5. In the Midst of a Revolution, with an Unusually Active State

By Laura Zommer

Argentina returned to democracy in 1983, after seven years of a bloody military dictatorship. However, its highly commercial, concentrated, non-transparent and transnational media system has remained almost unchanged. In 2009, after more than 25 years of democracy, Congress passed a new law on audiovisual media services, which seeks to democratise communications in Argentina. The law is particularly unusual: it does not regulate digital communication nor any other aspect associated with the internet, social networks and mobile telephony, the three items that have most expanded in recent years within the Argentine info-communicational industry. This law is not convergent: it forbids phone enterprises from offering cable television services and it only mentions the word internet, the most important medium for the future, in a footnote.

The internet, social networks and mobile telephony seem to have the highest potential to, at the lowest cost, multiply the players who can access content, production, share and distribution. When developed properly, the internet and mobile phones can eventually break historical alliances between non-independent media and political power, which prevents the development of human rights in certain areas of Argentine society. These alliances hinder the exercise, not only of freedom of expression and information, but also other human rights, since pro-government media generally only report on what benefits those in power.

Still, it is no exaggeration to say that Argentina is experiencing a revolution in the rights to information and freedom of expression, which could trigger the fulfillment of other rights. But the path to democratisation is long and sinuous. As never before in its history, today Argentina is actively discussing - politically and socially - the role of the media, the potential of digital communications and the position of government in this key area of public policy.

In 2008, Cristina Fernández de Kirchner’s government decided, after a confrontation between it and the agricultural sector (that led her party to lose the parliamentary elections a year later), to raise the cause of democratisation of the media. Her administration openly confronted Clarín Group, the major Argentine media group and the only one owned by domestic investors. Since then, the government and Clarín have been engaged in a battle that includes legal and public accusations against top government officials by the owners and some journalists from the media group. Another aspect of the new law on audiovisual media services passed by the government in 2009, seeks to reduce the group’s participation in the media market.


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information’, ‘use of government advertising’, and others have recently flooded the agenda at all three branches of government – executive, legislative and judicial- and all sectors of the media.

Everyone’s right to information, from being a discussion point amongst a small group of experts, has become one of the country’s major political disputes. The battle between the government of President Fernández de Kirchner and Clarín Group - later extended to the newspaper La Nación and the publisher Perfil - is currently being publicly debated by leading sectors of the population. As a consequence of this fight, the working environment of journalists has become deeply complicated and almost all of them (by choice or need), have taken sides in the confrontation.

Three main initiatives demonstrate that we are not only facing a technological revolution, but also a political and social one:

- The new Law 26.522 on Audiovisual Communication Services passed in 2009 - which replaced Decree-Law 22.285 (enacted during the military dictatorship and only partially modified by successive democratic governments) – has not hampered a highly commercial, concentrated, non-transparent and transnational media system, because it has not yet been fully implemented. It will take time to change this panorama;
- With 27 million users out of a population of just over 40 million, more than half the country now uses the internet. This includes people who use the internet at home, at the workplace, or at public access points such as internet cafes. Argentina has the fastest rate of growth in mobile broadband connections of all countries in Latin America. Between December 2009 and December 2010, the number of subscriptions grew by 161 per cent to 1,709,242 subscriptions; this is in addition to the 4,609,434 fixed broadband connections. Another encouraging fact is that, in relative terms, even when faster and cheaper connections are concentrated in the metropolitan area of Buenos Aires, mobile connections have recently developed widely within the provinces and have grown proportionally more than in the main urban areas of the country. This implies a narrowing of the access gap;
- The launch of the Equal Connection Plan (Plan Conectar Igualdad) in 2010. This includes the free delivery of three million netbooks to high school students, teachers and public schools across the country. This plan reshapes and adapts the school curriculum to suit the digital agenda and fosters the qualifications needed to face the new model of a hyper-connected society. In its first year, the programme provided 1,149,112 computers and, most importantly, positioned education for the knowledge society high on the list of the government’s top priorities. This measure undoubtedly contributes to narrowing the digital divide because it delivers computers to students in disadvantaged sectors in Argentina who mostly attend public schools. Thus bringing a challenge to strengthen democratic debate. An

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3 “The hostile relationship between the Government and media has become an important obstacle to the practice of journalism in Argentina and to the public’s right to be duly informed about matters of social interest, warns the Freedom of Press Index 2010 published by Freedom House


example of this is that these computers include direct access solely to Télam, the official news agency, which is openly pro-government⁶.

These measures have the potential to narrow the digital divide and democratise access, generation and distribution of content in Argentina. However, as discussed throughout this document, this does not guarantee a more solid public debate, nor does it necessarily contribute to social change and progress in human rights. For the time being, citizen’s use of new technologies is predominately for entertainment and social purposes (watching personal videos, sending messages to friends and relatives and chatting with acquaintances), rather than for the increased consumption and creation of public interest media.

5.1. Access and Accessibility

Argentina is increasingly atypical in having separate regulations for broadcasting and telecommunications. Even when the object of regulation is towards convergence, there are different laws and regulations. This does not facilitate the maximum development of the sector, since open competition between the operators involved in the industry is not allowed⁷. The Argentine media and communications market has experienced steady growth in both audience and revenues over the last five years. However, the growth is uneven across the Metropolitan Area of Buenos Aires (AMBA) and other regions. Media consumption is rising, predominately driven by the mobile sector and internet. Nevertheless, as Mastrini and Becerra (2009) warn, "although some indicators of access to technology show significant growth (such as mobile phones) the possibility of diversified cultural consumption is limited to a minority of the population.” Anyway, access to digital communications does ensure greater access to diverse cultural assets at a lower cost. One of the biggest weaknesses of the Argentine context is that the country still lacks active policies to encourage diversity in content production and consumption.

Newspapers: emergence of new, pro-government media

There are currently over 150 journals and newspapers published in Argentina, all of which are privately owned. Despite the confrontation with the government, Clarín continues to dominate the daily newspaper market and is the country’s major multimedia group⁸.

