

Buying the News



A report on financial and indirect
censorship in Argentina

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Asociación por los Derechos Civiles
Open Society Justice Initiative



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“We purchase *this!*”

—A municipal press officer in Tierra del Fuego, brandishing a copy of a provincial newspaper, when asked to justify municipal payments for an advertising campaign.

“There is a special concern about irritating the president. All of us who cover the government have the feeling that we must be more moderate.”

—A journalist at a major national daily, when describing pressures exerted on reporters by the president’s staff.

Foreword

by Eduardo A. Bertoni*

In May 2003, I was invited to participate in a meeting of the Board of Directors of the Open Society Justice Initiative that took place in the city of Puebla, Mexico. At this meeting, I outlined the principal threats to freedom of expression in Latin America and suggested ideas as to how civil society organizations could deal with such problems. That occasion was one of the first times that I classified the threats to freedom of expression in Latin America as “traditional” and “non-traditional.” I recall that I also stressed the importance of conducting empirical studies that might help address some of these problems, especially, the “non-traditional” ones. This report by the Justice Initiative and the Association for Civil Rights (ADC) precisely deals with some of the new problems that can undermine freedom of expression in our hemisphere, such as the selective distribution of government advertising among the media.

* Special Rapporteur for Freedom of Expression, Inter-American Commission on Human Rights, Organization of American States. For more information on the Special Rapporteur for Freedom of Expression, see www.cidh.org/relatoria. The opinions expressed by the author do not necessarily reflect the official opinion of the OAS.

I pursued that classification (“traditional” and “non-traditional” attacks) that same year in the annual report of the Office of the Special Rapporteur for Freedom of Expression;¹ there I noted the “traditional” problems concerning the exercise of freedom of expression already mentioned by the Rapporteurship in previous years. Included among these are attacks against journalists, the murder of journalists, the lack of laws guaranteeing access to information and the constant use of *desacato* and criminal defamation laws to silence the press. This referenced report also states, though, that it was important “not only to highlight those problems, but also to call attention to some other threats to freedom of expression in the Americas. These are problems such as lack of diversity of the media in some parts of the hemisphere and financial pressure on the media.”²

Accordingly, the Office of the Special Rapporteur has raised both themes. With regards to the first, we warned that the concentration of media ownership is a practice that conspires against democracy and plurality by impeding the diverse expression of distinct sectors of society.³ With regard to the second theme, we established in thematic reports and in some country reports that the discriminatory allocation of official advertising as a form of financial pressure on the media is nothing more than one of the possible manifestations of indirect restrictions on the right of freedom of expression prohibited by the American Convention on Human Rights.⁴

Both problems are linked. The concentration of media ownership means that smaller media face increasingly stronger competition for advertising revenue. To alleviate this problem, there are those who strongly support the distribution of government advertising in a discriminatory manner, thereby permitting, through the use of state advertising resources, the amplification of the voices of journalists, local media, small media and of those critical of private companies, which are the main advertisers. This criterion tends to confuse the objectives of public advertising with the objectives of a policy of state subsidy in the context of a communications policy that could be valid and even necessary. State resources used to pay for official advertising have an objective distinct from those objectives that can be expressed by a particular social communication policy. The possibility of discretionary decisions, without clear rules as to whom and how official advertising is granted, opens the door to arbitrariness. This may lead to indirect violations of freedom of expression since arbitrary decisions carry the risk of being used to pressure media critical of the government’s conduct.

For these reasons, and without reference to any particular State, the Office of the Special Rapporteur has concluded that “[a] legal framework establishing clear guidelines for official publicity [advertising] distribution is imperative for continuing fair management of advertising revenue. In order to ensure freedom of expression in the future, States should discard insufficiently precise laws and avoid granting unacceptable discretionary powers to officials. The establishment of a mechanism for oversight of decisions would be instrumental in granting legitimacy to discretionary allocations made by officials.”⁵

The report produced by the ADC and the Justice Initiative contains factual information that will be useful to those inquiring into the above-mentioned issues.⁶ In addition, the report points out problems that can serve as the basis for an open discussion among different sectors of society with the goal of reaching agreements that permit the strengthening of freedom of expression in Argentina.

Acknowledgments

This report was produced jointly by the Buenos Aires-based Asociación por los Derechos Civiles [Association for Civil Rights, ADC] and the Open Society Justice Initiative. It was researched by the staff of the Freedom of Expression Program at the ADC, led by Martha Farmelo, who wrote the text. Ongoing expertise and guidance was provided by Darian Pavli, legal officer for freedom of expression and information with the Open Society Justice Initiative, who wrote the section on international and comparative standards. ADC staff attorney Mariela Belski provided ongoing assistance throughout all stages of this project, particularly with legal framework issues. The report was edited by Darian Pavli and Stephen Humphreys, senior officer, publications and communications for the Open Society Justice Initiative.

The research in Río Negro and Neuquén was conducted by Alicia Miller and Juan Pablo Bohoslavsky, with assistance from María Victoria Alfonso, Hugo Alonso, Mariana Benítez, and Paula Gingsins. The research in Córdoba was conducted by Fabián García, with assistance from Agustín Di Toffino, Martín Notarfrancesco, and Emiliano Fessia. The research in Tierra del Fuego was conducted by members of Citizen Participation, an Ushuaia-based NGO. Research at the national level was conducted by Martha Farmelo and Mariela Belski. Carola Lustig, Mónica Baumgratz, and Paola Rojas provided valuable research assistance.

The Open Society Institute's Office of the General Counsel and Hernán Gullco, chief litigator at the ADC, provided legal review. Santiago Felgueras, an Argentine attorney specializing in freedom of expression issues, provided legal advice.

The report owes much to the courageous cooperation of numerous journalists, media professionals, and other individuals in the provinces and in Buenos Aires, many of whom put their careers and livelihoods at risk by talking to us. They know who they are.

I. Executive Summary and Summary of Recommendations

Executive Summary

This report examines some of the more subtle ways in which government officials interfere with media freedom and editorial independence in Argentina—as opposed to the more obvious and often-documented violations, such as legal harassment or acts of violence and intimidation of journalists. In particular, the report documents abuses of financial and regulatory powers over the media, as well as other content-based interference that amount to what is usually referred to as “indirect censorship.” We have also researched forms of censorship that may be very powerful and direct—such as government requests to fire vocal journalists or turn off independent TV programs—but nevertheless remain unexposed and unpunished.

Our research teams investigated the situation at the national level and in four Argentine provinces—Córdoba, Neuquén, Río Negro and Tierra del Fuego—which present a diverse range of geographical, political, and media-related features. The bulk of the research was carried out between April 2003 and August 2004, and the report was updated as it went to press with important changes and developments.

One of the main issues covered is the abusive allocation of government advertising and related services. We found an entrenched culture of pervasive abuse by provincial government officials who manipulate distribution of advertising for political and personal purposes—

in clear violation of international and regional free expression norms. The effects of such abuses are especially insidious when public sector advertising is critical to the financial survival of media outlets, as is common in many Argentine provinces such as Tierra del Fuego, where on average, print and other media outlets receive approximately 75 percent of their advertising income from government agencies. Provincial governments, in particular, routinely use their control of advertising resources as financial sticks or carrots, whether it is to bankrupt an annoying publication or to inappropriately influence content.

At the national level, fewer media outlets depend on government advertising for their survival. This does not stop the federal government, however, from allocating advertising in ways that can only be described as political favoritism. Also, senior government officials in Buenos Aires engage regularly in unacceptable pressuring and intimidation of media owners, editors and even individual reporters to tone down criticism of President Néstor Kirchner's administration or spin news coverage to its liking. Similar forms of interference abound in the provinces.

Situation in the Four Provinces

Contracting of government advertising in all four provinces is, to a disturbing extent, discriminatory and politically motivated. In Córdoba, Río Negro and Neuquén, local governments—including certain municipalities—use advertising to both retaliate against outlets with a critical editorial line and reward those that are favorable in their coverage. Advertising leverage is used to force owners and editors to fire or sideline critical journalists; to punish or “make an example” of critics; and to cause the financial demise of critical voices. Financial pressures are also employed to press media outlets to carry favorable coverage of the government and its officials, to deny access to government opponents, and to exert direct control over the content of print space or airtime.

The responsibility for contracting advertising services is typically centralized in one office or even one official, who tends to have excessive to complete discretion in deciding where and how much to allocate. Even where—as in the case of Córdoba—some basic regulations are in place, they appear to be systematically ignored or evaded, and do little to curb abusive practices. Internal and external control mechanisms, including executive audit agencies, have been entirely ineffective in preventing manipulation of advertising. Such failures reflect the fact that the abuses are not the work of a few rogue officials, but entrenched practices condoned by the highest levels of the provincial and municipal executives.

The Neuquén provincial government has demonstrated the most concerted and aggressive abuse of advertising for political means. The provincial government is known, for example, to contract private firms to monitor media content and editorial orientation, and then allocate advertising based on the results. Much of Neuquén advertising is distributed through private advertising agencies that are not subject to any transparency or fair allocation requirements.

In Tierra del Fuego, executive agencies are required to make advertising decisions on the basis of media circulation/audience surveys. Even when carried out, however, these surveys are not made public. Taking advantage of the smaller market, provincial and municipal authorities use generous advertising contracts to purchase pervasive influence over the content of most local media. Advertising payments are often not related to the scant ads actually published, but appear aimed at purchasing silence on “negative” issues and events or uncritical coverage of the government’s version. Officials commonly send out press releases or even articles that are published verbatim and never signed, appearing as independent pieces produced by newspaper staff.

Withdrawal of Government Advertising. Our research uncovered several cases of withdrawal of advertising by provincial or municipal governments in retaliation for critical reporting or to press for changes in the editorial line of critical media. For example, in late 2002 and 2003, the province of Neuquén withdrew nearly all advertising from the *Río Negro* following the paper’s coverage of a bribery scandal that implicated the governor of Neuquén. In August 2004, the same administration stopped advertising on the TV program *Periodistas* as punishment for remarks critical of Governor Sobisch made by one of the program’s hosts in a radio show. In mid-February 2004, the government of the city of Villa María canceled all government advertising in *Diario de Villa María (Villa María Daily)* after the paper ran stories critical of local officials. Another means of exerting pressure on outspoken media is withholding payment for already-run advertising.

Discriminatory Allocation of Advertising and Hidden Subsidies. Independent and opposition media in Neuquén, Córdoba, and Río Negro routinely find themselves victims of discriminatory and politically motivated allocation of advertising. When current Peronist governor José Manuel de la Sota was inaugurated in June 1999, the province of Córdoba abruptly discontinued all advertising to *Hoy Día Córdoba (Today in Córdoba)*, a historically independent paper critical of Peronist administrations. In 2003, the province of Neuquén tripled advertising spending on *La Mañana de Neuquén (The Neuquén Morning)*, whose content is generally and consistently uncritical of the provincial administration. This increase coincided with the above mentioned withdrawal of advertising from the paper’s principal competitor, the *Río Negro (Black River)*. Our study of government advertising carried by four newspapers in Córdoba showed that the provincial government allocated more than 65 percent of its advertising to the two papers with the smallest circulation by far, including one providing favorable coverage and a cooperative-run paper that appears to receive advertising as a survival subsidy. Similar cases involved the unjustified allocation of advertising to radio stations in Córdoba and Río Negro.

Conditioning of Content and Firing of Journalists. Government abuse of advertising and other forms of financial leverage over the media is at its most extreme when officials use the power of the public purse to directly interfere with media content. A number of egregious examples are described in the report, including the firing of journalists in response to government pressure at LU5 Radio Neuquén; a campaign of advertising-related pressures against

Cadena Abierta, an independent radio news service in Neuquén; attempts by the provincial government to condition the content of several programs aired by the television and radio stations of the University of Córdoba; and the removal of a program from the air in the middle of a broadcast, the firing of journalists, and cancellation of political programs at Córdoba's Channel 2.

In general, in all four provinces, government officials do not interfere with content by making direct contact with journalists, but rather use economic pressure on media owners and directors, who then communicate these pressures to their reporters. While the *modi operandi* of government officials differ somewhat from one province to the other, in each of the four provinces under study media freedom and independence are seriously hindered by ongoing and systematic government advertising and other financial abuses.

Situation at the National Level

Advertising and Related Abuses. Most national media are financially less dependent on government advertising than their provincial counterparts. Our survey revealed that while government advertising in the daily *Página/12* amounted to 29 percent of total advertising, that figure was only 5 percent for competitors *La Nación* and *Clarín*. That notwithstanding, allocation of public advertising by the federal government clearly and unjustifiably favors certain media—usually friendly to the Kirchner administration—at the expense of others. These distortions are illustrated by the disproportionately high allocations to the daily *Página/12* and the television station América TV, especially when one compares their respective circulation and ratings to those of their competitors. The federal administration seems to be primarily concerned with rewarding and helping friendly media survive, rather than actively punishing critical outlets.

Unlike in some of the provinces, most federal agencies are legally required to allocate advertising through competitive bidding. Responsibility for major advertising decisions—including as to what, when and where to advertise—lies with the office of the media secretary, who reports directly to the president's office. The actual contracting of advertising for most agencies is done by the government's news agency, Télam, which uses no competitive process whatsoever.

A number of provincial and federal officials seek to justify their abundant allocations of advertising to favored media as legitimate subsidies that promote media pluralism. The fact remains, however, that in most cases the outlets that attract the government's generosity tend to be those closest to the government of the day, which are thus granted an unfair advantage over their competitors. "Advertising as subsidy" policies are misguided even when carried out in good faith. The purpose of government advertising is to inform the public of important matters of governance, a function that is not always compatible with the need to support small or struggling media. International standards require that subsidies to the media be clearly earmarked as such, and that they be allocated by independent bodies, according to fair criteria and open procedures.

Other Interference. Our research confirms the recent criticism from various quarters of the Kirchner administration's meddling with media freedom in ways that go far beyond its advertising abuses. Numerous and consistent accounts from reporters, editors, and media observers revealed that senior executive officials regularly and forcefully pressure and intimidate media directors regarding information published or about to be published.

In some serious cases, presidential advisers have gone as far as attempting to suppress critical TV programs or force out individual reporters. For example, in October 2003, high-level officials attempted to cancel a critical story on, and remove a journalist from, the weekly political television program *Día D Clásico*. Such actions may amount to serious abuse of office, and warrant official investigation. In sum, the current government has made control of national media content a priority that it pursues with systematic vigor, subjecting the media to a behind-the-scenes executive siege.

Government officials have also denied access to federal institutions and information as reprisal for critical reporting, as in the case of the magazine *Noticias*. Similarly, decisions about journalists' access to the presidential aircraft, the *Tango 01*, are often politically motivated and discriminatory.

Effects of the Subtle Siege

The financial abuses and other forms of interference with editorial autonomy described in the report have very serious and pervasive "chilling effects" on media freedom and democratic debate in general, both in the provinces and at the federal level. Numerous testimonies gathered by our researchers reveal how government pressuring of media owners and editors triggers waves of self-censorship that "chill" entire newsrooms and are capable of silencing even the most courageous reporters—if necessary by taking them off the air or firing them altogether.

