Communication

Transparency in the era of the Internet. Internet Service Providers – the new gatekeepers of communication

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Abstract

The Internet has become the single most important communication tool around the world. It connects people across continents and illustrates the virtual environment of global intercultural exchanges. A mass phenomenon, the Internet has changed the face of nearly all human activities. From politics and media, to learning, travelling, shopping and even doing sports or connecting with one`s electronic devices, there are hardly any social practices that have escaped the processes of digital conversion and global distribution. The Internet reflects in this sense both the technical standard of communication-reach and the embodiment of access to information and freedom of speech.

Having said that, the infrastructure of the Internet, composed of Internet Service Providers (ISP) and their global interconnections, illustrates a series of technical capacities which have the potential of infringing the aforementioned freedoms. In an effort to suggest future policy research directions that might help protect online communication, including online media, from undue restrictions and constrains, the current paper follows the methodology of a current cross European research on digital infrastructure. Set in the paradigm of transparency, the paper examines the methodological potential of the aforementioned initiative to offer relevant insights for the understanding of Internet-related communication constrains. In this sense, the authors will explain the investigative structure proposed by the project and will offer arguments concerning the potential for secondary analysis of the resulting data sets.

Keywords

Ownership, media, digital infrastructure, Internet, freedom of information, access to information

Résumé

L'Internet est devenu le plus important instrument de communication autour du monde. Il relie les gens à travers des continents et illustre l'environnement virtuel des échanges interculturels mondiaux. Un phénomène de masse, l'Internet a changé la face de presque toutes les activités humaines. Soit qu'il s'agit de politique ou des médias, d'apprentissage, voyager, shopping et même faire du sport ou de se connecter aux appareilles électroniques, il n'y a presque aucunes pratiques sociales qui sont échappés au processus de conversion digitale et à la distribution mondiale. L'Internet reflète a cet égard la norme technique d'accès à la communication, mais aussi l'incarnation de l'accès à l'information et à la liberté d'expression.

L'infrastructure de l'Internet, composé de fournisseurs de services Internet (FSI) et de leurs interconnexions mondiales, illustre une série de capacités techniques qui sont susceptibles de porter atteinte aux libertés d'expression et accès à l'information. Au but de proposer des orientations de recherche futures des politiques qui pourraient aider à protéger les communications en ligne, y compris des médias en ligne, des restrictions et contraints indues, le présent document suit la méthodologie d'une recherche pan-européenne sur les infrastructures digitales. Conçu au paradigme de transparence,

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l'article examine la potentielle méthode de l'initiative susmentionné afin d'offrir des idées raisonnable pour comprendre les contraints de communication liés à l'Internet. A cet égard, les auteurs vont expliquer la structure d'enquête proposée par le projet et ils offriront des arguments concernant la possibilité d'une analyse secondaire des ensembles de données qui en résulte.

Mots-clés

Possession, médias, infrastructure digital, Internet, la liberté d'information, accès à l'information

1. Introduction

This paper has been developed as part of the international research project "Who are the Gatekeepers of the Internet".[1] Winner of the 2014 Knight News Challenge and supported by the German Marshall Fund through the Black Sea Trust, the initiative aims to gather and analyse data on Internet Service Providers that are operational in 12 countries situated in Eastern and South Eastern Europe and South Caucasus. The project is focused on infrastructure transparency, Internet freedom and free speech infringements.

The current paper will follow the justification of the project, its research and analysis methodology and will illustrate the academic potential that it prompts in several different disciplines. The efforts of the authors are concentrated on promoting and facilitating academic debates in this field that might help improve the potential of such initiatives and the development of similar ones in other regions of the world.

The project is currently under implementation in the fact-checking stage. Consequently, the paper does not contain preliminary results or individual case studies. Instead, the article is focused on the explaining the relevance and pertinence of researching Internet Service Providers, as well as on advancing for debate the methodological approach of the project and a series of field-related indexes that are set to be developed.

