminal code, criminal prosecution for crimes such as illegal pornography or copyright infringement on the internet demonstrates that Armenian law enforcement authorities generally follow the practices of the European legal system, and neither service providers nor content hosts have been found liable for illegal content stored on or transmitted through their system without their actual knowledge of such content. The downloading of illegal materials or copyrighted publications is not prosecuted under Armenian legislation unless it is downloaded and stored for further dissemination, and the intention to disseminate must be proved. Armenia is a signatory to the Council of Europe's Convention on Cybercrime, and further development of Armenian cybercrime legislation has followed the principles declared in the Convention.

Armenian criminal legislation also prohibits the dissemination of expressions calling for racial, national, or religious enmity, as well as calls for the destruction of territorial integrity or the overturning of a legitimate government or constitutional order. These laws apply to expression both online and offline.

## **Prosecutions and Detentions for Online Activities**

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*No cases of imprisonment or other criminal sanctions for online activities were recorded over the past year. However, cases of civil liability, such as moral damages compensation for defamation, have been recorded several times over the past few years.*

*The most prominent case for the reporting period was the conclusion of the case Armenian Police vs SOS TV. The police took the authors of the satirical program on YouTube to the court demanding for an apology and monetary compensation. The trial ended on March 14, 2017. The court ruled that the authors of the satirical program must publicly apologize to the police, however, it rejected the fine of AMD 2 million (US\$4,200), which was demanded by the police. SOS TV continued to refuse to apologize for their satirical clip and have appealed the verdict. The process is ongoing as of the moment of writing.*

*In 2016 the Committee to Protect Freedom of Expression, an Armenian NGO tracking the situation with the freedom of speech, registered 17 new court cases with involvement of mass media. Fourteen of them are on insult and defamation stipulated by Article 1087.1 of the RA Civil Code. Scandalous cases were also registered, in relation to which criminal cases were filed against two online media representatives, moreover, they were serious indictments – extortion. On March 20 and May 3, editors and the personnel from “Hzham.am” and “Analitik.am” websites respectively, attracted attention of the law enforcement. Both cases were sent to court. One more case is connected with the violation of the presumption of innocence and contains claims for information disproval and reimbursement of damage.*

## **Surveillance, Privacy, and Anonymity**

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*The Law on the Protection of Personal Data came into effect on July 1, 2015. The law is intended to ensure the implementation of the right to personal privacy with respect to the processing of personal data, bringing Armenian legislation regarding personal data in line with the European standards and international obligations. The law created the Agency for Protection of Personal Data, which started operating in October 2015. The agency is headed by Shushan Doydoyan, the founder of the Freedom of Information Center of Armenia, and will have the authority to appeal decisions of state agencies where they violate the right to privacy with regard to personal data.*

*The collection of an individual's personal data by the government is allowed only in accordance with a court decision in cases prescribed by the law. The monitoring and storing of customers' data is illegal unless it is required for the provision of services. Personal data can be accessed by law enforcement bodies only with a court decision. Motions must be justified, and if not, the defense attorney may insist on the exclusion of evidence obtained. Nonetheless, the courts support most data requests from law enforcement bodies.*

*Anonymous communication and encryption tools are not prohibited in Armenia; however, the use of proxy servers is not very common. Individuals are required to present identification when purchasing a SIM card for mobile phones. No registration is required for bloggers or online media outlets, though tax authorities may question bloggers or media outlets on revenue-related issues (advertisements or paid access).*

*Armenian legislation does not require access or hosting service providers to monitor traffic or content. Moreover, the Law on Electronic Communication allows operators and service providers to store only data required for correct billing. Cybercafes and other public access points are not required to identify clients, or to monitor or store their data and traffic information.*

## **Technical Attacks**

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*Technical attacks target both government websites and civil society groups in Armenia. Most of the attacks are believed to originate in Azerbaijan. On June 19 and 20, 2016, a large number of Armenian websites were hacked by groups which news reports said were based in Azerbaijan. The hackers targeted state websites, including the sites of various Armenian embassies.*

*Also a large number of Armenian email users were subjected to an attack believed to originate from Azerbaijan.*