In a chilling account, a national reporter described how senior federal officials call his editors preemptively to "discuss" sensitive topics and events before his paper has even decided how to cover them. In the words of this journalist, many Argentine media find themselves in a place where "it is not necessary [for the government] to censor you."

Access to Information Issues

In the provinces and at the national level, we encountered numerous obstacles when seeking public information on government advertising and the other issues covered in the report. Although Córdoba and Río Negro have access to information laws, with relatively few exceptions, our formal requests for information went unanswered, as did our requests for interviews. (Tierra del Fuego passed a freedom of information law in December 2004, after we had completed most of our research in that province and filed the respective request for information, which was never answered.) The Río Negro government eventually provided information on its advertising spending, but this was unorganized, inaccurate and incomplete.

Tierra del Fuego publishes information on advertising spending in its official journal, but does not detail the goods or services rendered. We found no information in the official journals of the other three provinces. Furthermore, our written requests to the governments of all four provinces and at the national level for information and comment on the various cases described in this report received—with the single exception of a Córdoba agency—no response.

At the national level, an executive decree requires executive agencies to answer requests for public information within ten days. However, out of eight agencies with which we filed formal requests, only two responded in a timely and adequate manner. Overall, the response of the federal agencies was poor and, in the multiple cases of total silence, in flagrant violation of the freedom of information decree. This suggests a lack of sufficient political will to address the transparency deficit within the federal executive, especially on issues of political freedom and financial accountability.

Summary of Recommendations

To the National, Provincial and Municipal Governments in Argentina

1. Make a political commitment to refrain from using advertising and other financial or indirect pressures as a tool for interfering with media freedom and independence. Demonstrate such a commitment by investigating credible past and, in particular, future allegations of such interference.
2. The respective legislative bodies should adopt clear and specific laws that establish fair, competitive, and transparent contracting procedures for all branches of government that ensure unbiased allocation of advertising-related spending (creative, production, space or air time).
3. Decentralize responsibility for allocation of government advertising so it is not concentrated in the hands of political appointees, such as media secretaries, but left to individual agencies or technical bodies.
4. All branches of government, at all levels, should increase the transparency of state advertising by publishing timely information pertaining to advertising-related procurement in print and online versions of the official journal, at all stages of the process.
5. The legislative branches at all levels should increase the transparency of public sector advertising by requiring all government entities that advertise to publish detailed,

periodic reports—at least annually—of their advertising activities and the procedures used to assign advertising contracts.

6. All government agencies should post their annual advertising budgets and spending reports on their websites, and these should include no more than three or four clear and easily discernible line items for advertising spending.
7. Investigative and auditing agencies at the national and local levels should diligently investigate unlawful practices in procurement of government advertising, and in particular any allegations of political or personal bias in making allocation decisions.
8. The appropriate executive and legislative authorities should require audit agencies, such as executive audit agencies at the municipal and provincial levels, and the Sindicatura General de la Nación (SIGEN) and Auditoría General de la Nación (AGN) to conduct and publish an annual audit of government-advertising spending and practices.
9. Government subsidies to the media should be allocated by independent bodies, in accordance with pre-established, fair, and transparent criteria and procedures. Government advertising should not be used as a form of subsidy.
10. The government should cease all practices that seek to improperly interfere with the editorial content and autonomy of the media, including denial of interviews or other forms of access as reprisal for critical coverage, attempts to prevent publication of stories critical of the government, and other forms of harassment and intimidation.

To the National Government and the Government of Neuquén

11. Pass a comprehensive law on access to public information, based on presumptions of openness and maximum disclosure to the public.

To the National Government

12. The executive branch should adopt and enforce fair and transparent procedures for media access to the presidential aircraft.

To National and Provincial Civil Society Organizations

13. Systematically monitor financial and indirect censorship practices and continue to push for accountability in this area, including through litigation, legal assistance to media professionals, and use of access to information laws.

To Media Outlets and Journalists Associations

14. Actively support reform of government advertising laws and practices, and denounce all related abuses and financial pressures.
15. Develop and adhere to a code of ethics that contains commitments to a fair and transparent government advertising regime, and editorial independence.
16. Reach a comprehensive agreement on the formal and lawful employment of journalists and other media professionals that guarantees their basic labor rights.

II. Introduction

In recent years, a growing number of governments around the world have resorted to “indirect censorship” of the media—the use of subtle silencing methods, as opposed to more brutal techniques, such as physical intimidation or unlawful imprisonment. Indirect censorship is particularly prevalent in those countries experiencing political transitions where governments can no longer afford to suppress media independence outright but are not yet ready to recognize the right of the media and the public to hold state actors accountable.

In different countries, these pressures come in many and varied combinations, including manipulation of both public and private sector advertising; covert subsidies to selected media outlets; orders to government agencies and employees not to subscribe to particular periodicals; selective denial of access to newsprint or printing facilities; imposition of unreasonably high registration, licensing and other fees; and politically motivated use of financial, tax, labor, and other laws to harass critical media or private businesses that support them. Sometimes the pressures are hidden but very direct or invasive—as when officials seek to interfere with specific editorial or personnel decisions of media professionals.

In 2003, the Special Rapporteur for Freedom of Expression in the Americas undertook a comprehensive study of one the most problematic aspects of financial censorship in the region: the discriminatory allocation of public sector advertising. The Special Rapporteur found a general trend of poor regulatory regimes, which grant too much discretion to officials in charge of advertising, and require too little transparency or accountability. Hardly surprising was the finding that inadequate oversight regimes result in widespread violations of advertising

regulations throughout the region, as evidenced by the numerous allegations of abuse—including several from Argentina—detailed in the Special Rapporteur’s report.¹

The chilling effects of financial and indirect censorship on media freedom are particularly significant in countries undergoing democratic and market transitions, where the financial survival of many print and broadcast media outlets is under constant threat. In many countries, state advertising accounts for a disproportionately large share of the total revenue of print media, making them vulnerable to government abuse. In addition to causing losses of badly needed income for the targeted media, such abuse has the additional effect of undermining fair competition in the media market—either by increasing the “cost of free speech” for independent media or by granting an unfair competitive advantage to media favorable to the authorities.

This report examines some of the more subtle ways that government officials interfere with freedom of expression in four Argentine provinces (Córdoba, Neuquén, Río Negro, and Tierra del Fuego)² and at the national level. Rather than focus on the more obvious and best-documented methods, such as legal harassment, acts of violence, and the intimidation of journalists (which occur with some frequency in Argentina),³ the report looks at how government advertising and other subtle or indirect pressures on media owners and professionals are used to undermine freedom of expression in this country. Indeed, not unlike physical assaults or prison sentences, financial pressure can have a severely inhibiting effect on media freedom and independence.

A major focus of this study is the financial censorship that national and provincial government bodies can enforce through the use and abuse of the leverage officials exercise over the media by virtue of their powers to allocate public sector advertising.⁴ In any democracy, the state manages a broad spectrum of public advertising that is critical both to the provision of public services and to the functioning of the political system itself—such as, for example, information on emergency vaccination programs, on Supreme Court candidates and public participation in their selection, or on the bidding of government contracts. However, the state’s allocation of these advertising resources is often manipulated for political and personal purposes.

For reasons related to the structure of the Argentine media industry and the country’s prolonged downward spiral into economic recession between 1998 and 2003, media outlets in many Argentine provinces are economically fragile and particularly vulnerable to pressure of this kind. State advertising accounts for a disproportionately large share of the total advertising income of many media outlets in the four provinces under study. In Tierra del Fuego, for example, print and other media outlets receive 75 percent, on average, of their advertising revenue from government agencies.

Although fewer national media outlets depend on government advertising for their survival, the government share of advertising revenue in the mainstream media can still be significant. For example, in one of the main national dailies government advertising makes up

close to one-third of all advertising carried.⁵ The media and the national government have a complex, interdependent relationship, in which state advertising is sometimes used for political ends. The legal framework, both provincially and nationally, is full of loopholes allowing government officials to use advertising budgets to interfere with freedom of expression without necessarily violating the law.

In addition to the abuse of public advertising power, this report looks at related forms of interference that seek to improperly influence media coverage, including content-based pressures on reporters, editors and media owners, and even overt attempts to prevent publication of critical stories. The methods can be as simple yet powerful as a phone call from a top official complaining about a story already, or about to be, published.

Media Secretary Enrique Albistur indirectly acknowledged that these issues have been prominent in the public debate during current president Kirchner's tenure. On June 7, 2005, known as "journalists day," Albistur's office published sizeable ads in the major national dailies which read, "Today we are *apretando* [which means both squeezing and pressuring] journalists" and in smaller letters below, "(with a strong hug)." Many persons in the media industry complained that the government's ad had been in particularly bad taste.⁶ President Kirchner stated that he did not know of the ad before it was published, and would not have approved its running.⁷

Practices of indirect pressure are not new to Argentina, but to our knowledge this is the first time they have been researched and reported on in depth.⁸ Neuquén journalist and politician Ricardo Villar made the following comment about the use of government advertising in Neuquén, which is equally relevant to the other provinces under study: "I believe this has been happening since the origins of the territory, since the origins of the institutional history of Neuquén. This is not a new phenomenon, but has been adapted to the new reality."⁹ Regarding national government advertising, journalist Nelson Castro commented that, "Unfortunately, this is not the only government that has pressured the media with government advertising. This is a historical practice."¹⁰

This report is based on research that was carried out, for the most part, between April 2003 and August 2004, and was updated as it went to press with important changes and developments.

International Standards

To the extent that hidden or indirect pressures exercised by government officials have the purpose or effect of interfering with media freedom and independence, they violate international human rights law. The American Convention on Human Rights, the regional bill of rights for the Americas, addresses the issue specifically, providing that

[t]he right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.¹¹

More recently, the Inter-American Commission on Human Rights further clarified this general principle in its authoritative declaration of freedom of expression principles:

The exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans, and the concession of radio and television licenses, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression and must be explicitly prohibited by law. ... Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.¹²

The 2002 Declaration of Principles on Freedom of Expression in Africa echoes some of the same concerns, providing that “States shall not use their power over the placement of public advertising as a means to interfere with media content” and that they have a positive obligation to “promote a general economic environment in which the media can flourish.”¹³

The Council of Europe has led attempts to set standards in the delicate area of government subsidies to the media. While recognizing that public subsidies may be necessary to ensure the financial viability of the print and broadcast media, and to enhance media pluralism and diversity, the Committee of Ministers emphasized in a recent recommendation to the member states that any such aid should be “granted on the basis of objective and non-partisan criteria, within the framework of transparent procedures and subject to independent control.”¹⁴

In some cases, the media have appealed to the courts for redress against governmental abuse of financial power. In the Indian case *Ushodaya Publications*, for example, a newspaper brought a constitutional challenge against a regional government’s withdrawal of advertising in retaliation for the paper’s critical editorial policies. The High Court ruled that the government could not constitutionally use its advertising powers to reward or punish media outlets for reasons related to their editorial orientation. Instead, the court said, the government has to allocate advertising in a manner consistent with its purpose, that is, to educate and inform the public about the activities of the government.¹⁵

The Inter-American Commission has also addressed the issue of financial pressures under the heading of indirect interference with freedom of expression. In the 1987

case of *Radio Nanduti*, for example, the commission found that the Paraguayan authorities had violated Article 13 of the Convention by subjecting the radio and its director to various forms of harassment, which included pressures on private businesses not to advertise with the radio. The commission recommended that the government compensate the radio's financial losses.¹⁶

The implications of government abuse of advertising for freedom of expression have also reached Argentina's courts. In 1997, the Argentine Supreme Court considered an appeal by the newspaper *Hoy en la Noticia* (*Today in the News*), published in La Plata, the capital of the province of Buenos Aires. *Hoy en la Noticia*, which was generally critical of the municipal government of La Plata, challenged what it considered to be discriminatory treatment by the municipal government, which placed all of its advertising in *El Día* (*The Day*), another local and notably pro-government paper. After reviewing the facts of the particular case, the Supreme Court found against *Hoy en la Noticia's* allegation that the municipality interfered with its freedom of expression, noting that the municipal government had never advertised in *Hoy en la Noticia*, and therefore had not withdrawn advertising based on its editorial line. The court suggested, however, that withdrawal of advertising with "persecutorial" motives would be a clear violation of constitutional freedom of expression guarantees.¹⁷ A similar, and arguably stronger, case brought by the daily newspaper *Río Negro* against the provincial government of Neuquén, currently pending before the Supreme Court, will give the Court another opportunity to develop its jurisprudence in this area. (This case is described in the section below on Retaliatory Withdrawal of Government Advertising.)

While international human rights law prohibits all abuse of government finances as a means of interfering with media freedom, democratic countries use different regimes for allocating public advertising. In this context, competitive bidding has become an increasingly popular method for selecting providers of advertising services—not only because it limits the possibility of abuse by officials for political or personal motives, but also because it guarantees the most efficient use of public resources and effective delivery of the government's message.¹⁸ Under competitive schemes, winning bids are typically selected on the basis of a range of factors, including the price of the offer, circulation or audience levels of the bidding outlets, their specializations, readership niche, and other elements relevant to the effectiveness of government advertising.

III. Background on Provinces

Córdoba

Located in Argentina's geographical center, Córdoba is one of the more important provinces in Argentina due to the significance of its history, politics, demographics, and economic development. According to the 2001 national census, Córdoba's population of approximately three million represents nearly one tenth that of the national total. Córdoba is home to the largest city after Buenos Aires: Córdoba city, the provincial capital, which has some of the country's most important universities.

According to a 2002 media guide, Córdoba has more than 450 print, radio and television media outlets in its capital city alone.¹ While smaller and newer media outlets such as the newspaper *Comercio y Justicia* (*Commerce and Justice*) are often dependent on government advertising for their survival, others are able to operate with relative independence. With a weekday circulation of approximately 60,000,² the daily newspaper *La Voz del Interior* (*Voice of the Interior*) is the most important paper outside Buenos Aires, accounting for an estimated 60 percent of newspaper sales in the province.³ The paper was founded in 1904 and is known for its credibility and independence. Except for a few programs on television or AM radio, there is a notable lack of news programs or other journalistic programming produced in Córdoba.

Río Negro and Neuquén

The provinces of Río Negro and Neuquén are located in northern Patagonia, and have many social, historical, and geographic factors in common. Their populations are a similar size, at approximately half a million each. Many people live in Río Negro and work in Neuquén—and vice versa—and the principal media outlets in the two provinces reach the populations of both. In fact, since they were incorporated as provinces in 1957, there have been several proposals to unify them as a single province (called Comahue).

Much of the population in Río Negro and Neuquén is spread out among numerous small towns with huge distances between them, and all but the larger media outlets struggle to expand their geographical reach to increase their sales. Given the dearth of solid businesses that choose to advertise in the local media, many outlets depend on provincial and municipal government advertising for their survival, making them vulnerable to government interference.