2. The Internet and fundamental rights

2.1. Why researching Internet gatekeepers?

Our understanding of what communication means and our perspective of what is the potential of communication have both been radically changed in the past twenty years. An example in this regard, is that, in just two decades, cell phones have integrated the notion of mobility in our definition of modern communication in a manner that is both technologically feasible and affordable to the general public. That being said, the main breakthrough of our time is to be found in another place. In this sense, the Internet and all the technological developments that are related to it, including contemporary mobile phones, have modified completely how we access information, how we communicate with each other and our environment and, more recently, the mobility of both aforementioned processes.

The Internet is in this sense a highly complex channel of communication. People can now interact in greater numbers than ever before, any person can start his own online newspaper and blogging has developed so as to satisfy the desire of people to broadcast personal experiences or opinions. In addition, online social media has virtualized the private aspects of our lives and has transformed them into elements of a previously unimaginable public space. Money transactions occur now online and E-commerce has globalized shopping. We can watch the news from our phones and we can communicate with distant electronic devices and relay them our preferences.

In addition to all of this, perhaps one of the most unexpected changes that has undergone in relation to the rise of the Internet has to do with governmental, corporate and individual responsibility and the related reputational costs. In this sense, we can now rapidly interact online with governments, corporations and other persons, we can instantly, at any time, find out the latest news involving them and we can publicly support or criticize them in the online environment depending on what we have learn about their activities. This reduced time consumption and the related increased access to information have caused immense modifications to the concepts of public[2] transparency and social responsibility[3] and have linked in a definitive manner the Internet to the normative idea of free of speech.[4]

Understood in these terms, the Internet reflects a complex technical network that fulfils several different communication tasks with various commercial, political and civic implications. Consequently, it operates as a form of virtual reality, parallel to the real world, with similar and at times more serious implications to our social practices and general welfare. In this sense, the public`s ability of using it to

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get informed, to express personal opinions or to pursue a commercial purpose has shaped it into a structure that essentially fulfils within the paradigm of communication a public function, if not a public service.

Under these conditions, the enforcement of human rights, in particular of freedom of expression, in the online environment has become a concern with political and civic ramifications. That being said, the protection afforded to freedom of speech in the online environment suffers from heterogeneity across the globe in accordance to a diverse set of factors.

Having this in mind, from a structural perspective, there are at least five problems that challenge freedom of expression in the online environment along the following lines:

- The first issue is that while the Internet is public in its nature, its material infrastructure (line cables) is privately own by profit-orientated companies, called Internet Service Providers (ISPs). Consequently, ISPs have ultimately complete control over the content of the Internet and are essential to any governmental intent in this field.[5] From a technical perspective, ISPs are hierarchically organized and classified according to their bandwidth in TIER 1, 2 and 3. The level of control decreases from Tier 1 to Tier 3. Nonetheless, the majority of these companies can limit traffic and block content over smaller or larger portions of the Internet, effectively acting as gatekeepers of online communication.
- The second problem comes from the fact that free speech, as it is entrenched in national and international legislations and agreements, guarantees the protection of expression from undue infringements exercised by governmental authorities. In other words, freedom of speech implies, in those legal jurisdictions that recognize it as such, that the government will not preclude a person from expressing his or hers opinion. It does not imply, however, any direct similar responsibilities from private actors[6], such as ISPs or other online content providers.
- Third, free speech is in itself a disputed notion that carries with it, even in liberal countries, certain limitations.[7] In this sense, liberal governments, who recognize free speech through national legislations and international agreements, may choose to limit it according to moral standards. An example in this sense is hate speech. In such cases, the regulation of free speech in the online environment requires a public-private cooperation, i.e. an agreement that bounds the government`s intention to regulate in a certain manner free speech to the technical capacity to do so of Internet infrastructure owners and of Internet content providers, e.g. online media outlets.
- Fourth, while the Internet is global in its nature, the protection of free speech is not. In this sense, authoritarian or quasi-authoritarian governments may choose to block the opinions of political dissidents by precluding access to their websites or to the pages that promote their opinions. Here, the infringement of free speech, much like in the case of its regulation, requires the same type of public-private collaboration. In this sense, there are governments that actively use ISPs and other types of online providers (email providers or search engines) in order to limit or block access to dissident websites.[8] In these cases, there is an immense controversy related to the manner in which western-based companies behave in authoritarian states and to the question of whether having local subsidiaries subjected to local legislation removes responsibilities that would have otherwise been derived from the legislation of the mother-country.
- Fifth, the Internet remains a largely unregulated sector. Its private ownership, global reach and legislative diversity to which it is subjected create a fragmented material infrastructure that, notwithstanding its technical interconnections, continues to be unregulated at the international level. There have been national and supranational efforts that aim to surpass this deficiency, such as the net neutrality regulation recently passed in the United States of America[9] and a similar piece of legislation that is being debated in the European Union[10]. Nonetheless, beyond these elements there have been no global efforts in this field, as the international governmental opinion has mostly upheld the view of a self-regulating industry.[11]

