

Mapping The Online Media Market in Armenia

2015 Country report



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ICT Market

Armenia was one of the first post-Soviet countries to privatize the telecommunication industry. From the mid 2000s, the Armenian mobile and ISP market became increasingly diverse, with Armenian users able to choose from three mobile service operators and more than 100 ISPs. However, an analysis of service providers' official reports shows that the five leading operators together control approximately 90 percent of the market for internet access. The regulatory authorities in Armenia primarily focus on companies with significant market power.

Within the market for ISPs, 46 percent are foreign-owned companies. Internet service providers offer the following services on the domestic market: 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. However, internet services based on 4G LTE are available only in limited locations, including Yerevan, Gyumri, Vanadzor, Dilijan, and Tsakhkadzor.¹ While the ISP market is relatively diverse, 96 percent of the total revenue from internet service in Armenia is produced by the four largest ISPs, one of which is Armenian, while the other three are foreign-owned.

There are three mobile operators in Armenia: Armentel (Beeline), owned by Vimpelcom, one of largest mobile operators in Russia (NYSE:VIP), Vivacell-MTS, owned by Mobile TeleSystems, another of the largest mobile operators active in Russia and CIS markets (NYSE:MBT), and Ucome (formerly Orange), a local Armenian telecom company. In 2013 Ucom, was issued a license allowing its entry into the mobile communications market, but the company went on to acquire Orange Armenia from France Telecom in August 2015 instead of building up its own network.

Regulatory Bodies

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 there is one body, the PSRC, which 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.²

The members or commissioners of the PSRC are appointed by the president of Armenia and 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. 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.

¹ EIF, ICT Industry Report, (Armenia, 2014), <http://bit.ly/1OYd3ri>

² The Law on Public Services Regulation Commission was adopted by the National Assembly of the Republic of Armenia on December 25, 2003.

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.³ However, one of the weakest provisions of the Armenian regulatory framework is the absence of term limits for commissioners: every commissioner can be appointed multiple times, making his or her appointment dependent on current political leaders. In practice, the regulatory bodies in Armenia lack independence due to the strong dependence of the commissioners' career on political leadership of the country.⁴ For example, in 1995, the broadcasting license of the independent television company A1+ was suspended for refusing to broadcast only pro-government material, and in 2002 its broadcasting frequency was awarded to another company. Despite a ruling by the European Court of Human Rights in 2008, which stated that the regulatory authority's refusal to reinstate the company's broadcasting license amounted to a violation of freedom of information, the license was never reinstated.⁵ In September 2012, A1+ began broadcasting on the airwaves of Armnews. During this time, A1+ was nonetheless able to continue publishing news content on its website.

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.⁷ 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. In general, according to the licensing law, nonprofit entities are not required to obtain a license for the provision of internet services regardless of their legal status.⁸

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

³ Article 11 of the Law of the Republic of Armenia on Public Service Regulation Commission.

⁴ There are three independent regulatory authorities in Armenia that are part of the executive, but not a part of the government. These three authorities are the public utilities regulator, the broadcasting regulator, and the competition authority. There is also a civil service commission, which, however, is different from the concept of independent regulatory bodies.

⁵ For further information on *Meltex LTD and Mesrop Movsesyan v. Armenia: European Court of Human Rights, "Article 10 – Judgement,"* in "Information Note on the Court's case-law," June 2008, <http://bit.ly/1MPDVhi>.

⁷ Law of the Republic of Armenia on Changes and Amendments to the Law on Electronic Communication of April 29, 2013, Official Bulletin No 05/29(969), June 5, 2013.

⁸ Art. 43, Law of the Republic of Armenia on Licensing, of May 30, 2001 with several amendments from 2002-2012.

regime. ISoc Armenia registers domain names according to ICANN recommendations and best practices. Although members of the ISoc Armenia are individuals, the organization'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).⁹ 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, mobile and landline telecommunication operators.

Limits on Content

The Armenian government does not consistently or pervasively block users' access to content online. In an isolated incident, Facebook was reportedly briefly unavailable during clashes between police and armed groups in July 2016. The most common incidents of censorship of online content relate to blocking and filtering of platforms and websites by the Russian regulatory authority, which affects access to the same content for some internet users in Armenia, since Armenia receives some of its web traffic through Russia. However, these cases are promptly resolved by internet service providers once reported by users.

Blocking and Filtering

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 as well as disseminating information and calls for an armed rebellion via Facebook, users reported that they were unable to access Facebook through major ISPs, including Armentel (Beeline) and Ucom.¹⁰ Connectivity was reportedly restored within approximately 40 minutes.