The most-read newspaper in the two provinces is the daily *Río Negro*, which is produced in the province of Río Negro and distributed widely in both Río Negro and Neuquén.⁴ In Río Negro, the dispersed population is also reflected in the proliferation of many small radios and papers. Media experts point out that the proliferation of these financially and technically precarious media outlets has been encouraged and subsidized by government advertising.⁵

Several media outlets in Neuquén are held by the grupo Schroeder (Schroeder group), which according to multiple press reports, partially or fully owns important businesses run by Juan Carlos Schroeder and his three brothers in agriculture, medical services and wine.⁶ In addition, the Schroeder group owns LU5 Radio Neuquén (the radio with the largest audience in the province of Neuquén), four other FM radio stations, and the daily paper *La Mañana de Neuquén*.

The rest of the media outlets in the province tend to be small, financially precarious, and quite dependent on government advertising, especially after significant increases in the budget for government advertising in recent years. In fact, overall spending on advertising by the Neuquén provincial government nearly quadrupled between 2001 and 2002, from 1.5 million pesos to 5.3 million pesos, and then more than doubled again in 2003 to 12.1 million pesos (1 U.S. dollar currently equals around 2.9 pesos)⁷. Between 2000 and 2003, Neuquén's overall budget spending increased approximately 60 percent, while spending on advertising increased a whopping 1,300 percent.⁸ Such spending surges preceded the March 2004 announcement by governor Jorge Sobisch of his candidacy in the national presidential elections in 2007. With province-controlled oil and gas reserves, Neuquén receives unusually high government revenues compared to most other Argentine provinces. According to figures provided by the government of Río Negro, spending on advertising in Río Negro represents just under a quarter of that of Neuquén (3.5 million pesos in 2003).⁹

Tierra del Fuego

Bordered by the famed Magellan straits to the north and the Beagle Canal to the south, the province of Tierra del Fuego is home to the world's southernmost city, Ushuaia, the provincial capital. In the 1960s and 1970s, the national government provided subsidies to individuals willing to move there, in a bid to increase the scant population of the province's cold lands. Tierra del Fuego was administered by the national government until 1991, when it achieved status as a province and elected its first provincial authorities. Private economic activity in the province is minimal; nearly 80 percent of the income generated in the province comes from the provincial and municipal governments.¹⁰ According to the 2001 national census, the province's population is just over 100,000.

According to media observers in the province, the majority of media outlets survive on advertising income from the government, which makes them vulnerable to direct and indirect government censorship and self-censorship, as well. As mentioned above, on average, print and other media outlets receive approximately 75 percent of their advertising income from government agencies.¹¹ Many of the largest businesses, such as tourist agencies or clothing manufacturers, seek to attract consumers from other areas and therefore advertise in media outside the province.

The state television station runs very little local programming, and the only other channel, the private cable Multicanal, runs none whatsoever. With the exception of FM Master, the radio stations transmit little or no local programming. A half-dozen local newspapers maintain a miniscule circulation: estimates range from 400 for the *Diario del Fin de Mundo* (*Newspaper at the End of the World*) to 1,500 for the *Diario Prensa* (*Daily Press*), both published on weekdays.

Legal Framework and Practice

In Argentina's federal system, provinces and the federal government have general autonomy to regulate their respective advertising spending. As a result, there are no uniform rules on the matter. However, there are many commonalities among the problematic laws and practices observed in the four provinces covered by this report.

In general terms, the legal frameworks regulating the purchase of government advertising in the four provinces under study are insufficient and inadequate: they lack the rules and criteria that would make advertising transparent and fair, and fail to establish effective checks and balances and mechanisms of control. Responsibility for advertising in all four provinces is centralized in the hands of one government official, such as a provincial media secretary or the secretary of the interior.¹² The lack of transparency built into the contracting of government advertising combined with the centralization of decision-making lends itself to politically and

personally motivated abuses of government advertising, and ensures little or no control by citizens and civil society.

Common Practices

Perhaps the most important common practice detected is that while government agencies collectively spend millions of pesos every year for advertising purposes, not one of the provincial governments covered by this report allocated advertising contracts in an open and competitive manner.

At the same time, in each of the four provinces, the hosts of shows such as news or political programs and, in some cases, the owners of small print media routinely make the rounds of government offices looking for advertising to finance their programs. This practice highlights the problems inherent in systems lacking clear rules and objectivity: as a rule, governments should not be making allocation decisions based on requests by individual persons or media outlets.

Another practice that cuts across geographical lines is the use of government advertising to pressure or oblige media outlets to give preferred access, such as interviews, to government officials. In Tierra del Fuego, five journalists, the owner of a radio station, a provincial official, and a municipal official all confirmed that when the government purchases advertising, it effectively gains and exercises the right to control who is interviewed by the media outlet in question.¹³ In Neuquén, journalist Ricardo Villar told our researchers that the provincial lottery “places an advertisement in a media outlet, and the service offered as a result... is not just to run the ad, but to cover the activities of the ministers, of the government... The advertising message is just the cover.”¹⁴

Roberta Scavo, press director of the Río Negro legislature, confirmed that similar practices occur in that province as well, including at the level of the legislature.

Some [legislators] come directly and ask you to give [advertising] to such-and-such a media outlet, and not others. And there’s a practice that I find terrible: they ask you to whom you gave advertising, and how much money it’s worth. Why do they want that? ‘Because that gives us influence...we can lift up the phone and say we want a story.’ The pressure is terrible.¹⁵

Antonio Zidar, editor at Channel 6 and FM Radio 6 in Bariloche, Río Negro, also confirmed this practice. He said that during campaign seasons, “it is not uncommon that the person who places the advertising says, ‘I would like you to interview this candidate,’ ...and party and government get mixed up, and the government official is converted into campaign director.”¹⁶

Speaking anonymously, a journalist at one of the most important radio stations in Neuquén added that journalists feel that they are prohibited from interviewing certain politicians,

usually from the opposition. He told our researchers that, “Currently [those we believe we cannot interview] include Carlos Moraña [one of the most outspoken opposition politicians in the province], and [provincial legislator] Aldo Duzdevich.”¹⁷

In general, government advertising in the provinces under study is supposed to be supervised by the provincial executive audit agencies,¹⁸ although this rarely occurs in practice. The Neuquén Executive Audit Agency, for example, limits its audits to specific expenditures that raise concerns. According to Violeta Mandón, its president, her agency had only ever reviewed two cases concerning government advertising.¹⁹ According to economist Eduardo González Olguín, the control exercised by the Córdoba Executive Audit Agency is purely formal. “It does not judge whether spending is well done or secures a good price, but rather whether the formal rules of contracting have been respected, such as whether receipts respect the rules established by the [national revenue office].”²⁰

Córdoba

A 1999 decree requires all government agencies in Córdoba to send their advertising requests to the general secretary of the interior,²¹ who has sole responsibility for authorizing the advertisements and determining in which media outlet(s) they will run.²² The secretary also has responsibility for the executive branch’s communications and the publication of government acts.²³ This 1999 decree makes all government contracting, including of advertising, subject to a system of “reference prices” (*precios testigos*)—sample market prices against which the appropriateness of prices outlined in government contracts can be judged.²⁴ However, it appears that in practice, this system is not utilized for the contracting of advertising services.²⁵

A 1988 law still in effect provides that government advertising in Córdoba is to be purchased through a system of “direct contracting,”²⁶ usually defined in Argentina as a limited-competition bidding procedure, used in specified cases in place of fully competitive bidding, whereby a limited number of bidders (specified by each province, generally no less than three²⁷) are invited to bid for goods and services. However, in Córdoba, direct contracting is taken to its least competitive extreme: no statute specifies how many bidders must be invited to make offers, leaving the door open for government officials to handpick their contractors with complete discretion.

Such discretion is only to be mitigated, in principle, by certain peso limits set each year by the provincial legislature for direct contracting.²⁸ In practice, however, such statutory ceilings appear to do little to curb abusive contracting of government advertising.

The legal framework is very similar for the municipality of the provincial capital city of Córdoba with one principal difference being that the municipality is required to publish advertisements regarding the bidding of government contracts in “at least two newspapers in the province.”²⁹ However, the pertinent ordinance provides no guidance or criteria for selecting the two or more newspapers. In the capital, responsibility for government advertising is centralized in the office of Gustavo Balladore, the municipal press and communications

subsecretary. Balladore told our researchers that, as a rule, he uses his discretion to decide which media outlets will run municipal ads, and that there is no competitive process.³⁰ Our research found that, while the allocations of advertising appeared somewhat arbitrary, Balladore does not appear to use advertising as a punishment or prize, nor as a hidden subsidy.

At the provincial level, however, the allocation of government advertising in Córdoba is often discriminatory and politically motivated. The government appears to use advertising both to retaliate against outlets with a critical editorial line and to reward those that are favorable in their coverage of the provincial government.

Our attempts to learn how this system functions in practice were hindered by the refusal of the provincial secretary of the interior to give us an interview. However, speaking anonymously, a high level municipal official familiar with the province's contracting of advertising told us that in most cases the province does not institute a competitive process in the selection of media outlets to run advertisements, but simply selects on a wholly discretionary basis those in which it chooses to place advertising.³¹ This practice was confirmed by a provincial employee with knowledge of advertising contracting, who also asked to remain anonymous.³²

Consistent with these accounts, it appears that advertising contracts—either directly with media outlets or through advertising agencies—are never allocated competitively.³³ According to government spending reports to the provincial legislature, in 2002 and 2003, the provincial government placed a total of nearly eight million pesos worth of government advertising at the discretion of the then-general secretary of the interior.³⁴ Our inability to find evidence of a single competitively bid contract suggests that, if necessary (as in the case of a major ad campaign), advertising contracts are likely “fractioned” or artificially chopped into amounts smaller than the direct contracting limits cited above.

Río Negro

Provincial government contracting of goods and services in Río Negro is regulated by a 1973 law, while a 1993 decree establishes a special set of rules for the contracting of advertising services.³⁵ This decree grants the provincial subsecretary of social communication exclusive responsibility for planning and contracting government advertising for all government entities, including state companies and so-called decentralized public bodies.³⁶ These decentralized or autonomous agencies have their own, special legal status and budget, and are generally governed by their own boards of directors, though hierarchically they fall under the executive branch, which has ultimate authority over them. For example, at the federal level decentralized agencies include the national public bank, the national lottery, public theaters, public service companies, and some of the agencies which regulate those public service companies.

The 1993 decree also provides that the different government bodies shall send requests for advertising placement to the media subsecretary, who has two working days to decide upon and place the ads in keeping with the various media outlets' current fee structures.³⁷ The media subsecretary then returns the paperwork to the government body in question to allow them to

earmark the required funds.³⁸ The 1993 decree fails to specify any rules for contracting advertising placement, leaving the process and criteria entirely to the subsecretary's discretion.

A 2003 regulation on government transparency³⁹ requires that all contracts at all stages be published online and printed in the province's official journal. However a search on the journal's public online database (conducted on October 8, 2004), found no information on contracts pertaining to the media subsecretary. A review of the printed official journal for the months of May and June, 2004, likewise did not turn up a single advertising contract.

Claudio Mozzoni has held the post of media subsecretary for the province of Río Negro since December 2003. When asked if he engages a competitive process for government advertising contracts, he answered:

No, except in exceptional, predictable cases, such as special supplements. But also, I know without needing circulation figures that the newspaper with the greatest reach in the province is the *Río Negro*, and so why should I have to advertise in *La Nueva Provincia (The New Province)*, which is only read in Río Colorado and Viedma [the provincial capital] and nowhere else?⁴⁰

He went on to affirm that if he were to hold bidding processes regularly, the paper with the lowest price would win, which would not ensure that the ad will reach the widest possible audience. The experience of other countries indicates, however, that it is possible to design a bidding process that takes into account advertising prices and newspaper circulation, as well as other legitimate factors.⁴¹

According to Mozzoni's predecessor, Omar Nelson Livigni, budgets for advertising contracts during Livigni's tenure often involved a mix of funding from the media subsecretary and from individual ministries. The total of 250,000 pesos or so that he would generally allocate each month was matched by a roughly equal amount from other agencies. "[We operated] with the criteria of decentralization ... I told [the different agencies], 'Hey, you put 25,000 monthly or you put 15,000 or 17,000.'" Then with [my office's] checkbook I gave, for example, to the Radio in Roca, 1,000 pesos from the water agency and 500 pesos from [my office], so that radio got 1,500 pesos."⁴²

This practice seems to have violated even Río Negro's loose laws, which require the media subsecretary to make decisions on placement of advertising based on the specific advertising needs of the requesting agencies, rather than their total advertising budgets.

Current subsecretary Mozzoni confirmed that the practice of discretionary allocation of advertising funds from his budget, combined with funds of other government agencies for whose benefit advertising is supposedly placed, is still common today.⁴³

The use of government advertising to promote media pluralism. Livigni was the media subsecretary for the province of Río Negro from 1995 to 2003. He told our researchers that his criteria for assigning government advertising were:

[to] avoid a monopoly on information...and support the proliferation of media outlets so that no one could have a monopoly in a region—a pluralist scheme. We tried to help the smaller media outlets [and] gave amounts of money that were disproportionate to the media outlets' importance so that they would grow. I accept that there were those that were equal and some that were more equal than others.⁴⁴

The proper use of government subsidies and the promotion of media pluralism are beyond the scope of this report. Nonetheless, it is clear that the purpose of government advertising is to inform the general public on matters of public interest or public services. This is not always compatible with the goal of promoting media pluralism. In all cases, government subsidies should be provided through separate channels on the basis of fair and transparent criteria.

Current subsecretary Mozzoni told our researchers that he abolished the practice of allocating advertising to help smaller media outlets, but instead conducts market research to target government advertising to reach the largest population.

Neuquén

Under Neuquén law, contracting of all advertising services is categorically exempted from the normal regime of competitive procurement, irrespective of contract amounts or urgency considerations.⁴⁵ The law allows officials to deal directly with media outlets of their choice, the only requirement being that they should be able to “demonstrate that the final price is the best one available.”⁴⁶

In addition, a 2001 regulation centralized the allocation of advertising funds by giving the subsecretary of the interior sole responsibility for coordinating and implementing all government advertising.⁴⁷ The subsecretary is to approve all advertising proposals by government agencies and authorize contracts by simply issuing advertising purchase orders⁴⁸—generally a one-page document that describes the service to be provided, indicates the price to be paid, and names the provider.

As a result of the 2001 centralization, the percentage of the executive advertising budget officially controlled (and paid for) by the subsecretary of the interior jumped from just 8 percent in 2000 to 75 percent in 2003, and 85 percent in the first five months of 2004.⁴⁹ This increase occurred over the same period that the overall advertising budget increased by 1,300 percent.⁵⁰

Agencies' Lack of Control over Their Own Advertising: The Case of EPEN, the Provincial Energy Company

The provincial energy company EPEN (Ente Provincial de Energía del Neuquén), a decentralized government agency, provides an example of how, as a result of the centralization of allocation powers in the hands of the subsecretary of the interior, government entities have limited control over their own advertising, or the public funds spent on it.