The main novelty in the print media is the emergence of various newspapers, periodicals and magazines, published by Grupo 23, which describes itself as pro-government, and is unsurprisingly benefitting from government advertising despite its poor sales. However, the populist tabloids

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⁶ When he was appointed head of Télam in November 2010, Martin García said he does not believe in journalistic objectivity and stated he was “firstly an activist and only later a journalist” [online] http://www.lanacion.com.ar/1326709-martin-garcia-el-cruzado-k-que-dirige-la-agencia-estatal-de-noticias [Accessed October 7, 2011].

⁷ Law 26.522 prevents phone companies from being public services licensees, and offering TV services. This was a demand of the opposition of center left parties in Congress to pass the law promoted by the Government.

Libre, owned by Perfil, and Muy, owned by Clarín, and released in 2011, are critical of the government.

In around two thirds of Argentina’s 24 provinces there is no independent press. Only about one third of the regional areas, including Santa Fe, Cordoba, Mendoza, Rio Negro and Tucumán provinces, have independent newspapers. Most other provincial newspapers subsist on government advertising, which limits their independence. Their owners are, in many cases, legislators, public officers or relatives of those in power in the various branches of government. The national senator and candidate for vice-governor of Jujuy province, Guillermo Jenefes, owns the media group Radiovisión Jujuy which also owns the main television network in the province. Similar examples can be found throughout many Argentine provinces.

The development of digital communication (with free online sites likely to multiply to infinity and more than half of the population connected to the internet) could serve to break this vicious circle between the press and political power. With much lower costs, other players might participate in the media market.

Radio: concentrated ownership and new barriers for community radio

Radio access is widespread across Argentina. The radio industry is divided into AM and FM frequencies. The former provides information and the latter plays music. The private sector dominates the radio industry in Argentina and they provide no public or community radio stations.

Private media groups own the three most popular radio news stations in the country. Radio 10, owned by Hadad Group, has a 37.09 per cent share, Radio Mitre, owned by Clarín Group, has a 17.94 per cent share, and Radio Continental, which belonged to Telefónica Group and was later sold to Prisa Group (both Spanish capital groups), has a share of 10.04 per cent. The FM frequency is dominated by the stations Vale (Hadad Group), La 100 (Clarín Group) and Mega 98.3 (Hadad Group).

At the end of 2010, the head of the Federal Authority for Audiovisual Communication Services (AFSCA), Gabriel Mariotto, who is running for vice-governor of Buenos Aires province – the largest in the country - revealed the results of the first mandatory media census. It found that the country had 15,000 broadcast media, a number several times higher than the radio spectrum supports. It is also estimated that 12,000 radio stations operate on temporary licenses or irregularly. Many of these are community radio stations that, along with operators of community television networks, have been struggling due to the high price of the bidding terms and conditions established by AFSCA. These

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10 The data from this census has not been disclosed yet [online] http://corrientecnp.org.ar/web/?p=1011 [Accessed October 7, 2011].
11 “Broadcasters in Buenos Aires Capital City must pay $ 200,000 to participate in the bidding, and $24,000 per month for airing with Arsat. We are not able to compete with the big networks that have appeared, such as 360TV, and have funds to buy 200 channels like ours”, said Alberto Martinez, president of the Argentina Association of Community Broadcasters, an entity that supported the enactment of the law. Martínez is also a member of the State Advisory Board of Digital TV [online] http://www.lanacion.com.ar/1402912-una-ley-en-senal-de-ajuste [Accessed October 7, 2011].
terms and conditions prevent them from accessing broadcasting licenses and from regulating their operations; aims which the law had originally sought to encourage.

**Free-to air television: two multimedia groups broadcasting from Buenos Aires to the rest of the country**

As the radio - and with fewer than 50 networks in the country - television in Argentina is highly dominated by the private sector. The two networks with the highest ratings and revenues are Channel 13, owned by Clarín Group, and Telefé, owned by Telefónica Group –which has close ties to the government\(^\text{12}\).

In November 2011, a public bid will be launched for 220 new television networks (half for commercial enterprises and half for non-profit organisations) under Law 26.522. These new networks will have to use Arsat\(^\text{13}\) - a state telecommunications company promoting satellite services in Argentina - exclusively to transmit media.

**Pay television: a concentrated market and state initiatives to boost digital television**

Argentina has one of Latin America’s largest pay television markets, both in absolute and relative terms. It has a penetration of over 60 per cent. Cable television services became massive in the 1980’s, when hundreds of operators appeared across the country. At that time, access to free-to-air television on reasonable terms implied subscribing to cable. With 47 per cent of the market, Clarín Group dominates the pay television market. There are about 700 cable operators; however, most of them are very small. Cablevisión, owned by Grupo Clarín, currently has 3,100,000 million subscribers and Direct TV, which also provides satellite television, has 1,400,000 subscribers.

This industry mostly produces national news, sport, ‘journalism magazines’, movies and other US shows. To decentralise this market, and expand access to more diverse content for all Argentineans, the government launched the Argentine System of Digital Terrestrial Television. This year saw the opening of several networks, which can only be seen on new television sets or decoders (the government claim to have delivered 600,000 free sets). CN23 and 360 television news are two of the new television channels, and are owned by executives with close ties to the Government. ConstruirTV. Another new station is the first television network owned by a trade union in Argentina - the Construction Workers Union (UOCRA).

**Fixed telephony**

Since the privatisation of Entel in 1989, the state telephone company created in 1948, the fixed telephony market is a duopoly operated by Telefónica and Telecom. For eight years, these were the only two operators in Argentina. The market has since been formally liberalised, however, without state intervention to ensure greater competition from other operators, the market has remained static. Telefónica and Telecom still share, nearly equally, the almost 8 million existing lines. This

\(^{12}\) Telefé and Channel 13 have been alternating leading television ratings since the beginning of the 1990s. Both networks are followed by Channel 9, now owned by Mexican Remigio Ángel González González and the network most benefitted by government advertising, with a rating of 5.3 per cent; Channel América, owned by Vila-Manzano-De Narvaez Group (a group owned by a former minister and a deputy), with a rating of 4.8 per cent; and Public TV (so-called even though it is a clearly governmental network) with a rating of 3 per cent.