The existence of these problems within the aforementioned context shapes four general field-related assertions that can be formulated as follows:

- The Internet fulfils a series of public functions that have commercial, political and civic implications.
- The Internet is fragmented and its components are privately owned.
- The protection of freedom of speech in the online environment and the related existence of regulatory measures for the Internet is confined within national borders to liberal countries that have dedicated legal provisions.
- Internet Service Providers hold the highest level of control over the Internet and their actions in respect

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to freedom of speech are related to the type of political system and the legal provisions of the countries in which they operate.

This four-fold structure represents the basis upon which in recent times a series of private research initiatives have chosen to create various statistic indexes. Thus Freedom House[12], OpenNet Initiative[13] and Reporters Without Borders[14] have all developed annual recurrent reports that follow Internet freedom across the globe from the perspective of existing infringements, legislative frameworks and governmental positions on the matter. What is missing however from these reports is a structural analysis of the primary actors that hold the actual capacity to infringe free speech.

In this regard, while some of the most resounding cases of infringement have involved companies that are online content aggregators or that offer specialised online search engines, the most significant vulnerability (by level of control) comes from the infrastructure of the Internet itself, i.e. from Internet Service Providers. In this sense, in many regions of the world, including in liberalizing areas – in particular in developing countries or in young democracies – there is little if anything known on the ownership and behaviour of Internet Service Providers. Questions such as "Who owns Internet Service Providers?" and "What is their level of corporate transparency?" albeit crucial from the perspective of protecting the Internet and its public function, have never been raised. Instead a large portion of the public focus has been fixed on politics and the diversity of political regimes in relation to the concept of Internet freedom.

In this sense, the initiative upon which the current paper is based aims at paving the way in the field for a better understanding of the nature and characteristics of Internet Service Providers. The project in question, as well as its academic outlook, follows closely on the footsteps of what has been in the last 10 years an immense effort for understanding the democratic virtues of media pluralism and the connection between it, media ownership and the level of democratic development.[15] In this context, researching Internet owners illustrates from an academic perspective an up-stream movement of focus from classical media and online content providers to online content facilitators or owners of infrastructure.

In this regard, the above mentioned questions are the same as those raised in the case of media ownership. However, the difference between the two levels of focus is that infrastructure owners can exercise a technical control over content providers. In other words, there exists a higher level of control that can block any type of content irrespective of the censorship, including self-censorship, or lack thereof characteristic of the medium that produced it. It is in this context that the application of notions derived from media ownership studies, such as corporate transparency, political affiliation and interest group affiliation, to Internet gatekeepers has the potential of improving our understanding in this field and of completing down-stream current media studies and Internet freedom research.

2.2. Paving the way: "Who are the gatekeepers of the Internet?"

In direct relation to the aforementioned context, at the end of 2013, an interdisciplinary group of academics, civil society representatives and investigative journalists have developed a project proposal aimed at investigating Internet gatekeepers, submitted under the Knight Foundation 2014 News Challenge. The initiative went on to become one of the nine winners of the contest and started implementation in September 2014. The organizations involved in the project are the Organized Crime and Corruption Report Project (OCCRP), Rise Project and EurActiv Romania.

