GLOBAL INFORMATION SOCIETY WATCH 2009

Focus on access to online information and knowledge – advancing human rights and democracy

Global Information Society Watch 2009

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*Dedicated to A.K. Mahan - an activist who valued
intellectual rigour and concrete outcomes.*

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KYRGYZSTAN

Civil Initiative on Internet Policy
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Introduction

Internet penetration in Kyrgyzstan is amongst the highest in Central Asia, and internet access mostly remains free of control. However, the communication infrastructure in Kyrgyzstan is dependent for its access on neighbouring countries, particularly Kazakhstan. Given that the repressive policies in Kazakhstan block access to some popular information internet sites, the main provider in the country, Kyrgyztelecom, is subject to internet filtering by Kazakhtelecom, since it purchases international traffic from the latter.[1]

According to the results of a survey held in 2009, the total number of internet users in Kyrgyzstan is about 760,000 people.[2] This amounts to about 14% of the population. Most internet users are young people below the age of 30 (75% of the total number of users). Around 40% use the internet for education and news, while 33% use it for entertainment, communication and making contacts.

There are 1,500 top-level domain names registered on the local domain in Kyrgyzstan.[3] Russian-language websites remain the most popular (90%), compared to sites in Kyrgyz (8%) and sites in English (2%).

The high level of infrastructural development needs to be noted. Mobile communications has been the fastest growing area in telecommunications, with growth rates reaching about 20% in Kyrgyzstan. However, the quality of online state services has not changed in the last five years.

Political background

The introduction of e-government in Kyrgyzstan is moving slowly compared to international standards. According to a United Nations (UN) review, our position is decreasing in the world ranking that measures commitment to e-government programmes. Our country fell from 66th place in 2004 to 102nd place in 2008.[4]

In 2002 the state announced information and communications technology (ICT) development as its main priority in the National Strategy for Development of Information and Communications Technologies in the Kyrgyz Republic.[5] State regulation in the field of communications has created favourable conditions for the establishment of a competitive communications market that has resulted in the rapid development of infrastructure. However, while there is a rather comprehensive set of legislative materials, such as laws, decrees, regulations, resolutions and instructions, most of them have never been used in practice and exist only on paper. Likewise, there is a big gap between the value attached by the country's senior officials to e-government and the practical results.

In 2006, the first attempts were made to restrict access to websites from other countries, and to adopt a separate law on the regulation of the internet. Although this proposal was denied, such attempts demonstrated to civil society that officials have changed their attitude when it comes to the development of the internet in the country.[6] In 2007 the issue of state control of the internet was raised again. One of the draft laws directly affects citizens' rights to privacy in communications. Another draft law was proposed recognising internet publications as mass media (the draft proposed that all the websites with the .kg domain or hosted in Kyrgyzstan should be registered with the state authorities as mass media). However, as a result of a public campaign, these attempts were also denied.

At this moment existing legislation does not allow the national security authorities to organise supervision of the internet. However, there is a tendency at the government level to supervise traffic at the level of the internet service provider (ISP)[7] – and there is a risk of policy change. For instance, the National Security Service held a meeting with service providers to voice their displeasure with the criticism of their proposals expressed in forums and chat rooms.

The most shining example confirming the risk of policy change is a decree from the president on April 2009 re-delegating the administration of the national domain from a private Kyrgyz company to a state body.

Legislative framework

The first law on access to information was adopted in 1997, called "On Guarantees and Freedom of Access to Information". At that time public activity and advocacy in this area were very low, and citizens exercised their right to information very rarely. As the practice shows, provisions in this law were mostly applied by the mass media in attempts to access official information.

The disadvantages of the law were obvious. It did not set deadlines for the provision of information, include tools

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1   www.24.kg/community/2009/07/06/115860.html

2   Civil Initiative on Internet Policy (2009) *Survey of Internet Audience in Kyrgyzstan.* www.internetpolicy.kg/en/archive/reports2

3   Ibid.

4   Global E-Government Readiness Report 2005 and UN E-Government Survey 2008: www.unpan.org/egovernment5.asp and www.unpan.org/egovernment.asp

5   www.ict.gov.kg/index.php?name=EZCMS&menu=2501&page_id=71.

6   Before liberalisation, KyrgyzTelecom carried out filtering of voice traffic in order to limit access to non-Kyrgyz providers offering internet protocol (IP) telephony service, to thereby compel the use of local providers. Voice traffic was filtered in all the standard ports on all popular non-Kyrgyz providers of IP telephony. Allegedly, Cisco (PIX) and Huawei (Eudemon) products were used for filtering voice content.

7   svodka.akipress.org/news:17511

for appealing a denial of an information request, or establish measures sanctioning officials who failed to execute their obligations to provide information. Relations among state bodies on issues of access to information were complicated. Officials often just failed to observe the law and did not bear any responsibility.

After nine years (i.e., in 2006) amendments were made to the above-mentioned law due to the adoption of a new law on access to state information. These amendments differentiated the information requests by category of information. Now legal issues on any requests for state information are regulated by a special law called "On Access to Information Handled by State Bodies and Local Self-government Bodies of the Kyrgyz Republic". Information held by the non-government sector are considered as falling under the earlier adopted provisions of the law of 1997.

The goal of the new law (2006) is to ensure the implementation and protection of the right to access state information. The law recognises that information on the activities of state bodies should be publicly accessible to civil society and the obligation to provide information is delegated to all state bodies. The new law stipulates liability for infringement of the rights to access information. Its provisions also require documents to be placed on official websites, and information may be requested via electronic communication channels.

The state recognises that activities of state bodies are open, transparent and public. Any restriction of access to information is prohibited, except for cases when the requested information refers to state secrets, confidential information or commercial secrets. A citizen or a legal entity whose rights are infringed has a right to lodge a complaint to a higher official, the Ombudsman, or judicial bodies.