Our researchers spoke with Francisco Zambón and Rubén Gómez, two members of the EPEN board of directors. They told us that as a rule, since government advertising is coordinated by the secretary of the interior, EPEN does not contract advertising for itself, nor does it control the length, content or style of the ads. By law, EPEN is required to run ads regarding service contracts, energy blackouts, and the transportation and delivery of energy. Only when it needs to publish ads in emergency situations (such as an unforeseen blackout) does EPEN contract its own advertising directly.⁵¹

Despite its institutional autonomy, according to Zambón and Gómez, EPEN is required to provide 40,000 pesos per month to the subsecretary of the interior for advertising purposes. The two officials noted that invoices for the sum indicate neither the actual ads paid for nor the government office to which the advertisements correspond. Zambón and Gómez also told us that in 2002, according to government files, the provincial government ran more than half of EPEN's ads in media outlets based outside their service area, in the provincial capital, the city of Neuquén. In fact, the signals of just one radio and one television station based in Neuquén City (Channel 7 and Radio LU5) reach EPEN's territory.

Moreover, the two officials suggested that some of the advertising spending, supposedly on behalf of EPEN, appeared to be trivial and unnecessary. Zambón and Gómez told our researchers that some receipts showed information about ads such as 15- or 20-second radio spots that said "EPEN ilumina tu camino" ("EPEN lights your way") or "EPEN a toda luz" ("EPEN as bright as possible"), where the cost of production was 7,000 pesos.⁵² Considering also that EPEN itself was not involved in designing the ads, the campaigns seemed very likely a cover for channeling advertising funds to certain media rather than genuine advertising.

Jorge Conte is a provincial legislator and former member of the board of directors of the Instituto Autárquico de Desarrollo Productivo, (Autonomous

Institute of Productive Development, IADEP), an autonomous public agency. Speaking of IADEP's advertising, he said, "the policy was managed not by IADEP's directors, but by the Interior office. It is very rare that government agencies or decentralized companies can allocate their own advertising. [T]he destination of those resources is decided within the highest spheres of the [provincial] executive."⁵³

The only exception to the unfettered discretion of the subsecretary for the interior in the allocation of advertising involves the publication of advertisements regarding government contracts or auctions. According to Neuquén law, ads for auctions or the bidding of contracts "will be published in at least one newspaper of ample diffusion in the area where the contracting is to take place, and may also be published in newspapers of other jurisdictions in order to assure the best possible number of offers."⁵⁴ However, the law does not define what constitutes "ample diffusion," nor "the area where the contracting is to take place."

Neuquén law requires the government to publish information on direct contracts each month in its official journal. However, the statutes are not clear on the information to be included (selection process, price paid, goods and services provided, etc.).⁵⁵ According to researchers based in Neuquén, however, as a matter of practice, no information on advertising contracts is in fact published in the official journal, although information regarding non-advertising-related direct contracts was published.

The current Neuquén administration often contracts private communications firms to place their advertising—another practice which, in the absence of transparency, provides significant opportunities for the biased allocation of advertising. According to information we obtained in the course of our research, the province of Neuquén spent more than two million pesos in 2003 on such agencies, almost 17 percent of their total annual advertising budget of approximately twelve million pesos.⁵⁶

Although the government can, in theory, contractually require private agencies to use competitive procedures for allocating advertising, it does not appear to do so in practice. For example, according to general manager Horacio López, the newspaper *Río Negro* carried advertising through an intermediary communications firm, Gran Publicidad (Big Advertising) for the Provincial Bank of Neuquén (the provincial government's public bank) until 2002, but had never participated in a competitive process for these contracts.⁵⁷ Gustavo Waldman, director of the Aire Valle television channel said the station had received government advertising both directly from the subsecretary of the interior and indirectly through Gran Publicidad. Aire Valle received the same fee from both sources, even though the firm retains a commission.⁵⁸ Although Gran Publicidad received 891,669 pesos from the government of Neuquén in 2003, we were unable to establish how much of this money was paid as commissions.⁵⁹

Clipping de Medios: Use of Government Funds to Monitor Content and Allocate Advertising Based on Content Preferences. The Neuquén provincial government has particularly sophisticated tools—funded with taxpayer contributions—to assist in making content-based decisions on the placement of government advertising.

The government uses the services of the Neuquén-based Clipping de Medios (Media Clipping), a media-monitoring company owned by Grupo Crear, S.R.L.⁶⁰ According to Clipping de Medios' website, the company is principally a clipping service, and its clients include the Neuquén legislature. According to documentation obtained by our researchers, the government of Neuquén is also a client of this firm, and in the first five months of 2004 paid 49,300 pesos for the firm's services, which came out of the province's advertising budget.

According to a journalist at a radio station in the city of Cutral-Có, Neuquén, Clipping de Medios rates the image of various media outlets in the province and this information is then used as the basis for the allocation of public advertising. This journalist told our researchers that when his radio station's income from government advertising was cut in mid-2004, the owner of his radio station queried a provincial official in charge of government advertising, who told him to approach Clipping de Medios instead. When the owner did so, representatives of the firm told him that his "negative image" made it impossible for him to receive government advertising. When he asked if the problem was that his radio attracted too small an audience, he was told it was rather the way he had handled a March 2004 scandal regarding water shortages in Cutral-Có that implicated the provincial government.⁶¹

A former staff member of Clipping de Medios told our researchers that following this scandal, Clipping de Medios prepared numerous transcripts of radio and television programming in Cutral-Có and sent them to the governor's office. Reports of this nature typically included exhaustive analyses of each media outlet's coverage of the issue at hand.⁶²

According to the former staff member, as of April 2003 or so, Clipping de Medios began to use a sophisticated system to rate the coverage of the provincial government in monitored media, and to produce and analyze transcripts of the radio stations based in Neuquén city. Political and current affairs programs were the most closely monitored.⁶³

All these reports were sent directly to the governor's office and the Neuquén legislature contracted this service, as well.⁶⁴ The former staff member affirmed that Reale-Dalla Torre, one of the advertising agencies contracted by the provincial government to provide advertising-related services, had also used the files created by Clipping de Medios and analyzed the stories that had been run on Channel 7 news in the last months, classifying them as positive and negative.⁶⁵

The government of Neuquén refused to comment or provide information regarding these practices. Likewise, despite several attempts, we were unable to obtain comments or information from representatives of Clipping de Medios.

Tierra del Fuego

The misuse of government advertising in Tierra del Fuego differs in some ways from the other provinces under study, in terms of both legal framework and practices. Tierra del Fuego has only two municipalities, Río Grande and Ushuaia, and a smaller population and media market than the other provinces.

In Tierra Del Fuego, rather than allocating advertising in a discriminatory fashion, provincial and municipal authorities appear to use generous advertising contracts to purchase influence over the content of nearly all local media. Advertising payments are rarely directly related to the few ads actually published. According to both journalists and government representatives, payments to newspapers can even buy government control over front page news and the placement throughout the paper of stories produced by the government itself.

Such content-based practices are clearly illegal under both international and domestic law. With respect to government procurement, a 1971 provincial law contains basic definitions and peso limits for various types of contracts.⁶⁶ Unlike the other provinces under study, there are no specific exceptions or rules for the contracting of government advertising. Nevertheless, advertising contracts have not followed standard government contracting practices.

The only existing guidelines specific to advertising are contained in the appendix to a 1996 resolution of the provincial Executive Audit Agency, entitled “Minimum Requirements for the Contracting of Advertising.”⁶⁷ The Audit Agency, while recognizing that inconsistent criteria used by the government for contracting made its review of advertising spending difficult, did not recommend that standard contracting regulations be applied to government advertising, but suggested instead that executive agencies conduct a survey of media outlets with influence in the province and use the results “to determine technically which media are the most appropriate for each type of message.” Government agencies should use a current fee schedule for all media “so that the officials in question have sufficient criteria for making decisions” on where to spend advertising money. The resolution suggests that, “This study could provide a procedure for selection of contractors... founded principally on parameters such as...circulation, sphere of influence, [and] audience type.”

Our research revealed that, in practice, government agencies submit requests for advertising to the media secretary’s office, which decides where and how ads are to be placed. An advertising purchase order is then prepared, containing texts of the ads, their duration or column-space, the period of their publication or transmission, and other elements that would allow for verification that the advertising was run as contracted.⁶⁸

Although audience and circulation surveys could in theory contribute to more transparent, objective, and fair contracting of government advertising in Tierra del Fuego, these surveys are not made public. As a result, it is not possible to assess how regularly and in what ways they are used. Eduardo Monchietti, the provincial media secretary, told one of our researchers that, “We are obliged to do [the media survey] for the Executive Audit Agency... The results are not for publication.”⁶⁹ The government’s refusal to make public the data it uses to make

allocation decisions leaves the public and interested media unable to assess the fairness and legality of the process.

The constitution of the municipality of the capital city Ushuaia states that “Municipal spending on all government advertising should be based on principles of access to information, transparency in government, publication of acts of government, and education campaigns...”⁷⁰ However, the municipality has yet to pass any specific regulations for the contracting of advertising. At present, the municipal system for contracting advertising is no more transparent than that used by the provincial government.

On November 4, 2004, the provincial minister of economy, Juan Manuel Romano, made public declarations to the effect that during the administration of the previous governor, Carlos Manfredotti (1999–2003), the government spent 2.5 million pesos in advertising, of which 1.2 million lacked proper documentation and justification. The 1.2 million pesos in question were spent without applying even the minimum requirements laid out in the 1996 resolution.

Unsurprisingly, Tierra del Fuego’s legal framework has not prevented abuses. It appears that, far from using a fee schedule as required by the Executive Audit Agency, the government pays sums that have no direct relationship to the size and frequency of the advertisements actually run. Our researchers were able to inspect several purchase orders containing a monthly sum for advertising, none of which specified duration/column-space or the other information required by the 1996 resolution.

According to journalist Gabriel Ramonet, it is common practice for provincial officials to make verbal agreements involving a fixed monthly amount for advertising on specific programs such as his two-hour, weekday radio program, *Botella al Mar* (*Bottle to the Sea*), broadcast on Radio FM al Sur. Furthermore, according to several journalists, provincial government officials often set rates unilaterally. On October 25, 2004, Gabriel Ramonet sent a letter to Media Secretary Eduardo Monchietti formally returning six advertising purchase orders from the provincial government for the period of October 7 to 31, 2004. According to this letter, the province sought to overpay for advertising time on *Botella al Mar* by approximately 65 percent. Ramonet told our researchers that given their usual rate of 50 cents a second, the station did not have enough advertising time available to justify the flat rate of 9,000 pesos paid by the province.⁷¹ Ramonet requested that the government recalculate its advertising investment for both the radio program and the program’s Internet site based on the radio’s established fee scale.⁷²

Ramonet and fellow *Botella al Mar* journalists Wilder Urbina and Silvio Bocchicchio reported that on December 16, 2004, the provincial government deposited 20,000 pesos (deducting the corresponding income taxes) in their bank account at the Banco de Tierra del Fuego, normally used by the government for advertising payments to the program. However, in this case the deposit occurred without the knowledge of those involved in program, and with no apparent advertising requirements.⁷³

“We felt bribed and it was repugnant,” stated Bocchicchio. On January 6, 2005, their producer sent a letter to Media and Public Information Secretary Eduardo Monchietto requesting that the deposit be annulled.⁷⁴ On February 18, 2005, Gabriel Ramonet and the other journalists that work with him on *Botella al Mar* denounced the case before the provincial prosecutor.⁷⁵ The government claimed that the payment was due to an administrative error, as the government mistakenly included *Botella al Mar* among other providers involved in a December advertising campaign on special events related to the Christmas holiday.⁷⁶

According to Gabriel Ramonet, after he and his colleagues denounced the 20,000 peso payment, the government refused to make the regular monthly payments for advertising run on the *Botella al Mar* website for the months of January and February (the radio program had gone off the air as programmed for summer vacation). When they inquired about the non-payment, government officials argued that they had no advertising agreements for these months, though the journalists stated that they had no reason to believe that their verbal agreement was no longer valid. Payments for March, April, and May were reduced and erratic,⁷⁷ and they were subsequently informed by Julio Reyes, head of administration in the media secretary’s office that as of June, they no longer would receive government advertising. They were told that the reason was that the government was not authorized to make advertising payments. *Botella al Mar* staff noted, however, that the government continues to make advertising payments to other journalists.⁷⁸ As this report went to press, Wilmar Caballero, current provincial Secretary of Media and Public Information, failed to respond to telephone requests for comment on this case.

The extent to which the provincial government appears to use advertising to leverage content is astounding. One journalist stated that government offices send out as many as 20 or 25 press releases per day, many of which the media then adapt into articles. Officials also send in articles themselves, which are published with minimal edits or changes and are never signed—appearing, in other words, as pieces produced by newspaper staff.⁷⁹ On June 9, 2004, we observed a journalist contracted by the provincial government writing up a story to be sent to various papers. These articles are sometimes published verbatim or nearly so, without correcting even spelling errors, and without signature.⁸⁰

In other words, the provincial and local governments are major, undisclosed producers of news. In fact, according to individuals who work in the relevant offices in the province and in the municipalities of Río Grande and Ushuaia, not only do the media run articles produced by government officials, they also use pictures provided by the government, both of which practices reduce costs to the newspapers.⁸¹

In some cases, the purpose of ads published by the provincial and municipal governments is dubious. On June 25, 2004, for example, the municipality of Río Grande ran an ad in the local-circulation *Sin Protocolo* (*Without Protocol*), published in the city of Ushuaia, that read, “Río Grande, a city active and fertile in cultures, nature and new horizons. Visit it.” (“Río Grande, una ciudad activa y fértil en culturas, naturaleza y nuevos horizontes. Visítela.”) On the

same page, the paper ran two stories involving municipal officials, each with a photo. The first described a meeting between the mayor and a local legislator, and the second discussed steps taken by the municipal public works minister to initiate work on new gas lines in response to requests by local citizens.