Entitled "Who are the gatekeepers of the Internet?", the project focuses on Eastern and South Eastern Europe, as well as on South Caucasus. Its aim is to improve knowledge regarding the ownership, transparency, political connections and organized crime links, if any, of the Internet Service Providers present in Romania, Bulgaria, Hungary, Croatia, Slovenia, the Czech Republic, Slovakia, Serbia, Ukraine, Moldova, Armenia and Georgia.

The project has been developed in a three-fold structure as follows:

- Data gathering activities. This segment of the project relies heavily on the investigative capacity of OCCRP who has developed an international network of journalists that cover the targeted countries. The objective of this team is to research and gather data concerning: Who are the regional gatekeepers of digital infrastructure? Who controls access to the Internet, online news outlets, blogs and other forms of digital providers of processed information? How transparent are these organizations? What are their connections to political parties or to public

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officials? What are their links with organized crime?

● Analysis. This activity follows closely data-gathering. It aims to interpret the information obtained by the investigative team so as to develop aggregated data sets and reports on field-related tendencies and connections across the region.

● Advocacy. The final activity of the project consists of targeted dissemination and promotion of its results among continental and regional monitoring and regulating public bodies, civil society organisations and academic institutions. The results of the project will be illustrated through a series of mapping tools that will aggregate country data sets on the aforementioned topics and will accompany the country and regional reports.

The project`s ambitions are reflected in the unprecedented focus on Internet Service Providers. Its team members have previously been involved in media mapping projects and have worked on research projects covering media ownership. The decision to move up-stream was thus a rational methodological choice that aimed at uncovering a segment that, albeit essential for the questions of Internet freedom and media pluralism, has never been studied.

As explained, the current paper was developed within the project, with the objective of explaining the methodological approach of its data-gathering and – analysis activities and of offering insights with regard to the applicability of the final results in other field-related research and policy studies.

In what follows, we will examine the hypothesis and research questions formulated by the project team, we will explain the related methodological structure and we will consider the potential for secondary analysis and policy research that the final aggregated data sets will reflect.

3. The methodological structure of the project

3.1. Hypothesis

The project was developed from the reality that very little is known in this field. For example, there are almost no public data on who owns Internet Service Providers, what are their individual patterns of behaviour in respect to Internet freedom and media pluralism and what are their connections to other public or private stakeholders. Instead, what is known has to do with the nature of the Internet itself and the technical capacities of the actors related to it. In this sense, the existing research initiatives stop at noting the capacity of ISPs, as well as of other online gatekeepers with lower levels of control, to infringe freedom of speech, confidential or private data and to limit or block access to certain parts of the Internet. As explained in the first segment, following these elements the traditional focus shifts to political systems and legal provisions. As such, although there have been many cases where the behaviour of western private companies in authoritarian regimes with regard to Internet freedom was publicly challenged alongside the local governmental position on the matter, no general structural analysis has ever been done on the characteristics of Internet Service Providers, i.e. the private companies that have the highest level of control in the field.

Consequently, the project represents an exploratory initiative designed to gather new data on Internet Service Providers and to analyse it from the perspective of three factors, namely transparency, political affiliation and interest group affiliation (which has two derivatives, i.e. corruption and organized crime). The selection of these elements reflects the project`s main distinction in terms of its underlying hypothesis from the existing Internet freedom studies, namely *that the actions of Internet Service Providers in respect to freedom of speech can be correlated not only with extrinsic factors such as the type of political system and the legal provisions of the countries in which they operate, but also with intrinsic elements that have to do with their ownership and internal decision-making.*

It should be noted that the project covers a region that is currently highly sensitive in terms of security and where the infrastructure of the Internet reflects a matter of national and international security to a greater extent than in other parts of the world. The methodological challenges behind this focus and the potential for replication in other areas are presented alongside the research and analysis frameworks in the following segments of the paper.