Implementation of this provision is confirmed by the judicial practice. In 2007-2008 state officials were brought to administrative liability under the law for violation of the right to access information.

One of the problems in modern society is accessing information from commercial entities, since business owners can hide behind the notion of a "commercial secret". Legislation passed in 1998 remedies this, and defines a commercial secret as data related to production, technologies and financial activity, the disclosure of which would harm the economic interests of the organisation. According to this legislation, not all information may be referred to as a commercial secret, and the law establishes requirements in this regard.

State access to personal information is established by the law "On Personal Information" (2008). The legislation provides broad power to state bodies on issues of managing personal data by significantly narrowing citizen rights over this data.

The right to access public information

The state's attitude to the right to access information is confusing and contradictory, and it is unclear what actually reflects its true political position. On the one hand, state bodies have adopted the law on access to information, but on the other hand the state has tried to introduce restrictions to internet access.

Considering practical implementation of the law, it should be noted that development and adoption of the law on access to information, including issues of access to internet resources, were the result of the state needing to comply at the time with the requirements of international financial institutions, since during that period of legislative development financial support for Kyrgyzstan was being considered. Civil society also took an active part in drafting the law, and strengthening provisions to ensure the viability of the document. The effectiveness of the law is confirmed by court decisions in 2007-2008 which held state employees accountable for refusing to provide information.

Ministries and agencies have also only taken first steps in ensuring online access to information, although they have successfully addressed the infrastructural tasks of equipping staff with modern computer equipment (providing quality access to the internet for civil servants is still an issue).

While state bodies are actively creating websites, the quality of the sites is not always good. On most sites, information is not frequently updated and advanced interactive tools, including search functions, are rarely incorporated. The sites also have complicated and confusing structures that hinder searching for information

Standard procedures for placing information online began to be adopted from 2004. These standards established general requirements regarding the composition of data to be placed on government websites. However, the procedures do not include any criteria for completeness nor requirements regarding the efficiency with which state documents are published online. As a result, the content on state websites does not comply with citizens' requests or needs.

An assessment of the procedures shows that they mainly address issues of automated systems for certain ministries. However, the opportunities of using information technologies to facilitate interaction between citizens and state bodies has not been considered. There is also a problem with inadequate funding for state bodies to maintain websites.

Other challenges in implementing the law concern general access to the internet. Recent surveys show that 77% of internet users live in the Kyrgyz capital (Bishkek).[8] Therefore a big part of the rural population has no access to internet resources due to underdevelopment of infrastructure, computer illiteracy and other economic and social reasons.

New trends

As mentioned, in April 2009 the government announced the re-delegation of the right of administration of the national domain from a private company to a government body. The attempt of the state to establish government control over the administration of the national domain may be considered as an attempt to supervise internet resources, since

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8   Civil Initiative on Internet Policy (2009) op. cit.

no violations were identified in the activities of the previous administrator. Currently, there has been no guarantee of transparency in decisions adopted by the state on the administration of the domain.

Through monitoring internet access during the pre-election campaign for the president of the Kyrgyz Republic in June 2009, it was established that there is no access to several information resources hosted in foreign countries, and to some services offered by Google. It was also determined that this restriction is connected to the restriction of traffic by the service provider in Kazakhstan, Kazakhtelecom. Technical interruptions were recorded in internet services, including web portals. Restrictions on accessing information tended to affect information from opposition parties or political movements only. One Kyrgyz provider restricted access to the website of the independent public newspaper for one month.[9] Before the pre-election campaign it was established that websites of leading information agencies were blocked for one day.

Currently, online forums and chats impose strict rules for the registration of participants. This is in case political issues are to be discussed. Partly because of this, forums and chats are not so popular anymore and many information agencies have shut them down.

Another trend has been attempts by the government to use technologies to track user traffic.[10] This suggests that the government wishes to control internet content, and indicates that state policy is changing.

Action steps

The issue of access to online information is critical in Kyrgyzstan. For the time being, limited access to the internet means that the traditional media serve as the main information source in the country. Nevertheless, the country is in transition, and the government's desire to control internet content is a concern.

A significant portion of internet users are young people.[11] However, young people are weakly involved in the political process, mainly using the internet for entertainment. Consequently, the government's attempts to restrict access to online information are not widely publicised, a fact which may affect further development of government policy on access. Awareness raising among young people is critical as a result. ∎

9 www.24.kg/community/2009/07/06/115860.html

10 svodka.akipress.org/news:17511/

11 Civil Initiative on Internet Policy (2009) op. cit.

GLOBAL INFORMATION SOCIETY WATCH (GISWatch) 2009 is the third in a series of yearly reports critically covering the state of the information society *from the perspectives of civil society organisations across the world.*

GISWatch has three interrelated goals:

- **Surveying** the state of the field of information and communications technology (ICT) policy at the local and global levels

- **Encouraging** critical debate

- **Strengthening** networking and advocacy for a just, inclusive information society.

Each year the report focuses on a particular theme. **GISWatch 2009** focuses on *access to online information and knowledge – advancing human rights and democracy.* It includes several thematic reports dealing with key issues in the field, as well as an institutional overview and a reflection on indicators that track access to information and knowledge. There is also an innovative section on visual mapping of global rights and political crises.

In addition, 48 country reports analyse the status of access to online information and knowledge in countries as diverse as the Democratic Republic of Congo, Mexico, Switzerland and Kazakhstan, while six regional overviews offer a bird's eye perspective on regional trends.

GISWatch is a joint initiative of the Association for Progressive Communications (APC) and the Humanist Institute for Cooperation with Developing Countries (Hivos).

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