When asked to justify municipal payments for a “Do Not Abandon Your Dog” ad campaign, a Río Grande municipal press officer replied, brandishing a copy of *Sin Protocolo*, “We purchase this.” He said that, in effect, the municipality purchases control over the contents of the paper in the form of space for articles written by municipal press officers.⁸²

In another case of overly-generous ad spending, the municipal government of Ushuaia would pay the local station, Radio FM Master, a monthly sum of 5,000 pesos for advertising. By way of comparison, a local coffee shop pays the same station a monthly fee of 180 pesos for the same number of ads lasting the same duration.⁸³

The case of a leading newspaper in the province presents another striking example of municipal use of advertising to purchase control over content. According to a person who does advertising-related work for the municipality, this paper has, since January 2004, received 14,000 pesos per month for municipal government advertising. These payments were confirmed by the Official Registry. In return, according to this municipal worker, the government receives (1) publication, without modification, of articles sent to the newspaper; (2) silence on politically sensitive topics; (3) publication of governmental views alongside potentially controversial news; and (4) control over the newspaper’s front page.⁸⁴

The use of advertising to interfere with media content produces perverse behavior on the part of the media as well. Media directors take advantage of the government’s willingness to purchase content to press for favorable contracts. According to several journalists speaking off the record, if faced with a lack of advertising, the media publish news contrary to the government when negotiating advertising contracts.⁸⁵

The *Diario el Sureño* (*The Southerner Newspaper*) presents an eloquent example of these phenomena. Information provided by an official in the provincial office of the secretary of public information would suggest that the paper is owned by Marcelo González who, in mid-1999, became minister of the interior of the province of Tierra del Fuego for a four-month period. According to an official in the provincial office of the secretary of public information, during González’ short tenure, government advertising in the *Diario el Sureño* quadrupled from 11,000 to 43,000 pesos per month (including the ads of the provincial government bodies, so-called “autárquicos,” decentralized agencies, and the Banco de Tierra del Fuego)—an increase entirely out of proportion to the advertising allocated to all other outlets at the time.⁸⁶ This information was confirmed by a journalist based in Ushuaia who worked at the *Diario el Sureño* at the time.⁸⁷

IV. Misuse of Government Advertising and Related Abuses in the Provinces

This chapter summarizes our investigations into the indirect and financial pressures exerted by provincial and municipal governments on local media. It focuses on three principal issues: the withdrawal of government advertising in retaliation for critical reporting; discriminatory allocation of advertising in support of pro-government media; and the use of advertising power to influence media content.

Retaliatory Withdrawal of Government Advertising

Córdoba: Retaliatory Withdrawal of Advertising from *Diario de Villa María*

Villa María is a city of approximately 100,000 inhabitants in the province of Córdoba. In mid-February 2004, the city government canceled all government advertising to the *Diario de Villa María* and refused to pay 16,000 pesos owed for advertising and printing services related to the publication of the city's Official Registry. Like Córdoba city's *Comercio y Justicia* newspaper, described in more detail below, the *Diario de Villa María* is one of hundreds of companies in Argentina that were taken over by their workers, especially in 2002, as the country's economic

depression deepened. *Diario de Villa María*, a cooperative since December 2001, is known in the city for its editorial independence. According to the cooperative, the paper's circulation is approximately 4,000.¹

According to Sergio Vaudagnoto, a member of the cooperative's administrative council, advertising was suspended after the February 2004 publication of articles critical of the government of Mayor Nora Bedano de Accastello. These included allegations of two minor scandals involving a city official. The municipality reacted by canceling an 18,000 peso order for a large (5 x 8 cm²) ad a day before publication and suspending future advertising. It also stopped sending the city's press bulletins to the newspaper, and even public service announcements, such as changes to the public library schedule.²

The municipality of Villa María did not respond to requests for comment or information regarding this case.

Neuquén: Retaliatory Withdrawal of Advertising from the *Río Negro*

A particularly egregious case of politically motivated use of advertising to punish a media outlet took place in late 2002 and 2003 in Neuquén. In response to coverage by the daily *Río Negro* in December 2002 of a bribery scandal that indirectly implicated the governor of Neuquén, the province withdrew nearly all advertising from the paper, which is widely read in both Río Negro and Neuquén. *Río Negro* filed a constitutional injunction (*amparo*) before the national Supreme Court, and is still awaiting resolution of the case.³

The scandal concerned allegations by provincial legislator Jorge Taylor on December 7, 2002, that he was offered financial credit by Osvaldo Ferreira, vice-president of the Congress, in exchange for the assurance of a legislative quorum for a debate on the nomination of candidates to the provincial Supreme Court. The offer was captured by a hidden video camera, and the tapes were broadcast on national television and covered widely by national newspapers and Buenos Aires-based radio stations. Governor Jorge Sobisch, who had proposed the candidates, was subsequently investigated and eventually acquitted by the Supreme Court judges who had been the nominees during the scandal. The case was appealed and is pending before the national Supreme Court.

In December 2002, the *Río Negro* published a series of articles on this scandal. According to their *amparo* submission, the government began a drastic reduction of its advertising in the *Río Negro* that same month.⁴ Government advertising space in the paper fell from an average of 1,200 cm² per month in 2002 to 160 cm² in 2004 (to July).⁵ Several government officials spoke out in the press and in public against the newspaper. According to an article in the *Río Negro*, quoted in the *amparo*:

Governor Sobisch presented this issue on the Neuquén radios as a virtual *coup d'état* by the newspaper and its director. He said that [*Río Negro* director] Julio Rajneri 'has power and uses it to pursue people like he is pursuing me. [But they shouldn't] go after

my family and my kids, because I'll go after their families and their kids, and I have the power to do so.⁶

In its legal defense, the government of Neuquén alleged that the decline in advertising contracts was due to the fact that *Río Negro* is not a Neuquén paper. However, the paper claims credibly that, although printed in the province of Río Negro, it is the best-selling daily in the province of Neuquén.⁷

The government also argued that the decision to suspend advertising was based on an overall policy of reducing government advertising expenditures, in newspapers in particular. However, advertising with the Neuquén-based *La Mañana del Sur* (*The Southern Morning*) almost quadrupled during the same period, from 338,000 pesos in 2002 to 1.34 million pesos in 2003.⁸ Neuquén government advertising in national newspapers—such as the Buenos Aires-based *Ámbito Financiero* (*Financial News*)—also increased.⁹ Indeed, overall spending on advertising by the provincial government more than doubled in 2003, after having more than quadrupled between 2001 and 2002.¹⁰

While the government of Neuquén has resumed minimal advertising in *Río Negro*, it continues to favor *La Mañana de Neuquén*. Our study of advertising trends in Neuquén showed that from June 1 to June 15, 2004, *La Mañana de Neuquén* ran 2,846 cm² of government advertising, while the *Río Negro* ran a mere 30 cm².¹¹

The government took other measures to punish the paper, as well. The governor began to refuse interviews with journalists from the *Río Negro* who had formerly had regular access to him. Access to nearly the entire cabinet was curtailed, which impeded journalists' ability to run breaking stories.¹²

Individual media outlets do not enjoy an absolute right of access to government officials, yet the systematic rejection of an entire newspaper's staff for political motives is clearly unjustifiable. It is also a disservice to the readership—which, in the case of the *Río Negro*, is a sizable part of the reading public—and impedes fair competition in the media market.

Despite several requests by our researchers, including in writing, the secretary general of the interior and director of public information of the government of Neuquén refused to provide information or an interview, and made no comment regarding their advertising policies.

Río Negro: Retaliatory Withdrawal of Lottery Advertising from the *Río Negro*

In April 2002, the *Río Negro* published a series of articles that implicated Miguel Irigoyen, the head of the Río Negro provincial state-run lottery agency, in alleged bribes and other acts of corruption. In response, the state pursued criminal prosecution of Irigoyen and other government officials for fraud and related crimes. At that time, the *Río Negro* had a contract for daily publication of lottery results, which was not renewed—although the agency continued to send results to the *Río Negro*, and the newspaper printed them without charge for approximately six months. The agency then stopped providing the lottery results to the paper, a situation that

lasted approximately one year.¹³ Despite our written request, the Río Negro media secretary did not provide information or comment on this case.

Neuquén: Retaliatory Withdrawal of Advertising from the TV Show *Periodistas*

Periodistas: La Era del Hielo (Journalists: the Ice Age) is an hour-long weekly political information and commentary program that airs on a Buenos Aires-based cable television channel, Plus Satelital. (In 2003, this program debuted and aired on América TV). According to co-host Ernesto Tenenbaum, the province of Neuquén ran advertising on the show for several months until August 2004, when Marcelo Zlotogwiazda, Tenenbaum's co-host on *Periodistas*, made remarks critical of Neuquén governor Jorge Sobisch on his morning radio show on FM Rock & Pop. According to Tenenbaum, the person responsible for Neuquén's advertising in Buenos Aires told him that Sobisch himself canceled *Periodistas*' advertising, despite an agreement to advertise through the end of 2004. Tenenbaum believes "they tried to condition not only the content of the cable program but also what we were saying in other media." He said that generally government advertising accounted for approximately 35 percent of all advertising on the show. In 2004, the show also lost the advertising of the province of San Luis, for similar reasons.¹⁴ Neither the secretary general of the interior nor the director of public information of the government of Neuquén responded to our written request for information and comment regarding this case.

Withholding of Payment for Contracted Advertising

Related to retaliatory withdrawal of advertising contracts, another means of exerting pressure on the media is to withhold payment after advertising has been carried. Our study of recent advertising trends in Córdoba showed that in 2003, 2.8 million pesos or 39 percent of the advertising actually contracted by the provincial government was not paid on time by the end of the year. In 2002, 889,000 pesos (26 percent) was not paid on time.¹⁵ According to journalist and provincial legislator Ricardo Fonseca, these debts are used to negotiate with media outlets and condition their content.¹⁶

Retaliation by withholding payment for provincial government advertising: the case of La Voz del Interior. *La Voz del Interior* published articles critical of the provincial government on July 24 and August 6, 2002.¹⁷ These articles implicated Olga Riutort, who served at the time as general secretary of the interior, in alleged wrongdoing related to her attempt to personally transport 50 million pesos worth of provincial bonds across the border from Chile into Argentina.¹⁸ According to Sergio Carreras, the journalist who authored the articles, and another source inside *La Voz del Interior* who wished to remain anonymous,

during the remainder of 2002, the provincial government then withheld pending payments of 800,000 pesos for already-run advertising.¹⁹ On February 20, 2003, Riutort sued Sergio Carreras and *La Voz del Interior* for libel and slander (*injurias y calumnias*).

According to statements Carreras made in September 2003, “We had a debt of 800,000 pesos and they wouldn’t even answer our phone calls...There was an informal comment from someone [in the government’s administrative area] who said that ‘this isn’t going to be resolved until the lawsuit is resolved.’”²⁰

The government of Córdoba’s general secretary for public information did not respond to our written request for information or comment regarding this case.

Discriminatory Allocation of Advertising to Media Favorites and Political Allies

Córdoba: Post-election Withdrawal of Advertising from *Hoy Día Córdoba*

The daily *Hoy Día Córdoba* found its advertising revenues slashed following the accession to power of a Peronist provincial government in Córdoba in 1999. Other outlets more sympathetic to the authorities have benefited.²¹ With a circulation of approximately 13,000, *Hoy Día Córdoba* is the second most widely read paper in the province after *La Voz del Interior*.²² The newspaper has historically been critical of Peronist administrations.

According to *Hoy Día Córdoba*’s editor, Ernesto Ponsati, the paper received a certain amount of government advertising during 1995–1999, under the Radical Party administration. When the current Peronist governor, José Manuel de la Sota, took over in June 1999, the government abruptly discontinued all advertising in the newspaper. According to Ponsati, between July 1999 and April 2004, *Hoy Día Córdoba* received no government advertising whatsoever despite regular contacts with the relevant government officials by their advertising director.²³ A September 2003 study we conducted, for purposes of this report, on government advertising trends in Córdoba’s major dailies confirmed the lack of advertising claimed by Ponsati.²⁴

In addition, the De la Sota administration never paid off advertising debts run up by the previous administration in 1998 and 1999, although legally obliged to do so. According to Ponsati, “We took steps [regarding the debt] at the political level but failed; we finally became convinced that this was a case of deliberate discrimination.”²⁵

In May 2000, the owners of *Hoy Día Córdoba* took legal action with the provincial civil and commercial courts to initiate an investigation into the behavior of the provincial government of Córdoba. They asked the court to require the government to provide details of the province’s spending on advertising. However, their case was dismissed and their request for

information was never fulfilled. An October 25, 2000, letter *Hoy Día Córdoba* sent to the anti-corruption investigator regarding this case went unanswered, as well.²⁶

The newspaper's directors never received an explanation from the government for the advertising withdrawal. On July 21, 2000, they submitted a letter to De la Sota requesting that he clarify why he gave the paper no advertising after assuming the governorship. No reply was received.

However, from May 2004, the government resumed advertising in *Hoy Día Córdoba*, also without explanation, although, as detailed below, papers with far smaller circulation still receive greater patronage. Ponsati told our researchers, "Even though this is favorable to us and somewhat addresses our complaint...this is still a case of prizes and punishments."²⁷ The outstanding debts owed to the paper for past advertising remain unpaid. Despite our written request, the province's general secretary for public information provided no information or comment on this case.

Neuquén: Discriminatory Allocation of Advertising to *La Mañana de Neuquén* and the Schroeder Group

The Schroeder group is a significant family-run conglomerate that partially or fully owns important provincial businesses in agriculture, medical services, and wine, as well as several media outlets, including LU5 Radio Neuquén, which attracts the largest audience in the province of Neuquén. According to credible media reports, in March 2003, the Schroeder family purchased the daily *La Mañana del Sur* and changed its name to *La Mañana de Neuquén*.²⁸

According to press reports, the Schroeder family has received several sizable loans and contracts from the provincial government, some of which were tainted by allegations that the government provided questionable benefits as part of the transactions.²⁹ According to government information obtained by our researchers, advertising spending by the Neuquén province in *La Mañana de Neuquén* increased significantly after the paper was sold to the Schroeder group and Juan Carlos Schroeder became its director. In fact, government advertising in that newspaper tripled in 2003 to 1.1 million pesos from the 334,000 pesos received by its previous owners in 2002. The paper received another 574,000 pesos in the first five months of 2004 alone. *La Mañana de Neuquén* is generally and consistently uncritical of the provincial administration.

The increase in advertising took place at a time when the Neuquén government withdrew advertising from its main rival, the *Río Negro* (see above), in apparent retaliation for critical coverage. Our own study of advertising trends in Neuquén from June 1 to June 15, 2004, showed that the provincial government published 2,848 cm² of advertising in *La Mañana de Neuquén* during that period, as against 30 cm² in the *Río Negro*,³⁰ although the *Río Negro* has at least double the circulation of *La Mañana de Neuquén*.³¹

At the same time, as discussed in more detail below, government advertising in the Schroeder group's LU5 Radio Neuquén during the same period increased considerably, from 31,400 pesos in 2001 to some 400,000 in 2002 and up to 909,000 in 2003. Despite our requests, neither the Neuquén government nor members of the Schroeder group provided explanations for the exponential increase in government advertising carried by the latter's media outlets, which does not appear to be justified by market or other content-neutral considerations.

Córdoba: Unjustified Allocation of Advertising to Radio LV3

Radio station LV3, broadcast from Córdoba city and retransmitted elsewhere in the country, is generally uncritical of the administration of Córdoba governor José Manuel de la Sota. Our study of government advertising in six radio stations for July 1–15, 2004, found that despite attracting only about 40 percent of the radio audience in the province,³² LV3 receives a full 94 percent of the advertising.³³ In other words, the provincial government allocated more than nine out of every ten seconds of radio advertising to a station that reaches less than half of the province's radio audience. Despite our written requests, neither the government nor LV3 provided information or comment on this case.

The disproportionate allocation is more evident when looking at the advertising received by LV3 competitors. For example, the same monitoring study showed that FM Córdoba reaches 11 percent of the listening audience but received a mere 2 percent of the advertising in question. Similarly, while FM Suquía's audience is nearly 6 percent, it received only 1 percent of the advertising. While we are not suggesting that advertising allocations must respect strict proportionalities of market share, these numbers strongly suggest favoritism and lack of fairness in the allocation of advertising to radios in Córdoba.