\(^{13}\) More information in English [online] [www.arsat.com.ar] [Accessed October 7, 2011].
subsector stopped growing before the turn of the century because of the increasing role of mobile telephony. The average fixed telephone penetration rate in Argentina was 24 per cent in December 2005, just 3.7 per cent more than in 2001\(^\text{14}\).

Table 1: Number of cell phones in service (2000-2009)\(^\text{15}\)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of mobile phones</th>
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<tbody>
<tr>
<td>2000</td>
<td>6,380,897</td>
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<td>2001</td>
<td>6,741,791</td>
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<td>2002</td>
<td>6,566,740</td>
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<td>2003</td>
<td>7,842,233</td>
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<td>2004</td>
<td>10,197,811</td>
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<tr>
<td>2005</td>
<td>22,156,000</td>
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<td>2006</td>
<td>31,950,000</td>
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<tr>
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<td>40,402,000</td>
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<td>2008</td>
<td>46,508,800</td>
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<tr>
<td>2009</td>
<td>50,409,900</td>
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</tbody>
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Following a trend across the Latin America region, in recent years, mobile cell phones have surpassed fixed telephony in popularity. In May 2011, the penetration of mobile telephony in Argentina was 144.3 per cent, amounting to 57,860,5 million cell phones in service\(^\text{16}\). The latest figures published in July 2009, show that 89 per cent of services are pre-paid and only 11 per cent are postpaid, thus implying that lower-income sectors pay a higher cost for the service\(^\text{17}\).

Popular sectors usually use pre-paid cards to access mobile phones, as they generally do not meet the requirements (an ID and a home address exclude illegal immigrants and people living in slums) to access a monthly billing mobile phone plan, which has a lower cost than pre-paid plans. In the area of mobile telephony, there are four operators: Telecom Personal; Telefónica Movistar; Claro, owned by Carlos Slim; and Nextel, a service that focuses primarily on the corporate market, owned by NII Holdings, Inc., a US company.

Internet

While more than 50 per cent of the Argentine population has access to the internet, recently several state measures, together with the increase of private investment, widened internet access to broad and diverse segments of the population. But the variety of content available on the network is not accompanying the communication revolution mentioned at the beginning of this chapter. Access to technology is used mainly more for entertainment and to establish social links rather than to produce and share public interest content or to participate or to increase public engagement.

In 2010, there were 27 million internet users in Argentina, amounting to more than half of the population. Previously the main barrier to the internet in the country was economic. This began to be reversed with the Equal Connection Plan which prompted the provision of internet connections in all public secondary schools throughout the country. Also several provincial initiatives, of which the province of San Luis is a pioneer, include free wifi access in public areas, such as parks and public buildings.

\(^{14}\) Though not updated, official information on the telephone industry [online] www.psi.gob.ar/indicadoresper cent20SECOMper cent20sep07.pdf [Accessed October 7, 2011].

\(^{15}\) Source: National Institute of Statistics and Census (INDEC).


\(^{17}\) ibid
Table 2: Evolution of internet users and customers\textsuperscript{18}

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<td>2,300,000</td>
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<td>3,100,000</td>
<td>3,900,000</td>
<td>4,400,000</td>
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<tr>
<td>2002</td>
<td>97,000</td>
<td>125,000</td>
<td>240,000</td>
<td>475,000</td>
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<td>1,590,000</td>
<td>2,750,000</td>
<td>3,300,000</td>
<td>3,900,000</td>
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</tr>
<tr>
<td>2003</td>
<td>3,650,000</td>
<td>4,100,000</td>
<td>5,700,000</td>
<td>7,560,000</td>
<td>10,000,000</td>
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<td>16,000,000</td>
<td>20,000,000</td>
<td>23,000,000</td>
<td>27,000,000</td>
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\textsuperscript{18} Source: Price & Cooke.

Figure 6: Market trends - thousands of broadband connections\textsuperscript{19}

Argentina has become the country with the third-highest usage rate in Latin America, after Brazil and Mexico. Argentina is also the country with the second highest broadband penetration in Latin America, with 11.71 per cent\textsuperscript{20}. The number of connections grew by 17.1 per cent from December 2009 to December 2010. There are now 4,609,434 broadband connections in the country\textsuperscript{22}. This includes internet-dedicated lines, dedicated IP, ADSL, cable modem, fixed wireless and other connections, such as satellite. However, there is quite unequal access, especially when it comes to the connections speed, between the Buenos Aires Metropolitan Area (AMBA) and some large cities, and most towns in the provinces. The fact that the wholesale price of one megabit of internet is US$ 45 in

\textsuperscript{19} Source: Price & Cooke.
\textsuperscript{20} Source: Cisco, 2010.

Figure 7: Number of broadband connections and region penetration (December, 2010)\textsuperscript{21}

\textsuperscript{21} Source: Cisco, 2010.

\textsuperscript{22} According to the latest Cisco Barometer.
Buenos Aires Capital City and US$ 900 in other parts of the country illustrates this inequality.

The major internet providers, which share 80 per cent of the market, are Fibertel, owned by Clarín Group; Speedy, owned by Telefónica; and Arnet, owned by Telecom. These fixed connections are in addition to the 1,709,242 mobile broadband connections. Mobile broadband connections reportedly grew by 161 per cent between December 2009 and December 2010.

Ongoing policies to promote access
- The Digital Agenda, approved in 2009 by Decree 512. Digital Agenda can be defined as a route or national plan for inclusion and appropriation by the government, institutions and people of the benefits of the Knowledge Society, through an intensive and strategic use of Information and Communications Technologies.
- The National Telecommunications Argentina Connected Plan, approved in 2010 by Decree 1.552. Argentina Connected is a five-year strategic plan that defines the infrastructure and telecommunications services for the entire country. It seeks to reduce the cost of broadband internet, television and video, but mostly to expand them on equal terms to and for all Argentina’s inhabitants.
- Equal Connection Plan, approved in 2010 by Decree 459, explained at the introduction of this Chapter.
- Universal service obligations have been in place since 2001 (as established by Decree 764/2000 and later replaced by Decree 558/2008). Universal service obligations require that services and programmes be of a certain quality, defined by the federal government. They are designed to provide the general population with internet access, regardless of their geographical location, social and economic conditions or physical disability. However, initiatives to turn these obligations into practice only began in November 2010 when the government established the Universal Service Trust Fund, using 1 per cent of the turnover of telecommunications companies. Companies have also presented an investment plan to federalise broadband and to narrow the inequalities in access throughout the provinces.