The most prominent case of online censorship occurred in March 2008 during post-elections clashes.¹¹ 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 LiveJournal, which was the most popular social network used by opposition and civil society activists for blogging and reporting. Armenian authorities were strongly criticized by international observers for restrictions on access to internet resources.¹² After the events of

⁹ Union of Information Technology Enterprises, "UITE History," accessed April 30, 2013, <http://bit.ly/1PungBq>.

¹⁰ Facebook reportedly blocked in Armenia during unrest in the capital, <http://on.mash.to/2c2IGGa>

¹¹ Reports on the number of people killed vary; according to the official report from the Council of Europe, eight people were killed. Thomas Hammarberg, "Special Mission to Armenia," Council of Europe, Commissioner for Human Rights, March 12-15, 2008, <http://bit.ly/1OOJ6OH>.

¹² Parliamentary Assembly of the Council of Europe, "Observation of the Presidential Election in Armenia," published April 8, 2008.

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.

Due to the fact that some internet users in Armenia receive filtered traffic from Russian ISPs, there have been a few cases where a website that is blocked in Russia is incidentally blocked for users in Armenia. For example, in July 2015, a Russian opposition media and a gambling website, both blocked in Russia by a court decision, were blocked in Armenia as well. Following the first reports, Armenian Beeline started to work toward unblocking the websites and restored them later that same day.¹⁴

According to Article 11 of the Law on Police,¹⁵ 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.¹⁶ 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 arrest for up to two months or imprisonment for up to two years.

Content Removal

In May 2015, an episode of a web series satirizing the police response to protests in Yerevan was removed by YouTube. Allegedly the video was originally flagged by the police for removal, most likely because it was mocking the police's behavior and actions, though it was officially removed from YouTube due to copyright infringement, since the video contained a copyrighted clip of a news report.¹⁷ The Armenian police also took the authors of the web series, SOS TV, to court claiming the episode contained insults towards the police and demanding a public apology. The trial began on 28 July 2015, several hearings have taken place so far with sides presenting their position and demands. The Police are asking for a public apology and a fine for the amount of 2 million Armenian Drams (around \$4200 US) and insisting that they are not interested in monetary compensation but rather on the apology. SOS TV have noted that they are not going to apologize, since they had no intention of offending anyone and were just satirizing.

On the whole, however, Armenian internet is quite liberal. 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. 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,

¹⁴ Samvel Martirosyan's blog, "Ej.ru and bet365.com blocked by Russian Roskomnadzor in Armenia," <http://bit.ly/1QI6NpZ>

¹⁵ "Episode of Satirical Web Series Removed from YouTube After a Complaint from Armenian Police," ePress, May 26, 2015, <http://bit.ly/1MPFw6E>.

¹⁶ "Armenia's Police block a site offering intimate services," Media Max, March 23, 2012, <http://bit.ly/1W2n54J>.

¹⁷ SOS, Facebook Page, <http://on.fb.me/1PuqZin>.

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.

Violations of User Rights

There have been few cases of prosecutions against internet users or bloggers for content posted online. While Armenia eliminated criminal penalties for defamation in 2010, concerns over high financial penalties for defamation persist, though the number of cases and the fines have decreased in recent years. Journalists from print and broadcast media have been subject to intimidation and attacks, though no cases of violence against online journalists were recorded during this coverage period.

Legal Environment

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

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).¹⁸ One of the most positive changes in Armenian media legislation 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 delivery and only addresses the issues of broadcasting erotic or violent programs, as well as the time frame for 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.

In a positive development, the Constitutional Court of Armenia ruled on October 20, 2015 that journalists are not obliged to disclose their confidential sources, with the exception of cases involving serious crimes or where people could be in danger. The case was brought to the court after state prosecutors, in response to international criticism from organizations like the OSCE¹⁹ and RSF²⁰, dropped controversial charges brought against the editor of ilur.am news website, Kristine Khanumian, for refusing to disclose the confidential source of a June 2014 report that accused a senior Armenian police officer of assaulting two young men outside of Gyumri.