Despite our request, the province's general secretary for public information failed to provide information or comment about the allocation of advertising to LV3.

Córdoba: Discriminatory Allocation of Advertising Among Four Newspapers

As shown in Table 1 below, our study of four leading Córdoba newspapers from May 1 to 31, 2004, revealed that more than 65 percent of the provincial government's advertising went to the two with the smallest circulation by far.³⁴ *Comercio y Justicia* is a small paper focused on legal and business issues with an estimated circulation of only 3,800, yet it received 45 percent of government advertising. By comparison, *Hoy Día Córdoba* has a circulation over three times that of *Comercio y Justicia*, yet received only 17 percent of the advertising space, about one-third that received by *Comercio y Justicia*. The largest paper, *La Voz del Interior*, with a circulation 16 times that of *Comercio y Justicia*, received a slim 18 percent of the advertising in question.

TABLE 1

**Provincial Advertising in and Circulation of Four Newspapers
in the Province of Córdoba, May 1–31, 2004**

Paper	Average circulation	cm ²	Percent of space
<i>La Voz del Interior</i>	61,245 ³⁵	2,480	18
<i>Hoy Día Córdoba</i>	13,100 ³⁶	2,147	17
<i>Comercio & Justicia</i>	3,800 ³⁷	6,168	45
<i>La Mañana de Córdoba</i>	3,500 ³⁸	2,775	20
Total cm ²		13,570	100

Rather than being justified by market niche or other technical factors, the privileged treatment of the two smaller papers appears to be the result of considerations of a different nature. In 2001, at a time of severe economic recession, *Comercio y Justicia's* owners abandoned the paper. Since then, like the *Diario de Villa María*, it has been run as a cooperative by its workers. And according to the local press union, the provincial government made a tacit agreement, with support from the vice governor, to provide financial subsidies via government advertising contracts in order to sustain this source of employment.³⁹ While government subsidies for the media are not per se an improper interference with freedom of expression, it is inappropriate and, in this case, far from transparent, to use government advertising as a means of subsidizing a media outlet.

The second-largest recipient of government advertising in newspapers was *La Mañana de Córdoba (Córdoba Morning)*, despite having the second lowest circulation, estimated at just about 4,000 copies. At the time, however, its content was generally more favorable to the provincial government than its competitors, according to our researchers. Until it was bought by the owner of the *Río Negro* in June 2004, *La Mañana de Córdoba* was owned by the conservative Buenos Aires-based daily *Ámbito Financiero*. According to media expert José Luis Tarrico, *La Mañana de Córdoba* was “impregnated by its [former] owners with a center-right position. It had a strong alliance with [governor] De la Sota...and was not going to conflict with his government.”⁴⁰

The government of Córdoba's general secretary for public information failed to respond to our written request for information or comment regarding these issues.

Río Negro: Discriminatory Allocation of Advertising to FM Radio Integración in Viedma, FM Bariloche, and FM Alamo in General Roca

According to the Río Negro government, in 2003 the Viedma-based radio FM Radio Integración and related enterprises such as its production company⁴¹ received 377,750 pesos

in payments for public advertising.⁴² This is over 17 times the amount provided to FM Encuentro (Encounter), another station in Viedma, which received a mere 21,450 pesos. In 2002, Radio Integración and related enterprises received 277,000 pesos as against FM Encuentro's 23,100. This occurred despite the fact that, according to the government's own audience measurements, FM Encuentro has the highest FM audience ratings in Viedma (23.5 percent of total audience share for the peak 6:00 to 9:30 a.m. time slot), whereas FM Radio Integración was at the bottom of a list of 17 with 1.1 percent of the total audience share during these peak hours.⁴³

According to the province's media subsecretary, Claudio Mozzoni, the gap is due to Radio Integración's greater distribution network. The station's programs broadcast between 7:00 to 9:00 a.m. reach several other cities in the province via 35 AM and FM radios and the Internet.⁴⁴ However, not all government advertising to the radio is broadcast during this timeslot. In addition, it is questionable that the reach of a single segment can justify the overly generous amount of advertising showered upon the station.

A more convincing explanation for Radio Integración's favored status may be owner Ricardo Vignoni's close links to the provincial government. According to Río Negro's interior minister, Iván Lázzeri, from 1999 until the end of 2003, Vignoni was the primary pollster for the Radical Party, which has governed Río Negro since 1983.⁴⁵ Furthermore, Radio Integración's content is consistently pro-government, according to our researchers.

The result is that other radio stations in the province receive comparatively negligible public advertising. Antonio Zidar, general editor at the Channel 6 TV station and FM Radio 6 in Bariloche told our researchers, "We have always been very independent and critical in our content, and I haven't received direct pressure, but it does make us angry that we have been totally excluded from government advertising, when we see around us numerous ads in media outlets with very little influence."⁴⁶ Radio 6 traditionally carries an independent and critical editorial line. According to the Río Negro government, Radio 6 received no public advertising at all in 2002 or 2003, whereas its competitor Radio Bariloche, which is generally less outspoken than Radio 6, received 11,000 pesos in 2002 and 9,300 pesos in 2003.⁴⁷ The government's own audience figures indicate that Radio 6 and Radio Bariloche attract similar audience shares, at 17 and 18.8 percent, respectively.⁴⁸

In the city of General Roca, also in Río Negro, the Radical Party provincial government, while it was in power from 1999–2003, showered public advertising on FM Alamo, a station owned by Carlos Fernández, a local Radical Party activist and ally of former governor Pablo Verani. In 2002, FM Alamo received a total of 45,000 pesos from the Río Negro government while competitor station FM Radio Popular received just 7,900 pesos, despite having similar audience shares, according to the government's own figures.⁴⁹ In 2003, Alamo received a total of 29,000 pesos compared to Radio Popular's 11,050.⁵⁰ When asked to explain these differences, Claudio Mozzoni responded that they had been corrected in 2004 by assigning FM Alamo 1,800 pesos per month and FM Radio Popular 1,300 pesos. However, this still represents

a nearly 40 percent difference in favor of FM Alamo.⁵¹ The preferential treatment of FM Alamo appears to be due to Fernández' Radical Party political connections—the current governor is also from the Radical Party—and the clearly pro-government slant of its programming.

Use of Advertising to Condition Content and Fire Journalists

Government abuse of advertising powers and other forms of financial leverage over the media are sometimes used to directly interfere with media content. This section illustrates these disturbing trends by presenting a selection of recent cases which illustrate the effects on independent media coverage and its producers—editors, journalists, and other media professionals.

Neuquén: Journalists at LU5 Radio Neuquén Fired Due to Government Pressure

Several journalists in recent years have lost their jobs at LU5 Radio Neuquén as a result of government pressure, including threats to withdraw advertising. The firings started in the early 1990s, after the Schroeder group took over the station. Ricardo Villar, who in 1992 was the first to lose his job, was told by the station management that the reason was,

strong pressure from the government that if I continued to work there, they were going to cancel the station's advertising That was the first sign we had of the behavior of the new owners of the radio. It was no longer a radio open to the community...it became another instrument of the government, and this became more accentuated over time.⁵²

Journalist Jorge Gadano's program on LU5 was cancelled in 2000. Gadano told us that Juan Carlos Schroeder, whose loan portfolio at the government-owned Provincial Bank of Neuquén (BPN) was blocked at the time, had asked him to be less critical of the provincial government. Ultimately, "[Schroeder] managed to get me to lighten up my criticism because I feared the outcome that finally occurred: from one day to the next the sudden decision to cancel the program."⁵³

Beginning in January 1997, Marcelo Pascuccio and Carlos Marcel hosted a program entitled *La Palangana* (roughly *The Washtub*) on LU5, whose criticism of the provincial government made it one of the more highly monitored programs by the firm Clipping de Medios (discussed above). According to Pascuccio,

For every story we received a complaint... especially for those critical of the government and, in particular, of the Provincial Bank of Neuquén [BPN]. In those days, the station was seeking credit from the BPN, and for this reason it was totally prohibited to discuss

the BPN...we were not allowed to speak of 'Toti' [Luis Manganaro, the president of the BPN].⁵⁴

According to Pascuccio, after *La Palangana* devoted considerable air time to a politically sensitive story in mid-January 2002 involving the provincial government, the station's then-director, Claudia Kossman, told Carlos Marcel that he and Pascuccio would have to take a vacation, and that the program would be cancelled. The program went off the air on January 26, 2002.⁵⁵

The firings coincided with a period of exponential growth in the amount of government advertising carried by LU5, which went from 31,400 pesos in 2001 to some 400,000 in 2002 and 909,000 pesos in 2003. According to an LU5 journalist who wished to remain anonymous,

The station's policy is to minimize topics that irritate the government—poverty indices, allegations of corruption, shortages in schools—or divert interest with 'light' topics. The constant order from the radio's directors is to cover live any movement by the governor in the interior of the province, or press conferences by the governor or his ministers. When these events take place, any program on the air is interrupted. For this coverage they choose the journalists who are most amenable to the government's interests, about whom it is known that they won't make things difficult for the officials with questions that make them look bad.⁵⁶

This journalist affirmed that money received for government advertising

...does not imply necessarily that an equivalent quantity of advertising should air, but rather that the payment is for *todo concepto* [roughly 'all items'], that is, also and especially what is said or not said in the informational content of the broadcast. Remember too that the group manages four other FM stations, one in General Roca, and the rights to retransmission in Neuquén of Cadena 3 [LV3] of Córdoba.⁵⁷

Despite our written request, LU5 declined to provide information or comment on these cases.

Tierra del Fuego: Pressure to Fire a Journalist in Radio FM del Sur

In 1999, journalist Gabriel Ramonet spoke on Radio FM del Sur (FM Radio of the South) about information printed in the weekly magazine *Veintitrés* (*Twenty-three*) regarding the illegal, drug-related activities of the son of a high level provincial official. Subsequently, persons connected to that authority sought to have Ramonet removed from FM del Sur. Ramonet was taken off the air for three days, and was then prohibited from covering political news for two months before returning to his habitual beat covering government and politics.⁵⁸

Alberto Seco, general director of FM del Sur, failed to return repeated telephone calls requesting comment on this case.

Neuquén: Government-paid Space Presented as Independent Journalism

According to information obtained by a well-placed source, a company called Macrocom produces three television programs *Primer Plano* (*First Glance*), *El Mirador* (*The Observer*) and *En Voz Alta* (*Out Loud*), each of which is shown on the private, Neuquén city-based Channel 7.⁵⁹ Speaking off the record, one media expert said, “These three programs present all the good things about the government, [and] are consumed in the interior of the province where there is no cable television, and in large parts of the capital, Neuquén, where many people cannot afford cable.”⁶⁰ A source close to *Primer Plano* told us that of the program’s five segments, two were reserved for the provincial government, for whatever interviews or content it desired.⁶¹

En Voz Alta consists fundamentally of interviews of politicians and government officials from the province of Neuquén, although at times the program addresses issues related to the province of Río Negro.⁶² Another source knowledgeable of the administrative details of this program told us in April 2004 that at the time Macrocom advanced Channel 7 20,000 pesos per month for the air time for *En Voz Alta* and use of the station’s infrastructure, and paid another 6,400 and 3,600 pesos per month for *Primer Plano* and *El Mirador*, respectively.⁶³

At the same time, these programs carry a significant amount of government advertising. For example, on June 12, 2004, according to our own calculations, government advertising during *En Voz Alta* represented 44 percent of the total advertising carried by the program (165 seconds of government advertising vs. 211 seconds of private advertising). Subsequent editions of the same program demonstrated a similar trend. According to our source, the government is charged 50 percent more per second of advertising in these programs than private advertisers.

According to the information on government outlays for advertising provided to us, the province of Neuquén made advertising-related payments to Macrocom of 135,400 pesos in 2002, 98,000 pesos in 2003, and 44,500 pesos in the first five months of 2004. Despite repeated attempts, we were unable to obtain any information or comments about these payments or the programs in question from either the secretary general of the interior or the director of public information of the government of Neuquén, or from Macrocom. As a result, we were unable to determine for what specific advertising services these payments were made.

Neuquén: the Campaign against the Independent News Service Cadena Abierta

In 2003, journalist Fabián Bergero organized Cadena Abierta (Open Network), a group of radio stations, that retransmitted politically independent news and other programming that was generally critical of the provincial government. According to Bergero, many stations signed up but later began to “mysteriously drop out”—small FM radios that received and depended heavily on government advertising. According to Bergero,

For [these radio stations], even 500 pesos is a lot. This year more stations dropped out...they argue that at some point it is incompatible both to have government advertising and transmit the Open Network’s programming. We don’t pay for the transmission of the Open Network news and other programs, and so the small radio stations opt to continue receiving government advertising instead...if these radio stations lose their government advertising, many of them disappear.⁶⁴

The stations in question that receive government advertising belong to a network that retransmits programming from AM Cumbre (AM Peak), which they receive through a transmission system owned by the provincial government. Our researchers spoke with an individual closely connected to the Open Network system who, speaking off the record, described the situation of several stations that dropped out. The examples he provided illustrate a series of pressures exercised by municipal and provincial officials and their detrimental effects on the independent Open Network system:⁶⁵

- ▶ At one municipal radio station, the staff stated that Open Network programming was dropped at the beginning of 2004 in response to pressure to do so from the local mayor, who belongs to the Popular Neuquén Movement party, which currently holds the provincial government.
- ▶ The director of a small FM station reported that he was told by government officials that he would only receive government advertising if he dropped the Open Network news programs. He also reported allegations of the existence of a government blacklist that included all the stations that transmitted Open Network programming.
- ▶ Staff at another station reported that it was made clear to them that the government would only supply necessary equipment for the radio station, which they receive free of charge, in return for dropping the Open Network news program.⁶⁶

Despite our request, the secretary general of the interior and the director of public information of the government of Neuquén failed to provide information or comment about this case.

Córdoba: Power Cuts and Other Pressure to Condition Content at the National University of Córdoba

Córdoba's Channel 10 and Radio Universidad (University Radio) form part of Servicios de Radio y Televisión de la Universidad de Córdoba (Radio and Television Service of the University of Córdoba, SRT). The TV and radio stations are long-time media outlets in the province with a tradition of independent editorial policies. However, in late 2002 and early 2003, apparently taking advantage of SRT's precarious economic situation and dependence on government advertising, the provincial government pressured Channel 10 and University Radio to tone down the critical content of their programming, as described below. The pressure seems to have been somewhat effective.