5.2. Media and Public Interest Communication

5.2.1. Media Ownership

Nearly two years after the new audiovisual communication services law was passed, there has been almost no progress towards democratising the spectrum: the same economic groups continue to dominate the media market and the few emerging players have strong links with the government. The main criticism made against this law is that the regulation is not convergent but analogical, and that it does not regulate, or encourage, internet activity.

Media ownership: the private sector rules

Until late 2009, when the Audiovisual Communication Services Act was passed, the private sector had been dominating the media and cultural industries in Argentina. The Act introduced a number of measures, including the allocation of one third of the spectrum to civil society organisations; it also set market quotas.

Argentina has always lacked state policies for public service in the communications sector, and also antitrust regulations. This has allowed two groups, Clarín and Telefónica, to dominate nearly every market in the information communication sector. For decades, La Nación and Clarín have been associated with the national state in Papel Prensa SA, the leading and almost only producer of newsprint in the country. This matter is currently under legal dispute. At present, Clarín holds 49 per cent, La Nación holds 22.5 per cent of the company, and the state holds another 27.5 per cent and 1 per cent of shares are traded openly on the stock market.

Although there are no legal barriers to pluralism exist, political pressure prevails. The private sector dominates the Argentine media sector. The equal balance between public, private and community media that the new law on audiovisual communication services encourages is still a fantasy. Public media is pro-government and has no published ratings while community media lacks state support and faces barriers to development, in a market that has been traditionally run by business logic. In the absence of a developed public service paradigm, the only content is whatever produces high ratings. This excludes a great deal of other key content promoting human rights. But we have recently witnessed the introduction of the channel Encuentro, focusing on documentaries, and Paka Paka, a children’s network, both examples of state intervention providing quality content. These two networks belong to the Ministry of Education.

Although now there are no direct legal barriers to the development of pluralistic media in radio, television or print, the lack of regulation on government advertising works in itself as a barrier. This allows the government to direct resources towards pro-government media, and away from media which is critical. In addition, the government confrontation with Clarín Group and other media considered ‘independent’, discourages journalists from conducting investigations or being very critical of official measures, out of fear of being labeled ‘escrachados’ by pro-government media. An ‘escrache’ is a demonstration in which a group of activists descend upon the home or work place of someone they wish to denounce publicly. These demonstrations are sometimes used as a form of intimidation and public accusation.

The stated aim in the first article of the Audiovisual Communication Services Act is the regulation of audiovisual media services and the development of mechanisms to promote, decentralise and

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25 Clarín Group has diversified into virtually all cultural markets, and has some telecommunications assets. Telefónica dominates the market for basic telephony and mobile telephony, and has a significant presence in free-to-air television with Telefé (Channel 11) and several radio stations in the Argentine provinces.

26 A survey conducted in September 2011 by the Argentine Journalism Forum (FOPEA) on working environment for journalism showed that 55 per cent of almost 1,000 respondents consider the current relationship between the Government and the media to be ‘bad’ or ‘very bad’ [online] www.fopea.org [Accessed October 7, 2011].
encourage competition; also to bring down the cost, democratise and universalise the use of new information technologies and communication.

Article two of the law states that the activity undertaken by audiovisual media services is considered an activity of public interest, key for the cultural development of the population which is manifested in the human right to express, receive, disseminate and investigate information, ideas and opinions. In accordance with the law, audiovisual media services can be made by state-run providers, privately and ‘for-profit’ providers, and privately and ‘non-profit’ providers, all of which must be able to operate and provide equal access to all the transmission platforms available”. The law also stipulates that the state must safeguard the right to information, participation, preservation and the development of the rule of law, as well as the values of freedom of expression.

The internet is mainly used for social ties and communication, rather than for information on public affairs
While the major newspapers also lead the information consumption in the virtual world, digital communication enables, especially at the sub-national level, the emergence of small enterprises as an alternative to the majority in power. Not only can this improve freedom of expression and the right to information, but it also encourages the exercise of other human rights, such as a more informed vote, citizen participation and social rights, including the access to public services.

The two leading newspapers, Clarín and La Nación, produce most of the information circulating on the internet in Argentina. Infobae.com, a former print newspaper belonging to the Hadad Group, is also robust and has some importance online. The other website used by Argentines to find information is TN.com, Clarín Group’s cable news network. Other popular Argentine internet news sites with large numbers of visitors are Clarín, La Nación, Tipete, Olé, Grippo, Terra, Perfil, Yellow Pages and La Voz del Interior.

Taking advantage of low costs, in recent years, some new political media has emerged exclusively online, including Lapoliticaonline.com (at a national level), Latecla.com (in Buenos Aires province) and El Intransigente (in Salta province), and they have had a large impact on the niche market they target. The increasing internet connectivity, the absence of regulatory barriers and the low costs have allowed almost all the provinces to have a website critical of the government in power. Unfortunately, there is little official or private data on how much online media there is in Argentina. FOPEA, an organisation of journalists, will launch a survey among its partners, to review online sites, and ADEPA, Asociación de Entidades Periodísticas Argentinas, recently opened a new online department. According to Comscore, an internet marketing research company, in 2011, the amount of news and information sites grew by 10 per cent in Argentina, while in the Latin America region the number decreased by 2 per cent, and globally grew by 3 per cent.