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 information or not to disseminate 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 the term of up to three years, and a ban on holding certain posts or practicing certain activities for up to three years.²¹ However, neither criminal law nor media

¹⁸ The Law of the Republic of Armenia on Mass Media of December 13, 2003, <http://bit.ly/2cBhAdK>

¹⁹ OSCE.org, "Forcing journalists to disclose confidential sources infringes work of media in Armenia, OSCE representative says," <http://bit.ly/1R6cahX>

²⁰ RSF.org, "JOURNALIST PROSECUTED FOR REFUSING TO REVEAL HER SOURCE," <http://bit.ly/1M6eoMZ>

²¹ Art. 164, Criminal Code of the Republic of Armenia as amended on January 6, 2006, accessed April 30, 2014, <http://bit.ly/1jxpli9>.

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.²² 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 subsequent decrease in the number of defamation cases. Defamation is widely used by Armenian politicians to restrict public criticism, but it has not necessarily been used to combat oppositional viewpoints or media independence. However, the principle of requiring politicians to be more tolerant of public criticism is not widely adopted in Armenia. According to the Committee to Protect Freedom of Expression²³ (CPFE), in 2015 there were 15 civil defamation and insult suits against journalists (including as a third party) and the media. Of these 15 cases, 13 included online media or media outlets that also have an online presence.

Since 2003, when the concept of cybercrime was first introduced in the Armenian criminal code,²⁴ 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. 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.²⁵ These laws apply to expression both online and offline.

Prosecutions and Detentions for Online Activities

No cases of imprisonment or other criminal sanctions or punishments 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.²⁶ 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.

²² Concept of compensation for moral damage caused by defamation was introduced by adding Article 1087.1 to the Civil Code of the Republic of Armenia, Official Bulletin of the Republic of Armenia, 23 June 2010 No 28(762).

²³ CPFE, "Annual report 2015", <http://bit.ly/1USZ9y4>

²⁴ Cybercrime was defined under the new Criminal Code of the Republic of Armenia, adopted on April 18, 2003. The first prosecution case for the dissemination of illegal pornography via the internet was recorded in 2004.

²⁵ Art. 226 and 301 of the Criminal Code of the Republic of Armenia, accessed April 30, 2014, <http://bit.ly/1jxplj9>.

²⁶ "Demanding Financial Compensation from Armenian News Outlets is Becoming Trendy," Media.am, March 3, 2011, <http://bit.ly/1MPHcx1>.

Surveillance, Privacy, and Anonymity

On July 1st, 2015, the newly adopted Law on the Protection of Personal Data²⁷ came into effect in Armenia. The law is intended to ensure the implementation of the right to personal privacy with respect to the processing of personal data, as well as bringing Armenian legislation regarding personal data in line with the European standards and international obligations. To achieve this, the law has 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 on 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. Nonetheless, the courts support most data requests from law enforcement bodies, which usually file motions on data requests while investigating crimes; however, motions must be justified, and if not, the defense attorney may insist on the exclusion of evidence obtained as a result of such action.

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 transmitted traffic or hosted 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.

Intimidation and Violence

There were a number of cases of violence or intimidation directed at journalists and media personnel covering the June 2015 protests against energy price hikes in Yerevan, as well as the journalists covering the December 6, 2015 Constitutional referendum. On June 23 2015, police specifically physically attacked, beat up and detained journalists live-streaming the Electric Yerevan rally on Baghramian Avenue. Overall, according to data²⁸ collected by the Committee to Protect Freedom of Expression (CPFE), there were 8 documented cases of physical violence against the journalists. The case is under investigation, 4 police officers are charged with attacking journalists and their trial is ongoing.

At least 14 journalists were attacked by a large group of plainclothes men late on July 29, 2016 while they were covering clashes between riot police and protesters marching in support of armed gunmen who had occupied a

27 National Assembly of Armenia, "The Law on Protection of Personal Data" [in Armenian], <http://bit.ly/1R7RMTT>

28 CPFE Annual Report 2015, <http://bit.ly/1USZ9y4>

police compound in Yerevan²⁹. Some of the journalists were hospitalized as a result of the attacks; some of their equipment was broken. Armenian authorities have promised to investigate the attacks against the journalists.

Technical Attacks

Technical attacks against government websites and civil society groups continue, with most of the attacks originating from Azerbaijan.

On June 19-20 2015, a large number of Armenian websites were hacked by Azerbaijani hackers. For the first time over the past 4-5 years the hacked websites included also state websites, including the sites of various Armenian embassies³⁰.

²⁹ Announcement by Armenian Media Organizations, 30th July, 2016, <http://bit.ly/2drc9IZ>

³⁰ Samvel Martirosyan's blogs, "RA Embassy Websites Targeted in A Massive Attack," [in Armenian] <http://bit.ly/1LREvwh>