At the end of September 2002, the provincial government discontinued a three to five minute-long paid television advertisement on Channel 10, and transferred it to Channel 12, another provincial station. On October 3, 2002, in an article in *La Voz del Interior*,⁶⁷ the SRT's directors claimed the government had canceled the advertising in reprisal for an earlier episode of the program *Sociedad Anónima* (*Anonymous Society*) broadcast on Channel 10. The program, run by Tomás Méndez and Carlos Hairabedián, a journalist and lawyer respectively, focused on allegedly illegal electricity lines run to the summer home of then-president of the provincial Senate and interim governor Hermán Olivero.⁶⁸ That same day, the provincial government issued a one-paragraph press release acknowledging the reports about SRT, but denying that government advertising had been canceled in any provincial media outlet.⁶⁹

Then on the evening of December 4, 2002, the state-run provincial power company, EPEC, cut off the electricity supply to Channel 10, University Radio, and another SRT radio station, FM Power, claiming they were in arrears. EPEC also took the unusual step of putting out a press release to justify the power cut, citing a debt of some 1.1 million pesos owed by SRT, some of it dating from 1997. According to the press release, the power cut was part of a policy of "economic justice, founded on principles of equity and commercial opportunity for all businesses"—even though it was unprecedented for EPEC to cut power to entities with which it was negotiating back payments.⁷⁰

For Félix Roca, the president of the board of directors of SRT, "The power cut [was] like a political threat, as the provincial government authorities had questioned the journalistic and editorial content of SRT on various occasions, trying to silence the voice of an independent media outlet."⁷¹ A former director of Channel 10 who wished to remain anonymous told our researchers that "some ministers and other officials called to complain about the journalistic content."⁷²

Roca claimed that SRT's debt to EPEC amounted to only 120,000 pesos in reality, since the rest had already been refinanced in the form of national bonds and an exchange of EPEC advertising on their network for electricity.⁷³ Jorge González, the president of the University of Córdoba, stated that he did not "rule out that this was politically motivated... I understand

that the solution adopted was entirely discretionary, because before cutting the power, another option is consolidation of the debt [owed by the province by SRT for energy and owed by the province to SRT for advertising].”⁷⁴

On the day of the power cut, the directors of SRT went to court to demand an injunction to require EPEC to restore electricity. The next day the judge ordered EPEC to restore power, which it did. In the meantime, the stations had continued to broadcast using generators. The two parties reportedly entered into negotiations, normalized the debt situation, and agreed on an advertising contract for SRT. The value of advertising agreed was put at 140,000 pesos per month, according to both Tomás Méndez (citing Channel 10’s directors),⁷⁵ and a member of the local press union, who spoke off the record.⁷⁶

In early 2003, journalist Jorge Martínez had a morning show on University Radio and hosted the first edition of *Crónica 10* (*Chronicle 10*), Channel 10’s news program. In the words of Martínez, following the power cut in December 2002, and the negotiation that followed, SRT President Félix Roca told him, “If you want to continue being a newscaster, you are going to have to stop a bit regarding De la Sota. If not...forget about being a newscaster.” Martínez had been criticizing the governor [and] the governor’s wife. When he came back from vacation he made a comment about De la Sota. Roca told him, “Starting tomorrow, you cannot comment any longer on issues related to the government...” From one day to the next they took Martínez off the news program, but left him on the radio. His workmates staged a strike and this generated a strong public reaction.⁷⁷

According to Martínez, he learned of his removal on February 18, 2003, when a station employee tacked up a notice on a bulletin board naming a new journalist to the post of newscaster on *Crónica 10*. The local press union demanded his restitution, together with other organizations and public figures. Martínez was restored to his position the next day.

Neither the government of Córdoba’s general secretary for public information nor SRT responded to our written requests for information or comment on these cases.

Córdoba: Journalists Fired and Programs Canceled at Channel 2

The Córdoba government has proved as dedicated to tracking and pressuring small media outlets, such as cable television’s Channel 2, as the larger *Hoy Día Córdoba* or Channel 10. The case of Channel 2 involves the firing of news anchor Alberto Beltrán, the interruption of the live transmission of a program, *Generación X* (*Generation X*) midway-through broadcasting, and the cancellation of five additional political programs. The journalists affected by these events represent a wide range of viewpoints on the political spectrum.⁷⁸ With one exception, all are journalists with long track records in Córdoba. The events drew sharp criticism from the Mesa de Diálogo de Córdoba (literally “Córdoba Dialogue Table”), a multisector coalition designed to seek solutions to the country’s profound social, political, and economic crisis.⁷⁹

According to newscaster Alberto Beltrán, in mid-August 2003, after nine years at Channel 2, he read in a newspaper that he had been removed from his post.⁸⁰

That day I went to the channel at my regular time, and I waited two hours to speak to the director...and the guy ends up confessing to me, looking down at the floor... that there was a change in programming following a series of approaches [by Channel 2] to different companies and sectors, including the government. [The channel was] negotiating live transmission of culture and congressional sessions and that among the changes I no longer fit into the informational segment. 'Did they ask for my head?' was my question. 'I wouldn't put it like that. I would say that you don't fit in to the scheme that we've agreed upon.' That was the explanation I received.⁸¹

On August 22, 2003, one week after Beltrán's firing, Channel 2 interrupted *Generación X* mid-broadcast, pulling journalists Lucas Balián and Gastón Gracia off the air in the middle of a story on alleged irregularities in slot machine concessions in the province, involving both the provincial government and a company that received the concessions. Balián told our researchers that in the middle of this report,

the floor manager came into the studio and told us, 'You need to cancel this report now. This is very serious. Invent something,' and then he went to the switcher and he put us back on the air. At that point we told the audience, 'They have just canceled our report, and we will be going off the air. Be aware that in Córdoba many serious things happen that can't be said in the media, and we say goodbye until next Tuesday, if we are here.'⁸²

The journalists had cause to worry: when they were leaving their offices two weeks earlier, two armed persons in a car pulled up and told them, "Stop messing around or we will fuck you up" ("Dejen de hacer boludeces que los vamos a hacer cagar.") Nevertheless, the day after *Generación X* was pulled, Balián and Gracia gave several interviews in the media discussing the event. Later, Channel 2 directors Leonardo Trettel and Arnaldo Martínez called them to a meeting and told them that, because of these interviews, their relationship with the station was over. They were offered one final show, but since they were not allowed to run the report on the slot machines, they refused the offer. The only reason the directors gave them for the program's cancellation is that the channel had to verify the information they were running.⁸³

Balián and Gracia also told us that Channel 2 began to run remarkable amounts of government advertising after these incidents, usually a series of ads, one after the other. "One time we counted 12 minutes of government advertising. In our time, there was sporadic advertising, never anything like that," one of them said.⁸⁴

In late 2003, CBA Prountel, the company holding the license for Channel 2, split in two. CBA Prountel (on cable station Multicanal), which inherited the name of the original company, kept Channel 2, but eliminated five political opinion and debate programs—and kept their

government advertising.⁸⁵ The company that split away, CBA Cable Vision, brought the five dropped programs to their new channel, and, according to journalists Ricardo Fonseca and Gonio Ferrari, did not receive a peso of government advertising after that.⁸⁶

On January 2, 2004, CBA Prointel's Arnaldo Martínez said that the five programs had been dropped in order to cut costs in January and February. He said the journalists in question were welcome to submit their programs again for scheduling, but that they would have to change them to suit the company's editorial line.⁸⁷

Ricardo Fonseca claims he learned from one of the Channel 2 directors that the pressures on the station began in April 2003, when a senior provincial legislator telephoned the station management to complain about its programming.⁸⁸ Fonseca added:

During the De la Sota administration different persons [from government] used to pressure us and call us to tell us to be more prudent with our criticism of the government or we would no longer receive government advertising. These pressures became more accentuated as Channel 2 became more independent in a few sectors and programs. In April 2003...a high level official in the De la Sota government called the president of the channel, Leonardo Trettel ... saying, 'We know the station is making losses—this can be solved [if you] cancel Fonseca, Gonio, and Guruzeta.' ... The pressure continued with phone calls and messages from government officials, legislators, advisors, and press directors: the criticism had to stop....At the end of 2003, [Arnaldo] Martínez, the new programming director, said the station's editorial line could not criticize the provincial government because there had been an advertising agreement.⁸⁹

On January 9, 2004, the Mesa de Diálogo de Córdoba issued a press release calling on the provincial government to pass a law to guarantee transparency in the allocation of government advertising. The release noted, "This request is a reaction by the Mesa to the recent decision by the authorities of Channel 2 to cancel five journalistic and opinion programs transmitted on cable television... Channel 2's decision could be understood as an act of indirect censorship." The local press union, the Círculo Sindical de la Prensa (CISPREN), also condemned the events at Channel 2.⁹⁰

One of the five producers involved, Alfredo Guruzeta, told us that government officials had, on two occasions, withdrawn advertising from his twice-weekly show *Con Sentido Común* (*With Common Sense*) in retaliation for its content. On one occasion, in October 2003, the provincial lottery withdrew advertising after Guruzeta told audiences to vote for an opposition candidate. Earlier, in 1999, the provincial sports agency withdrew advertising "because I pointed out that one of their officials was unable to travel to Europe because of a drug problem he had."⁹¹

Neither the government of Córdoba's general secretary for public information nor CBA Prointel responded to our requests for comment and information regarding the events involving Channel 2.

Conclusions

In all of the provinces under study, government officials have used and abused advertising and other financial tools. They have both rewarded and manipulated the content of several small- and medium-sized media with pro-government editorial lines by granting them advertising that is clearly disproportionate to their circulation or audience shares and otherwise unjustified. At the same time, government officials in Córdoba, Neuquén, and Río Negro have punished more independent media with small or no allocations of advertising, or have withdrawn advertising in response to adverse coverage. In general, provincial governments committed the worst abuses, with several municipal governments not far behind.

Provincial and municipal laws on advertising present a mixed picture. In the provinces of Río Negro, Neuquén and Tierra del Fuego, officials charged with contracting advertising services enjoy unwarranted discretion, largely unfettered by substantive criteria or process requirements. In Córdoba, provincial laws require competitive allocation of advertising contracts above a certain monetary amount, depending on the seniority of the approving official. In all four provinces, responsibility for contracting advertising is generally centralized in one office or even one official, which contributes to lack of transparency and the possibility of abuses.

In practice, despite any legal differences among the four provinces, open and competitive allocation of government advertising is uniformly unheard of—including Córdoba. This suggests that even where the law requires a bidding process for certain contracts, such requirements are either squarely ignored or evaded by artificially chopping up the contracts into amounts smaller than the legal threshold.

With its enormous advertising budget, discriminatory practices and the use of private agencies to monitor the editorial content of even small media outlets, the Neuquén provincial government demonstrates the most concerted and extreme use of advertising for political means, especially in the wake of the March 2004 announcement by governor Jorge Sobisch of his candidacy for the national presidential elections in 2007. The provincial government has utilized its discretion over advertising to influence outlets even as large and financially independent as the *Río Negro* as well as those as small and precarious as the radio stations in the interior that subsist on little more than 500 pesos worth of government advertising per month. Tierra del Fuego's provincial government appears not to have used advertising as a tool of retaliation—nor does it need to, having set up an extensive, pervasive and regrettably effective scheme for buying the voice and silence of almost all key provincial media.

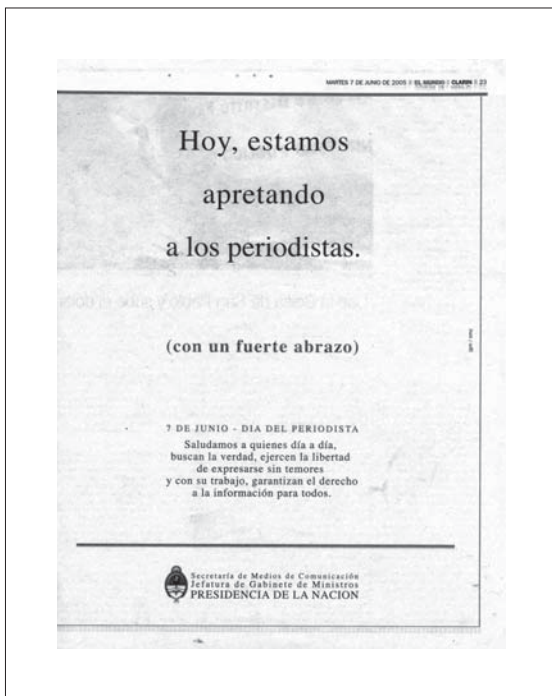
In general, in all four provinces, government officials do not interfere with content by making direct contact with journalists. Rather, they use economic pressure on media owners and directors, who then follow up with journalists.

In sum, although the *modus operandi* of government officials with respect to government advertising demonstrates similarities and differences in the provinces under study, in

all four, media freedom and independence are seriously hindered by ongoing and systematic government advertising and financial abuses.

Governments often use advertising and other financial incentives as a stick to impede trenchantly critical, or simply unsympathetic, coverage; to force owners and editors to fire or sideline critical journalists; to punish or “make an example” of critics; and to cause the financial demise of critical voices. Financial incentives can also be used as a carrot, to persuade media outlets to carry favorable coverage of the government and its officials, to deny access to or prohibit favorable coverage of government opponents, and to exert direct control over the content of print space or airtime. Advertising is often used as a hidden subsidy to reward general loyalty and overall favorable coverage. Such unfair allocations and secret subsidies distort competition in the media industry and encourage professionals to put personal and professional profit above journalistic integrity.

V. Improper Interference at the National Level



Translation:

“Today, we are squeezing journalists (with a strong hug).

July 7, Journalists Day. We salute those who day to day seek the truth, exercise the freedom to express themselves without fear and with their work, guarantee the right to information of all.”

Source: Clarín, June 7, 2005

Relationship Between National Government and National Media

Few national level media outlets¹ depend on government advertising revenues for their survival, and advertising disbursements are not the sole or even the most common instrument of government pressure at the national level. Indeed, the fortunes of media conglomerates are affected by a non-transparent web of discretionary government powers, such as licensing or tax policy.

At the national level, it appears that advertising is used principally as a means to subsidize favored or politically sympathetic media outlets. Our research found cases of two media outlets, the newspaper *Página/12* and the television channel América TV, favored in this way. In addition, there is considerable evidence of non-advertising related pressures on national media, ranging from denial of access to government information to particular journalists, to direct interventions by government figures to alter content and even kill certain programs.

We touch upon some of the financial issues in the government-media relationship before turning to specific cases of abuses.

Financial Stakes in Government Policies

The 2001 crisis and its lingering effects have left the national media in a particularly precarious financial situation, increasing their vulnerability to government pressures or dependence upon government favors for their financial survival. Several major national media outlets owe large debts, sometimes in foreign currency, often the result of purchasing other media.² Those with debts in U.S. dollars stood to lose a lot when Argentina abandoned the peso-dollar peg in early 2002, since the devaluation hugely increased the cost of foreign debt repayments.³ Other costs were incurred, as well. As the Inter-American Press Association pointed out in an April 2002 letter to then-president Eduardo Duhalde, the print media was hit by a post-devaluation increase of 270 percent in the cost of its imported inputs and a 100 percent increase in the cost of newsprint.⁴

Other government policies have resulted in significant economic costs to media outlets, as well. For example, until 2001, the print media was exempt from value added tax (VAT, currently 21 percent). However, in 2001, the government of president Fernando de la Rúa decided to apply this tax to the print media, which both raised the newsstand price for consumers and increased the cost of advertising. Coupled with the severe economic recession of 1998 to 2002, this measure reportedly contributed to reductions in circulation of the print media generally.⁵

Because of their dependence on operating licenses, broadcast media are particularly exposed to potential government interference. For example, the online news service *Diario sobre Diarios* (*Newspaper about Newspapers*), a publication specializing in media developments,

alleged in June 2004 that the continuation of the Clarín Group’s license to run Channel 13, a privatized TV channel, depended on a decision to be made by President Kirchner.⁶ The report provoked speculation about how Kirchner’s role might affect *Clarín*’s editorial line in the next several months.⁷ A high-level government official told media analyst Dardo Fernández, director of *Diario sobre Diarios*, that members of the current administration hoped that *Clarín* would be “affectionate” in its treatment of the national executive.⁸ The Clarín Group retained its license.