However, news and the national coverage are not the preferred content of Argentine internet users. In March 2011 the Argentine audience was visiting, in the following order: Facebook, MSN.com, Google.com.ar, Live.com, Google.com, Youtube.com, Blogger, MSN.com.ar, Yahoo.com.ar, Taringa.net, Wikipedia, Mercadolibre, Yahoo.es, Clarin.com and Megaupload.com. Lanacion.com

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27 Internet Advertising Bureau (IAB) Ranking of January 2011.
only scored 26 in the ranking, and, Ole.com.ar, Clarín Group’s sports newspaper was ranked in the 34th place. Taringa, which allows users to download and share music, Mercadolibre, which links people who sell and buy things, and Clarín.com are the only Argentine sites in the 15 most-visited websites.

In 2011, 91 per cent of Argentine users participate in social networks, where they spend 30 per cent of their navigation time, compared to only four per cent spent consuming information and seven per cent in sending e-mails. Social networks and instant messaging consume 30 per cent and 18 per cent of the time respectively. Argentina is the fifth largest market on Facebook and the seventh on Twitter, by percentage range. At present, the consumption of multimedia content accounts for six per cent of time spent online. According to experts, the increase in broadband connections has led to an increase in the consumption of videos and multimedia content. However, this data confirms that so far in Argentina, the internet is mainly used to establish social ties, to communicate and for entertainment, rather than to search for information or to participate in the public sphere.

5.2.2. Production and content

Notwithstanding the rise of the internet and digital media in Argentina, access to the press is still crucial because this industry continues to shape the news agenda that the rest of the media then reproduces and amplifies. The radio sector has a much lower turnover than other info-communication industries. This has a direct impact on programming, which usually reproduces the news published in newspapers with little or no original content. In addition, after the major economic and social crisis of 2001, local radio stations began to rebroadcast content produced by major stations located mostly in Buenos Aires. This occurs in almost all of the provinces, except for some large urban centres such as Córdoba, where Cadena 3 remains a strong media group. The six leading radio stations in the country don’t provide the space or the programmes aimed at disadvantaged groups of society such as poor, disabled, indigenous peoples, immigrants or women. The only exception is information on pensions for the elderly.

Figure 8: The origin of content broadcast in the AMBA-La Plata region of Argentina

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28 Comscore.
29 Ibid.
30 The manager of Digital Services in Clarín Global confirms this: "Let us quickly analyze online newspapers in Argentina: they cannibalize the original contents of the printed editions, they reproduce their scoops, ornament the websites with newswires they receive from news agencies, provincial and international newspapers. Only exceptionally newspaper websites publish articles specially produced for the online edition" (Macini, 2011).
31 Federal Authority of Audiovisual Communication Services (AFSCA).
News and content in Argentina is mainly produced in Buenos Aires. The 39 television networks (not including television re-broadcasters) which are located outside of the Buenos Aires Metropolitan Area (AMBA) and La Plata, rebroadcast, on average, 67 per cent of their total programming hours.

According to data from the Federal Authority for Audiovisual Communication Services (AFSCA) published by CELS, "Television production is concentrated...in the hands of a few companies, which in turn possess most of the internal networks of the country, which broadcast their own content. Two companies (Telefónica Internacional SA–Telefé, and Clarín Group) control 65 per cent of this market. Together with Vila-Manzano-De Narvaez Group, these companies control 78 per cent of the market. In addition, TISA and Clarín Group sell their content through their own firms (Tevefé and Artear, respectively). Together with a third provider, Pramer, owned by US group Liberty, these companies share 70 per cent of the programmes sold in the country, for free-to-air television, pay television or subscription television”.

In addition there is the content produced for Public Television that, as mentioned, boasts about being a pro-government channel. Chapter IV of Law 26.55 concerns the promotion of diverse and regional contents, for example requiring that new radio and television networks, transmit a local news programme during prime time; and setting national production quotas for all types of licensees (private, non-state and state). Some experts say that, beyond the laudable goal of democratising the content, this part of the law will be unenforceable in the short term because most of the Argentine provinces do not have the enterprises or human capital needed to meet the quotas for local content production.
Argentina has no influential political or social blogs which help set the agenda, as in other countries, nor does it have benchmark websites. This might be explained by the fact that the country’s most influential journalists and activists are over 50 years old, and they only recently started using technology. They still don’t value digital communication as a way to build up agenda setting. Instead, social networks (particularly Facebook and Twitter) have become the amplifiers of news published in major online news media (Clarín, La Nación and Infobae) as well as the emerging tools for political communication. The most important politicians and public officers, including President Fernández de Kirchner, opened Twitter accounts which they increasingly use to communicate directly with their followers. The context of media bias probably favours this type of interaction, allowing less mediation between politicians and voters.

The main journalists of online newspapers in Argentina admit that they still work with the logic of the print papers and that their companies are unwilling to invest too much in new formats until they discover a way to make profitable digital media. The possibilities offered by new technologies, enabling any recipient at all to receive and send both messages and content, are still underused; the Argentines seem more likely to produce personal content than content related to public affairs.

So, those who might take advantage of new technologies and invest in public interest media don’t do it for commercial reasons and those who wish to do so, sometimes lack the skills and resources. An example of this is the initiative www.chequeado.com, a fact check blog. Even with the support of some key civil society organisations in Argentina, Chequeado.com is not getting enough funding to continue the initiative after almost a year of working. The NGO Periodismo Social, www.periodismosocial.org, also launched a website that disseminates articles for a network of provincial media, thus cheapening the costs to regional newspapers that generally cannot afford in-depth journalistic investigations.

Mobile phones: lots of personal text messages and more
Mobile phones, especially those with access to the internet, built-in cameras, recorders and music applications, are excellent tools for people to produce and share content of public interest, because anyone with a mobile phone can be a content producer at a low cost and with little need for previous education. However, although there are some initiatives that encourage such actions both in the media (such as TN and the People) and civil society organisations (such as the website Quién Te Banca launched by Poder Ciudadano), its use is not yet widespread and instead, mobile phones are mostly used to send personal text messages.

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32 Blog. Gastón Roitberg. Lanacion.com’s Online Manager, states, “Digital communication in Argentina is delayed compared to Europe, Asia and the United States. However, in a regional context, Argentina has a good performance. Argentine developments are watched and copied by other countries. Argentine experts are constantly trained. There are three vectors in which we are currently working; changes in the organisation (the new environment requires a more flexible and multimedia production system), rapport with the audience (Lanacion.com not only address its users, but it also participates in other platforms and social networks), and new devices (which require a specific understanding to improve content production to generate new consumer experiences)” [online] http://blogs.lanacion.com.ar/conectados/ [Accessed October 7, 2011].