3.2. Research questions

By research questions, the authors understand the investigative aims that were at the basis of the project, in particular behind the data-gathering activities. In terms of scientific interpretation of the data, the initiative incorporates the development of a series of indexes that are closely connected to the initial research questions, but are not limited by them.

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That being said, the main research questions of the initiative are constrained to the aforementioned 12 countries and consist of:

- What is the level of corporate transparency characteristic of Internet Service Providers?
- Who are the owners of Internet Service Providers?
- What are their connections to political actors and parties?
- What are their connections to organized crime, or other forms of structured interest groups?

3.3. Operationalization of variables

Each of the aforementioned research question corresponds to one or more independent variables, such as the *level of transparency*, *type of ownership*, *political connections*, *corruption connections* and *organized crime connections*.

Their operationalization has served the data-gathering activities and will lay the foundation of the data sets and country/regional reports that stand to be developed through scientific analysis.

The level of transparency refers to the amount of public available data on the owners, internal structure and commercial actions of Internet Service Providers and the degree of layering characteristics of their ownership. The main questions underlying its operationalization are:

- What is the legal form of the company? (private, shareholders, unknown)
- Are there any data on the management and internal structure of the company available on their website? (yes, partial, no)
- Are there any data on the commercial activities of the company available on their website? (yes, partial, no)
- Is there any data on the company to be found in national public records? (yes, partial, no, unknown)
- Is there any data on the company to be found in other extra-national public records? (yes, partial, no, unknown)
- What is the level of layering characteristic of the ownership of ISPs? (national with known ownership, international with known ownership, offshore, unknown)

The type of ownership refers to the national or international quality of the owners of Internet Service Providers as well as to their primary or subsidiary status. The main questions underlying its operationalization are:

- What is the geographical reach of the company? (national, regional, continental, global, unknown)
- Is the company a primary operator or is it a subsidiary? (primary, subsidiary, unknown)
- What is the Tier classification of the company (Tier 1, Tier 2, Tier 3, unknown)

Political connections refer to any provable relation between the company, its owners or its management employees to politicians, political actors or political parties. The main questions underlying its operationalization are:

- Are there any connections to politicians, political actors or political parties? (Yes, No, Unknown)
- How many such connection exist? (<10, <50, >50)
- What is the most recurrent level of connection? (party, politicians, local administration, government)
- What is the most recurrent type of connection? (contract, personal, unknown)
- In how many countries, does the company has such connections? (1 – 12, unknown)
- What are the political connections that are the most recurrent among ISPs? (To be filled)

Corruption connections refer to any provable implication of the company in corruption cases. The main questions underlying its operationalization are:

- Has the company been involved in any corruption cases/investigations? (yes, no, unknown)
- How many such involvements exist? (<10, <50, >50)
- In how many countries, has been the company part of a corruption investigation? (1-12, unknown)
- What are the actors involved in corruption cases that have relations with more than one ISP? (To be Filled)

Organized crime connections refer to any provable implication of the company in organized crime cases. The main questions underlying its operationalization are:

- Has the company been involved in any organized crime cases/investigations? (yes, no, unknown)
- How many such involvements exist? (<10, <50, >50)
- In how many countries, has been the company involved in an investigation? (1-12, unknown)
- What are the actors involved in organized crime cases/investigations that have relations with more than one ISP? (To be Filled)

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3.4. Methodological challenges

Based on the above mentioned operational definitions of the variables associated with our research questions, the project team encountered two primary methodological challenges.

The first challenge had to do with the difficulty of obtaining relevant data on digital infrastructure ownership in the region. This was caused by elements such as the lack of local Freedom of Information Acts (for public commercial contracts), the absence of any public data online, heavily layered ownership that incorporates several different proxy owners and offshore structures, the absence of any sector related description, language barriers etc. In this regard, the advantage of an interdisciplinary multinational group of research is that one can combine various expertise and specialized investigative techniques in a manner that can ensure the successful attainment of all the relevant data. In this case, the experience of the investigative network of OCCRP was essential for corroborating different sources and uncovering relevant data trails. The absence of an investigative mechanism of this sort leaves the faith of the study on the availability of online public data, which excludes from the possible coverage area the majority of the companies outside liberal countries and even some that are operational within.

