

Ukraine's proposed new media law threatens press freedom

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OPINION: The government's attempt to take control of the media is anti-democratic and dangerous

Many Ukrainian journalists have swapped their dictaphones for rifles, and gone to serve on the frontline against the Russian army. Thousands more are risking their lives to report from battlefields and conflict-affected areas.

Meanwhile, Ukraine's ruling Servant of the People party has decided to tighten its control over the press.

Until now, Ukraine has not created any official censorship body during the Russian invasion thanks to high levels of self-censorship among journalists, who have rightly or wrongly, complied – voluntarily or perhaps under duress – with many restrictions from military and civilian officials.

But [new draft legislation](#) will subordinate all media outlets to a single state body that has the power to warn, fine and, ultimately, shut down any outlet.

Under the draft bill's powers, Ukraine's National Council of Television and Radio Broadcasting will gain powers to regulate newspapers, online media or digital platforms that provide media services – alongside its existing authority over TV and radio.

If signed into law by president Volodymyr Zelenskyi, it will give unprecedented powers of control over Ukraine's press.

Unprecedented state control

This is not the first time the Ukrainian government has attempted to introduce legislation to control the media. A similar law appeared almost three years ago, at the start of Volodymyr Zelenskyi's administration.

Then, most Ukrainian journalism organisations were categorically opposed to the legislation. The law was considered too tough, and the powers assigned to the National Council too extreme for a democratic society such as Ukraine. As a result, in May 2020, the Ukrainian parliament failed to approve it and the bill was sent for revision.

But now, after nine months of Russia's war on Ukraine, we are seeing a repeat of a scenario familiar to anyone who has observed the recent stringent and [radical changes](#) to the country's labour laws.

In order to pass the new media law, the Ukrainian government and its parliamentary allies are using rhetoric about the need for reform – in support of [Ukraine's EU membership](#), no less – and the effects of the Russian invasion.

In reality, it's all about control.

First, let us admit it: the powers that are being offered to Ukraine's National Council of Television and Radio Broadcasting are unprecedented.

Never in Ukraine's independent history has a single state body had these kinds of powers – neither under the presidency of Leonid Kuchma (1994–2005, a high point of pressure on journalists) nor during the rule of Viktor Yanukovich (2010–2014, when he fled the country after the Maidan revolution).

Indeed, when Yanukovich introduced the so-called '[dictatorship laws](#)' to quell mass protests in January 2014, Ukrainian journalists were outraged. These laws sought to restrict the work of news agencies that were not officially registered (which was the case for many at the time), and block websites found to contain 'illegal' information.

Today's draft media legislation includes similar proposals, plus more stringent provisions absent. These provisions could destroy the fragile balance of power between the media and government, which has prevented Ukraine from sliding into dictatorship in the past.

For example, during the Kuchma and Yanukovich years, the lack of state control over websites meant that the Ukrainian people had access to thousands of online publications opposed to their rulers. This created a basis for Ukrainian society's resistance to attempts to usurp both power and the right to truth.

As for print media, few people realise that many Ukrainian public organisations publish newspapers and booklets without any official registration – Ukrainian legislation allows this. The new bill will prohibit it.

Danger of a state monopoly of the media

The [media bill](#) contains 282 pages and makes changes to dozens of laws – but from the point the bill was adopted, the Ukrainian public was given only 21 days to raise objections.

Today, only the National Union of Journalists of Ukraine (NUJU), supported by the European Federation of Journalists, openly [opposes](#) this bill. This is not surprising; most NUJU members are categorically against the state interfering in their activities.

But Ukrainian officials are skillfully using Russia's war to shift public attention away from over-regulation of Ukraine's media towards issues that have only become more controversial during war time, such as the use of Russian language on Ukrainian TV and radio.

However, the main danger lies in the creation of a state monopoly on the regulation of the media.

It comes at a difficult time for the country's media, which has encountered interference by the Ukrainian authorities since the start of the Russian invasion. Ukrainian television has been practically monopolised by the state, with [one programme broadcast on all central news channels](#), the United Marathon.

The exceptions were the Pryamyi, Espresso and Channel 5 channels associated with former president Petro Poroshenko, which broadcast their own "information marathon" – until a presidential decree forced them to switch to the United Marathon. It should be noted that Poroshenko, who lost to Zelenskyi in the 2019 elections, is widely seen as a possible competitor to the current president.

Then, in April, the Poroshenko-linked channels were removed from the cheapest digital television package in the country. (The channels associated with the former president were withdrawn from online broadcast [on the pretext](#) of Poroshenko's "excessive narcissism".)

However, no matter how much the Ukrainian authorities would like to, the TV channels and websites associated with Poroshenko cannot be completely shut down – it is impossible to accuse them of being pro-Russian.

The same cannot be said for other Ukrainian channels that have often been accused of pro-Russian coverage. Some channels have been shut down, but these decisions were made without court proceedings that would have confirmed allegations of 'pro-Russian editorial policy' or dependence on Russian funding.

Before the war, Oleksandr Tkachenko, the current minister of culture and information policy, [linked](#) the new media legislation to a need to close pro-Russian channels. Today, no one is trying to prove such allegations, citing a lack of time and resources during wartime.

Confusing ethics and legality

Ukraine's media environment is currently filled with propaganda and counter-propaganda. The latter is perceived by many, including journalists, as inevitable during wartime.

To regulate the actions of Ukrainian journalists, the draft law makes it mandatory for them to follow a code of ethics. This may appear a noble undertaking, but the introduction of ethical obligations into the legal regulation of journalism can become another loophole for pressure on journalists.

Until now, adherence to the code of ethics was voluntary. The code was written and regulated by Ukraine's Commission on Journalistic Ethics, a self-governing body of journalists (of which I am a member).

Admittedly, the fact that the ethics code was voluntary made both it, and the powers of the commission, weak – but it also meant they could not be used for the purposes of censorship or political pressure (though there have been attempts).

The new legislation will also create 'co-regulation bodies' to approve various industry standards, including ethics, and regulate any violations. The National Council on TV and Radio reserves the final right both to approve ethics rules and the experts who will consider complaints about the violations of codes and standards by media.

If violations are, in fact, found, the reaction of the National Council and its powers can range from a warning to a fine or a complete closure of the media outlet.

Ethical standards are not legal norms. The introduction of legal liability for violating professional ethical standards can undermine not only the foundations of freedom of speech, but also put at risk all journalists who harshly criticise the Ukrainian authorities or officials. And that means undermining the fundamental foundations of the role of the press in a democratic society.

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