The state has launched some isolated initiatives that facilitate public access to certain information through text messaging or mobile phones. In recent elections, for example, voters could check their voting place by SMS. Another good example is the programme, The City on Your Phone, launched by the municipality of Morón, in Buenos Aires province. This initiative allows the citizen to receive on their mobile phone personalised information according to their interests, including news, information, cultural offerings, training, health services, job searches and other information. Another good example is the municipality of Rafaela, in Santa Fe province, which provides access to news and a local city guide through the programme, The Web on Your Phone. Though these initiatives are not massive in any of the levels of government in Argentina, their development has grown steadily in recent years.

5.3. Advancing Human Rights and Social Justice through Communication

Due to its characteristics - allowing any user to become a researcher, transmitter and receiver at the same time - the internet is the medium that best embodies the right to information guaranteed under international and national law. Information facilitates and promotes a fuller exercise of other human rights for better informed citizens. It enables them to create, edit, share, post comments and criticise public officers and other political, social or economic actors more powerfully than silenced citizens.

However, the use of digital media to promote human rights is still new in Argentina, even as activists and members of civil society organisations recognise its enormous potential and the fact that it is underused. New technologies allow more people to access information (even those located in geographic areas difficult to reach or excluded and unseen groups) at a much lower cost. So this could enable the development of mass movements. Digital communication also enhances third sector organisations (as well as public and private institutions) to interact with the beneficiaries of their initiatives, thus adjusting or reformulating them with their feedback. The main reason for this under-exploitation is that most social movements do not have the time, resources or skills needed to develop innovative communication tools that attract attention and generate interest among netizens. Thus, because causes promoted by organisations on the web do not become massive or achieve the expected impact, they are usually dismissed.

Nevertheless, there are examples of civil society using digital communications effectively to achieve social aims:

- **Education**: March 24 is Memorial Day in Argentina when people remember the 1976 coup d’état which was started by the last military dictatorship, and left 30,000 ‘desaparecidos’ (Spanish for ‘enforced disappearance’). On Memorial Day 2010, victims of the illegal repression, and relatives of missing persons, particularly the group HIJOS, decided to remove

37 An analysis on the development and evolution of municipal websites and municipal online services available for citizens, written by CIPPEC (Center for the Implementation of Public Policies Promoting Equity and Growth) and San Andrés University [online] [http://www.cippec.org/Main.php?do=documentsShow&categoryId=9&page=4][Accessed October 7, 2011].
their Facebook profile pictures and called others to do the same to raise awareness about the reasons for the holiday. The initiative, known as ‘siluetazo’ (in reference to the human silhouettes that represent the missing people), went viral among Facebook users. This year, Facebook users repeated the national ‘siluetazo’.

- **Health**: The Huésped Foundation, which has been fighting AIDS in Argentina since 1989, created the blog ‘Positive Space’ which is hosted on Clarin.com, one of the 15 most visited sites in Argentina. This initiative disseminated key information on AIDS to a wide and diverse audience that Huésped Foundation couldn’t have reached if it weren’t for digital communication. The Foundation also participated in 2009 and 2010 in ‘Passion for Life’, a multi-platform campaign of the Latin American Media Initiative on AIDS (IMLAS) that seeks to increase awareness, challenge misinformation, and end discrimination against AIDS patients.

- **Justice and remembrance**: The Centre for Legal and Social Studies (CELS) produces blogs with updated information on the trials held against military officers accused of human rights violations. These blogs (so far a dozen) operate as a source for the interested audience and the media, who do not always send reporters to cover these trials. Thanks to the potential of digital media, with this low-cost strategy (only one reporter needed), CELS achieves its goal of spreading information on these trials in various media.

- **Democratic participation**: With the aim of improving the quality of electoral debate and public policies, CIPPEC (Center for the Implementation of Public Policies Promoting Equity and Growth) launched the website www.agenda-presidencial.org, which disseminates CIPPEC’s public policy proposals to be considered by the next Argentine president and information on the presidential candidates for the 2011 election. The site also encourages visitors to provide information about political debates conducted in municipalities and provinces. CIPPEC is associated with a group of students from Torcuato Di Tella University, who launched the site www.yoquierosaber.org. It had over 30,000 visitors during the month of its release, with the aim of improving the quality of electoral debate and public information. The success of this initiative can be partly explained by the fact that the site’s founder works for Google Argentina and is an expert in digital communication and search engine optimisation.

- **Cultural rights**: This year, a massive virtual refusal prevented the Senate from discussing a bill on digital cannon. The digital cannon is a sum of money, similar to a tax, which applies to all computers and electronic media. The bill sought to establish an allowance for musicians, artists and producers by applying a levy on electronic devices capable of copying or storing copyrighted material. The initiative provided an indemnity to the producer of the content before, and regardless of whether, any act of piracy is actually committed. Public mobilisation was driven by several organisations, including the Fundación Vía Libre. It worked mainly through social networking sites such as Twitter, where millions of Argentines demonstrated against the bill arguing that the senator sponsoring the bill saw all citizens as potential pirates and considers them ‘criminal suspects’. According to local press, the hacker group ‘Anonymous’, also intervened in the affair. The cyber community launched attacks.

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against the site of the Senate on June 28th, when the project was meant to be debated in the Congress’ Committee, thus disabling the discussion for several hours. This case clearly evidences that digital communication can enable many citizens to swiftly and effectively mobilise and communicate their criticisms and comments to public officials.  

5.4. Controlling Media and Communications

In Argentina, the rights to freedom of information and expression are recognised in the Constitution. The 1994 reform provides the right to, “seek, disseminate and receive information and ideas across boundaries and through any medium of expression”, and prohibits any indirect censorship mechanisms (Article 75).