The second challenge is related to the possibility of having the targeted geographical area overloading the working capacity of the project team. As explained, the infrastructure of the Internet is highly fragmented making way for tens sometimes hundreds of individual companies to operate within one country. Considering the difficulty in obtaining descriptive data, it is highly likely that an exhaustive study on a pre-determined region will consume several years. This causes a secondary problem, as the data obtained over a long period of time may not be consistently relevant. In such a case, a study may end up showcasing the transparency of ISP X at the moment T0 together with the transparency of ISP Y at the moment T3. The solution for this predicament comes from two different sources. First, the fragmentation of the sector is useful in itself as it is, as previously explained, hierarchically organized. This allows the research team to prioritize data-gathering according to the level of control. They start with Tier 1, which are the less numerous, and move downstream. This way, one can ensure that there are no other superior levels of control that have remain unchecked. Secondly, the team has to gather the data concomitantly in all the targeted countries and in a particular time span. Even though this consumes more resources, the end results are homogenously characteristic for the same time period and comparable country data sets are obtained.

3.5. Data-gathering, data-analysis and research indexes

In light of the aforementioned elements, the data-gathering activities were structured in three stages as follows:

- The first stage referred to the creation of a project questionnaire, the details of which have been summarized in the previous segment on the operationalization of variables.
- The second stage involved simultaneous investigative efforts carried out by a team of 12 journalists across the 12 targeted countries. The investigation lasted for 8 months. The team had to gather data provable through documents and to attach these documents to the country folder.
- The third stage involves fact-checking. This is the current stage of the project. This activity aims to ensure that all the data gathered is backed by verifiable documents.

The analysis stage of the project will refer to the development of a series of indexes that will rate the aforementioned independent variables. The two most important such indexes that stand to be created are that of corporate transparency and political concentration.

The first of these indexes will measure the level of transparency of Internet Service Providers following the operational definition previously described. Its relevance stems from the fact that it will not only measure the transparency of Internet gatekeepers, but also the manner in which its levels increase, decrease or preserve according to the type of political system, the existence of special legal provisions or that of infringements of Internet freedom, all of which will be obtained in separate data sets as explained in the operational definitions. In addition, the index will be able to bring another element insightful with regard to the behavioural patterns of ISPs in larger regions by offering a means of comparison between the transparency rates scored by the same ISPs in different countries.

The second index refers to the political concentration of ISPs, will be measured by country and will illustrate the number of ISPs that have

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political connections by the total number of ISPs operational in that country. Usually concentration indexes also take into consideration the level of dominance within a system, i.e. the average number of connections that translate into actual illegal infringements.[16] This however is an element almost impossible to test in this particular context. While the existence of an infringement might be an indicative of the technical capacity needed to accomplish it, the application of a methodology that requires verifiable documents that prove the existence of a connection force the majority of situations outside the measurable scope of the project. Instead, in this context, one can use particular case studies for which individual verifiable documents can be obtained. While the results will lack statistical consistency, from a qualitative perspective they might offer important insights for a number of different correlations that can be attempted.

It should be noted that similar results as in the case of the political concentration index can be achieved with the other affiliation-based variables.

4. Instead of conclusions: Perspectives for secondary analysis and policy research

We have explored in this paper a possible justification for researching Internet gatekeepers in reference to the notion of Internet freedom and we have examined the methodological structure and expectations of a private initiative that aims to pursue such an endeavour. As previously mentioned, there is a high potential for this project and for other similar programmes to uncover relevant data that might complement down the stream existing media and Internet freedom studies. For example, in relation to all three annual reports mentioned in the second segment (Freedom House, OpenNet and Reporters Without Borders) new correlations can be developed based on the data obtained in "*Who are the gatekeepers of the Internet?*".