Decriminalisation of defamation

In 2009, Congress passed Law 26.551, decriminalising defamation and injuries for statements concerning public officers, and incorporated the doctrines of ‘actual malice’ and ‘faithful report’ into law. This reform of the Penal Code, which the House of Representatives approved by a large majority and the Senate approved unanimously, represented a major step in terms of bringing domestic legislation in line with international standards. This enabled Argentina to begin to comply with what was established in the sentence of journalist Eduardo Kimel, who was convicted on May 2nd, 2008, for criticising the performance of a judge in a criminal case linked to an assassination during the last military dictatorship. Kimel appealed against his conviction to the Inter-American Court of Human Rights which ruled that the authorities were in contravention of Article 13 of the American Convention on Human Rights, which guarantees freedom of expression and the right to information.

The Civil Code, however, protects, “privacy against arbitrary intrusions in the lives of others” (Article 1.071 bis), and establishes indemnities for those who commit calumnies or injuries (Article 1,089) and cannot prove the veracity of their assertions. The application of penalties, in some cases for high amounts, is a limitation to freedom of expression, particularly because any process of this kind usually extends over several years and includes the seizure of the assets of the accused person while the trial lasts. This operates as a constraint for many journalists and citizens. In general, the sentences against journalists are exceptional, but the judicial process certainly discourages criticism.

The main challenge is now not legal but cultural and implies bringing about change in order to ensure a consistent position from the Judicial Branch in relation to privacy and defamation. For decades some judges punished journalists for reporting critically about public affairs when they involved, in some way, some aspect of the private lives of public officers.

Lawless print media and audiovisual media, in the midst of change

La Nacion, 29 June 2011 Suspeneden el tratamiento del canon digital en Argentina  

The sentence of the Inter-American Court of Human Rights against the Argentine State [online]  
As stated in Article 32 of the constitution, applied since 1860, Congress cannot enact laws that restrict freedom of the press. Therefore, there is no legislation regulating the print media in Argentina. However, the case is not the same for the rest of the media. The Audiovisual Communication Services Act, approved by Congress in 2009, intended to decentralise and democratise the info-communicational industry with the entry of other voices to the radio spectrum and the pay television market. Although the first two years of enforcement has shown that its implementation is not easy, the passing of the law is an important step towards right to information. Challenging this law, Clarín Group, Uno Medios and Cadena 3, amongst other media, have petitioned Law Courts to examine the constitutionality of Article 161, which provides a divestiture deadline.

**Specific internet regulations**

Although it is redundant and no legal distinction with other media fits, a law has recognised the right to freedom of expression on the internet in Argentina since June 2005. Law 26.032 states, "Seeking, receiving and disseminating information and ideas of all kinds through the internet service is considered within the constitutional guarantee that protects freedom of expression". Experts and netizens agree on the fact that freedom of expression online is a reality in Argentina and that there are very few cases of restrictions on the content circulating on the web. These cases are mostly associated with matters considered by the judges to do with the privacy of the individual.

In Argentina, internet access is regulated as a telecommunications service. Internet service providers are required to obtain a license from the Secretariat of Communications and are subject to supervision by the National Communications Commission (NCC). For some observers this constitutes an indirect barrier since not anyone can become a provider. Law 25.690 of January 2003 states, "ISP companies have the obligation to provide protection software to prevent access to specific sites". Companies only activate filters if required by the user, as stated in the contracts customers and companies sign. Resolution 1235/1998 of the Secretariat of Communications states, "The national state does not control or regulate information available online. Parents are advised to exercise reasonable control over the content their children consume".

However, in several districts, such as Buenos Aires city, there are rules that establish the obligation of internet providers to set up filters to porn sites in schools and public and private libraries that provide access to the internet. However, an investigative report reveals that the filters often filter out more than what they say and is allowed by law, "We went to a cyber cafe that had filters installed and we found out that the filter blocked much more than pornography: sites like www.dialogica.com.ar (a site of educational and cultural weblogs), www.ilhn.com (the first digital newspaper in Argentina), www.argentina.indymedia.org (a site of alternative information), www.urgente24.info (a news site) and www.fzln.org.mx (the site of the Zapatista Front of National Liberation in Mexico) were inaccessible. These sites were blocked by the antiporn filters".43

Providers should maintain confidentiality of user activity: the pages users navigate, and the content which they download, belong to the sphere of private life and are therefore protected from the authority’s knowledge. Internet access covers only the physical layer and the logic of the ISO-OSI

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simplified - meaning that internet service providers do not register any information about user activity. Instead, users can freely select content and applications, protected by the right to information. Content and applications do not require any licenses. Internet providers do, however, receive an increasing number of government requests for information about the sites that users visit. These requests are made by judges as part of criminal investigations or similar. However, the law does not require providers to record such information, nor to deliver it.

Intermediary liability on the other hand in a serious issue, at present there are more than a hundred lawsuits against search engines for their alleged responsibility for content; also requests for removal of content by users who resort to law courts have increased. The case of "Da Cunha, Virginia against Yahoo Inc. Argentina and others over damages" reached the Supreme Court, and the Association for Civil Rights (ADC) filed an amicus curiae (a resource that allows those who are not parties to a case, but have an interest in it, to present their arguments to judges), arguing search engines should not take responsibility for contents produced by third parties. This is the first case on the subject on which the Supreme Court will have to rule. Given the emerging international consensus ... both in jurisprudence and legislation, as well as the incontestable technological realities of the mechanics of search engines, it could be only a matter of time before the Argentine courts reverse the existing pattern, such as in the recent Da Cunha appeal case. The lack of legislation in this region not only creates uncertainty in the legal realm, but also, stifles innovation", stated Pedro Less Andrade, Latin American policy counsel for Google.

In Argentina, the Government does not censor or block specific content. An exception took place this year when the federal judge Sergio Torres banned the dissemination of private emails of public officers and political leaders leaked through the site Leakymails, an Argentine website similar to Wikileaks. Supposedly, the emails were obtained illegally by the State Intelligence Secretariat. And a mistake in the blocking of "leakymails" led to one million blogs being inaccessible for a few hours.

5.5. Commentary and Recommendations

Argentina is a country with an extensive media and communications sector. Some years ago, this system was dominated by the private sector and a non-transparent state with no policies in the field. The market which emerged was extremely profitable, but did not meet the needs of underprivileged citizens and disadvantaged areas in terms of access, reception and production of content. One may wonder how much more could have been achieved if, instead of neglecting the media market, the Argentine state had regulated and defined a policy of public service key to strengthen all democratic

systems. According to Aguiar, "Argentina has, in telecommunications, a height three times lower than it should have."

In recent years, the government has adopted a new role and launched several important initiatives. However, Argentina does not have a comprehensive policy for the broadcasting and telecommunications sector which can encourage universal access to new technologies and to coordinate and give coherence to the current collection of disjointed measures. The potential of the internet and mobile phones, which are widespread in the country, are enormous to help facilitate the exercise of many human rights. Although its use is growing steadily for several purposes driven by the private sector, for the public sector and civil society organisations, these new media are underused, particularly with regards to public affairs.

So far, the federal government seems to have taken major steps in legislative and infrastructure terms, rather than in implementing policies that seek to enrich new media contents. On the one hand, the government explains that the goal of its public policy is the democratisation of communication. On the other hand, critics coming from the opposition and some media owners’ associations (IAPA, ADEPA) and some journalists, accuse the government of wanting to silence the press in its watchdog role and, instead, develop a less critical information system.

Policy and regulation

- **The Government should define and publicly present a comprehensive policy for public service communications, which include digital communications. To improve the media and communications system it is essential that the state complies with the laws and rules regulating info-communications industries and applies appropriate sanctions for those who fail to comply, whether they support the government or not.**
- **The national public media system should be reformed, so that public media are no longer managed as pro-government media and can become truly public.**
- **Specific legislation on digital contents (such as e-commerce, e-banking or online copyright) must be discussed and passed where needed.**
- **A federal law on statistics and a national law on access to public information must be passed. Also a policy of greater transparency in government processes must be implemented, enabling an updated official statistics system – key in such a dynamic industry. The Federal Audiovisual Communication Services, established after the enactment of the new law in 2009, is far from meeting international standards in the field. The same happens with the Secretariat of Communications and the National Communications Commission, which regulate the telecommunications system.**
- **A law should be passed to regulate government advertising and to create a transparent and non-discriminatory mechanism with which to distribute it. This would end abuses of the incumbent national government, which despite a ruling of the Supreme Court of Justice, benefits pro-government media and punishes the critical ones. The standard should make it mandatory for the state to publish the distribution of government advertising.**

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• A reform of the Civil Code to prevent the proliferation of lawsuits against journalists and citizens - who sometimes are liable for large amounts after accusations of damaging honour - should be added to the decriminalisation of defamation approved in 2009.

• Triple play (internet, telephone and television services) should be clearly and specifically regulated, and a policy to effectively control competence should be implemented, including the creation of new institutions to strengthen comptroller mechanisms.

• With greater demands for compensation to companies (previously, clearly and precisely defined, as did the Decree 764/2000, which only began to be fulfilled 10 years later by Decree 558/2008), the exclusions and social iniquities in internet access should be eliminated. Reducing the digital divide is not an end in itself but an intermediate target for all to enjoy and exercise their rights.

• The state could take a more active role to ensure competitive conditions for access to internet wholesale networks for all operators. For instance, it should establish clear rules for the Local Loop Unbundling (established in the Interconnection Regulations approved by Decree 764/2000), which supports competition between historic providers and entrants in all cities belonging to the current digital corridor and, especially, in economically depressed areas, where access is more expensive.

• The government needs to carry out a serious diagnosis of the state of production in the information communicational industry across the country, and develop a plan for public and private investment in the medium term to ensure the fulfillment of local content quotas established by the Audiovisual Services Communications Act.

Observatories, research and capacity building are needed

• Systematic and independent monitoring of the Audiovisual Communication Services Act and regularly reporting on its progress would undoubtedly contribute to the democratisation of communications in Argentina given the centrality of this law to the overall system.

• It is necessary to create observatories to monitor progress in the information communications industry and conduct independent research on the development of the sector, its uses and public consumption. The Argentine government has no data to enable analysis of the evolution of this strategic sector, so fertile for facilitating the exercise not only the right to information, but also other human rights. It is encouraging that the 2010 census, from which data has not yet been released, included a section on access to new technologies. Still, no media observatories driven by business associations or academia exist in Argentina, as happens in other countries.

• Since there is no public information on the composition of the media and telecommunications system in Argentina, research in this area would also be useful in order to decentralise the market. Accurate knowledge is a prerequisite for change.

• In a federal country like Argentina, it is critical to develop specific research on the media system in the 24 Argentine provinces, including an analysis of the links of the main media with political actors in the regions to assess their degree of independence. Without independent media, there can be no solid public interest media.

• Plan and deliver workshops and develop digital communication tools for civil society organisations and social movements.
Identify and seek support for initiatives that aim to improve public debate and information available on public affairs in the country. Given that so far neither the public nor the private sector invest in projects or initiatives alternative to those promoted by major media groups, international cooperation, being less affected by local political disputes, is a possible way to finance these initiatives. The idea of creating a network of independent online news sites in all provinces, particularly in those where one political party remains in power ever since the return of democracy (like San Luis and Formosa provinces, for example) would be very healthy for the democratic system in Argentina. The sites could include 2.0 tools to enable high involvement of users.

Develop, in collaboration with the state, quality content, included in netbooks that encourage the use of digital media for information and the development of projects of public interest media. The fact that the nearly 1,500,000 students netbooks delivered by the Government included an application to access only the official news agency sets off an alarm about the importance of ensuring the diversity of voices that internet and other means enable.

Promote the effective implementation of the Audiovisual Communication Services Act as regards content production quotas within the provinces and adopt a similar policy regarding the production of multimedia content for internet and mobile phones.

Promote quality public debate on the regulation and the policies needed to encourage greater use of digital media for the exercise of human rights. This could be achieved through forums, supporting investigations on the subject, and even generating a multimedia site that becomes the benchmark for this discussion.
Argentina

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