Having said that, the results of the project and its transferable methodology can also have two additional effects. In this sense, they can offer sufficient data for secondary analysis to be developed and they can provide insights for the elaboration of tailored public policies in this field.

In what concerns the first element, the potential for secondary analysis will be explored within the project itself, as the indexes alone can be used as dependent variables in relation to some of the elements contained within the other operational definitions. For example, as indicated earlier, the transparency index can be correlated with the type of political system. As the operational definitions are larger than the main elements mentioned in this paper, it is to be expected that a high number of data sets will be available to be used in different correlations across the 12 targeted states.

The second element, i.e. support for policy development, is directly linked to the pertinence of the final indexes and the potential for secondary analysis. In this sense, the fields for which regional policies can be developed range from media, telecom and Internet regulations to corporate accountability and security.

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Notes

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http://www.knightfoundation.org/grants/201499908/

[2] For a view on the concept of public sphere employed by the authors please see Jürgen Habermas, *Sfera Publică şi transformarea ei structurală* (The Structural Transformation of the Public Sphere), t. Janina Ianoşi, Comunicare.ro, Bucharest, 2005.

[3] For a view on the idea of social resposnability within democratic states please see Pierre Rosanvallon, *Contrademocraţia* (Counterdemocracy), t. Alexandra ionescu, Nemira, Bucharest, 2010.

[4] For the connection between human rights and the Internet, please see Rikke Frank Jørgensen ed., *Human Rights in the Global Information Society,* MIT Press, Cambridge, 2006 and Dawn C. Nunziato, *Virtual Freedom – Net Neutrality and Free Speech in the Internet Age,* Standford University Press, Standford, 2009

[5] Rikke Frank Jørgensen, *Human Rights in the Global Information Society,* p. 61

[6] For example, in many countries, the termination of employment based on one`s political views is grounds for a civil law suit and calls for damages. Nonetheless, the issue here is the application of discriminatory measures that contravene the legal requirements for terminating a contract, rather than the actual infringement of free speech, which is nevertheless implied.

[7] For a view on freedom of speech debates see Jeremy Waldron, *The Harm in Hate Speech*, Harvard University Press, Cambridge, 2012

[8] Ronald Deibert, John Palfrey, Rafal Rohozinski, and Jonathan Zittrain ed., *Access Denied: The Practice and Policy of Global Internet Filtering,* MIT Press, Cambridge, 2008, p. 111

[9] See the report of the Federal Communications Commision at

http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0312/FCC-15-24A1.pdf

[10] See the main elements of the field related European Debate on the website of the European Commission at https://ec.europa.eu/digital-agenda/en/net-neutrality-challenges

[11] Ronald Deibert, ... ed., *Access Denied: The Practice and Policy of Global Internet Filtering,* p. 117-120

[12] For the field reports of Freedom House please access

https://freedomhouse.org/report-types/freedom-net#.VWdN08_tmkp

[13] For the field reports of OpenNe please access https://opennet.net/

[14] For the field reports of Reporters Without Borders please access http://en.rsf.org/

[15] For a view on media pluralism and media ownership see Eli Noam, *Media Ownership and*

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Concentration in America, Oxford University Press, Oxford, 2009; Brankica Petković, *Media Ownership and its Impact on Media Independence and Pluralism*, SEENPM – Mirovni Institute, Liubliana, 2004

[16] The Political Concentration Index has been developed based on a similar concept created by one of the authors, based on the „political affiliation" concept, as set up and included in the „Media Pluralism Monitor", first published by the European Commission in 2009. The original index included an element of dominance. Manuela Ţimbolschi-Preoteasa, „Evoluţia mass-media în România post-comunistă din punctul de vedere al structurilor de proprietate – Pluralismul structural şi riscurile concentrării mass-media pentru democraţie", Doctoral thesis defended at the University of Bucharest, not-published.

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