In fact, in May 2005, Kirchner issued a presidential decree that effectively extended all current broadcasting licenses for an additional 10 years beyond their then-current expiration date.⁹ This measure, with enormous political and financial implications for the broadcast media, was a surprise to the public and occurred with no public debate whatsoever.

In this context, government advertising is not necessarily the most powerful financial tool at the national government’s disposal for influencing media content.¹⁰ Nevertheless, journalists and media observers agree that the amount of public funds spent on government advertising—well over 100 million pesos in 2004 alone¹¹—lends itself to the possibility of abuse; that the lack of transparency is alarming; and that numerous abuses do in fact take place. However, few in the media are willing to discuss these issues—precisely because the personal and financial cost to journalists, directors, and others could be high, reaching to individual jobs and livelihoods or millions of pesos in lost government advertising revenue. As described below, the government has also pressured media owners, directors, and individual journalists directly in relation to the content of what they publish.

The data for this section come from a number of sources. We conducted a study of government advertising trends in four national newspapers, *La Nación*, *Clarín*, *Página/12* and *Ámbito Financiero* for a two-week period from April 19 to May 3, 2004.¹² The most pertinent results are discussed below. We also obtained a copy of a detailed report on national executive branch spending on government advertising for the period of June 2003 through May 2004 prepared by the office of the president’s chief of staff and provided to the lower house of Congress.¹³

Arriving at the Presidency: The Misuse of Provincial Government Funds During the Last Presidential Campaign

In March 2003, the weekly magazine *TXT* reported that the province of Santa Cruz, governed by then-presidential candidate (now president) Néstor Kirchner, had paid 134,000 pesos to *Crónica TV* for coverage of provincial government activities during the campaign leading up to the April 2003 presidential election.¹⁴ The charge was based on official documentation obtained by journalist

Martín Sivak. This amounted to a double violation: not only had Kirchner's government used provincial funds for his own campaign purposes, but had used them to purchase control over news content, broadcast as part of the regular, supposedly independent newscasts on Crónica TV.¹⁵

At the time, Sivak made several attempts to talk by phone to Kirchner and members of his campaign staff, but his calls were never returned and he received no response whatsoever. Likewise, there were no reactions or denials after Sivak published his findings in *TXT*. The government of Santa Cruz did not respond to our requests for information or comment regarding this case.

According to Sivak, the provincial government and Crónica TV made several other deals of this nature since 2001. At the same time, President Kirchner is not the only politician to have purchased "news time" on Crónica TV for the coverage of events subsequently presented as independent news. According to Sivak's sources, the former governor of San Luis and then-presidential candidate Adolfo Rodríguez Saá paid 17,850 pesos in December 2002 to increase the coverage of his public events. In four off-the-record interviews between May 2000 and March 2003, various campaign press workers confirmed to Sivak that candidates have paid Crónica TV an average of 5,000 pesos for similar coverage of campaign events.¹⁶

Advertising Legal Framework and Practices

At the national level, a complex and ambiguous legal framework enables government officials to ignore competitive allocation requirements and hand out advertising with near total discretion. General national regulations for contracting goods and services are contained in a series of executive decrees that include basic definitions and parameters (such as peso limits) for various types of contracts.¹⁷ The general rule for procurement of services, established through a combination of laws, regulations, and jurisprudence, is an open, competitive bidding (known in Spanish as *licitación pública*).

Under a 1971 decree, still in force, all contracting of government advertising is to be conducted by Télam, the national government's news agency¹⁸—yet neither this decree nor subsequent regulations specify what the contracting procedures should be. Luis Lazzaro, who was the general director of Télam until August 2005, and Graciela Misasi, the general director of government advertising (an office of the media secretary), told our researchers that Télam acts as an advertising agency, providing design, production, and placement services to various government agencies. Télam may choose to contract design and production to third parties, for which they generally use either direct contracting or so-called "private contracting," a slightly

more competitive process in which five firms are invited to bid.¹⁹ However, the placement of government advertising is handled exclusively by Télam. Once a campaign plan has been finalized, Télam issues an advertising purchase order (*orden de publicidad*), similar to those used in the provinces²⁰ (for a sample purchase order see Appendix C).

A 1996 decree provides that all executive agencies must channel all requests for advertising to the press secretary (now called media secretary), which reports directly to the president's office.²¹ According to Luis Lazzaro, the national media secretary is responsible for establishing priorities and assigning resources for advertising campaigns. Graciela Misasi confirmed that apart from those agencies that advertise independently (discussed below), her office controls and allocates the budget resources for all executive branch advertising campaigns.²²

The media secretary formally requests Télam to organize campaigns with specific objectives and according to the available resources for particular "clients" (government agencies). Télam then plans the campaign, negotiates the terms with the various media outlets, and sends this plan to the media secretary, who must approve the plan, and may modify it.²³

When asked why the government does not use direct or other competitive contracting for advertising space, Misasi replied that it was not viable because of the urgent nature of placing advertising. According to an advertising manager at a major national newspaper, however, the government can feasibly plan many campaigns well in advance, but tends to make decisions about advertising "from one day to the next."²⁴

Misasi did not explain why the government does not employ competitive processes in the case of non-urgent advertising campaigns. When asked what legal authority allows the government to bypass regular, more competitive processes for the contracting of goods and services, she replied simply that "the media secretary has the authority"—although there appears to be no legal authorization for the secretary to override general procurement rules. Misasi rejected our request for information on the amount of advertising allocated to different media outlets, suggesting that such requests must be made in writing to Media Secretary Enrique Albistur.²⁵ Our subsequent written request to Albistur went unanswered.²⁶

According to Lazzaro, media outlets generally inform Télam monthly of their advertising rates. Télam negotiates discounts in relation to these prices, a practice which was confirmed in the July 2004 report of the presidential chief of staff. Lazzaro told our researchers that Télam's contracting procedures are regularly reviewed by the executive auditor (Sindicatura General de la Nación or SIGEN).²⁷ Our attempts to meet with SIGEN representatives were unsuccessful.²⁸

No specific legal criteria appear to regulate the selection of media outlets for ad placement. Lazzaro told us that allocation decisions are made on an ad hoc basis, considering the objectives of the campaign, the need for coverage, the reach of the media in question, and the resources available. The July 2004 report of the presidential chief of staff reiterated this point: "The assignment of resources has been the result of planning for each case, taking into account the persons we want to reach and the geographic coverage, and relating them to the objectives of the relevant message."

He added that the government takes into account rating, audience, and circulation information, but he did not indicate how much weight is given to these variables as against price or others.

According to Lazzaro, subsequent decrees issued in the 1990s by then-president Carlos Menem authorized several national agencies to contract their own advertising (including production and space), independently of *Télam*, and to define their own advertising processes.²⁹ These exempted agencies include the national tourism office, the national lottery, the Federal Administration for Public Income and the National Bank. This practice was confirmed by Graciela Misasi.³⁰ In October 2004, we asked the lottery and revenue collection agencies for information regarding their advertising practices and expenditures but received no response. The national tourism office answered our request for information, indicating, among other things, that this office had spent some 3.1 million pesos of its 4.8 million peso advertising budget for 2004.³¹ Figures provided by the president's office to Congress demonstrate that the autonomous agencies manage significant advertising budgets, though far less than the totals overseen by *Télam*.³² Furthermore, it appears that their spending patterns are relatively independent of other executive agencies and, based on an analysis of several months' advertising in newspapers and on television, it appears that the autonomous agencies do not discriminate in choosing where to place advertising, in the same way we observed with respect to the centralized agencies. For example, the disproportionate allocations of advertising through *Télam* to *Página/12* and América TV, described later in this section, are not replicated by the autonomous agencies.

In addition to the general regulatory environment described above, a number of specific laws and regulations determine the peculiarities of federal government advertising among national media. Some of these are listed below.

Legally-required Free Advertising

A 1980 national law regulating television and radio operations describes the types of government announcements that media are required to broadcast for free. These include, for example, ads related to grave emergencies or immediate dangers, but also “issues of national, local and regional interest” authorized by COMFER—the Federal Broadcasting Committee—a very broad definition.³³ In his July congressional report, Chief of Staff Alberto Fernández stated that the government has made use of the 90 free seconds per hour that television and radio stations are required to provide for “issues of national interest.” However, he did not clarify what these issues are.

Free Advertising in Lieu of Payment of Fines

According to media marketing professionals, advertising is negotiated with *Télam* either in cash payments or in lieu of payment of fines. Radio and television stations are commonly fined for violating norms regarding content, and have also been fined for refusing to transmit certain advertising, as described below.³⁴

According to a June 4, 2004, article in *La Nación*, up until April 2004 television stations owed approximately a billion pesos to the national government in fines and depended on the goodwill of the national government both to forgive much of that debt, and to negotiate favorable exchanges of the balance for government airtime. On April 23, 2004, however, a decree signed by President Kirchner prohibited both debt forgiveness and exchanges in-kind for airtime.³⁵

In 1999, attorney Beltrán Gambier filed a constitutional action to require that the government cease broadcasting a television advertisement he alleged was designed to promote the image of then-president Carlos Menem. The ad contained the message “He [Menem] didn’t do everything. But no one can deny that he did a lot.” The first instance court ruled in Gambier’s favor that this ad did not promote the “national interest,” and this ruling was upheld on appeal.³⁶ Speaking off the record, well-placed sources at a major national radio told us that the station was fined by the government 28 million pesos for refusing to run these same advertisements, despite the court ruling that the advertisements no longer be broadcast.³⁷

Advertising and Related Abuses

In this section we provide several examples that illustrate the federal government’s often abusive, opaque and/or politically motivated allocation of advertising. We demonstrate that the government’s criteria for allocating advertising are at times motivated by concerns entirely unrelated to the effective communication of its messages to the public.

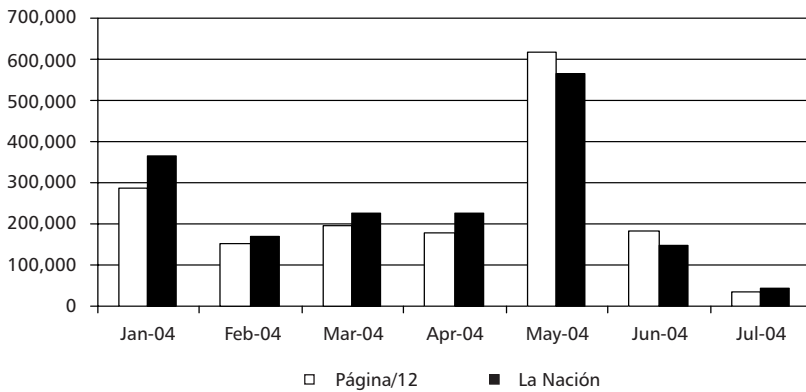
Unjustified Allocation of Advertising in National Newspapers: The Case of *Página/12*

Our statistical survey of advertising trends in national newspapers revealed that between April 19 and May 3, 2004, government (national, provincial, and Buenos Aires city) advertising in the major national dailies *La Nación* and *Clarín* represented 5 percent of total advertising. By contrast, government advertising in *Página/12* amounted during the same period to 29 percent—18 percent alone corresponding to the national government. According to Dardo Fernández, director of *Diario sobre Diarios*, and the late *Página/12* journalist Julio Nudler, government advertising is critical to the financial survival of this paper.³⁸

Página/12 received 10,255 cm² of national government advertising during the two-week period of our survey, nearly the same amount as *La Nación* (10,766 cm²), and a hefty 83 percent of the total placed in Argentina’s most widely-read daily, *Clarín* (12,348 cm²)—despite having a fraction of their circulation. According to the Institute of Circulation Verification (IVC), *Clarín*’s daily circulation is 407,000 and *La Nación*’s is 161,000. Although *Página/12* claims an average circulation of 106,640, that figure is not subject to any independent audit; journalists at *Página/12* and others have estimated its circulation to be between 15,000 and 20,000.³⁹

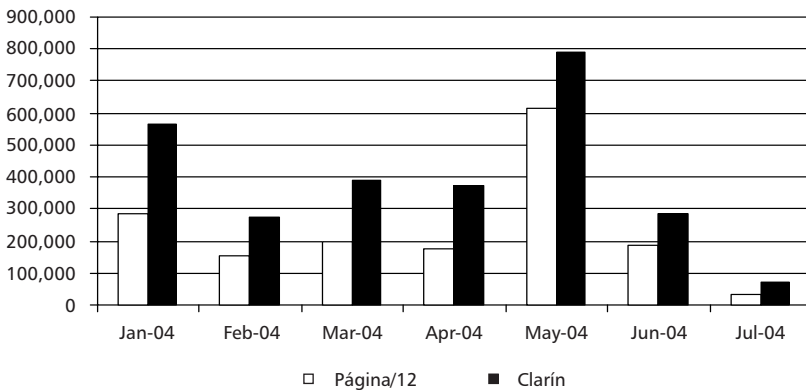
The trends identified by our own survey were largely confirmed by the government's own figures on advertisement spending for the period January through July 2004, contained in the presidential chief of staff's July 2004 report to Congress.⁴⁰ Over those six months, government spending on advertising in *Página/12* (1.64 million pesos) represented 94 percent of that spent in *La Nación* (1.74 million pesos), and 60 percent of the amount spent in *Clarín* (2.75 million pesos). In May and June 2004, government advertising expenditure in *Página/12* actually surpassed that of *La Nación*. Yet even by *Página/12*'s own reckoning, the paper has only 66 percent of *La Nación*'s circulation, and 26 percent of *Clarín*'s (and these figures drop to 12 percent and 5 percent respectively if we use the lower estimate of 20,000).

Federal Government Advertising Expenditure in *Página/12* and *La Nación*, January to July 2004, pesos



Source: Report by the Presidential Chief of Staff to the Lower House of Congress, July 2004

Federal Government Advertising Expenditure in *Página/12* and *Clarín*, January to July 2004, pesos



Source: Report by the Presidential Chief of Staff to the Lower House of Congress, July 2004

This trend worsened in 2005. Between January and June 2005, *Página/12* received the second largest peso amount of advertising, after *Clarín*, leaving *La Nación* in third place. During that period *Página/12* received some 4.5 million pesos in advertising, compared to 3.7 million that went to *La Nación*.⁴¹

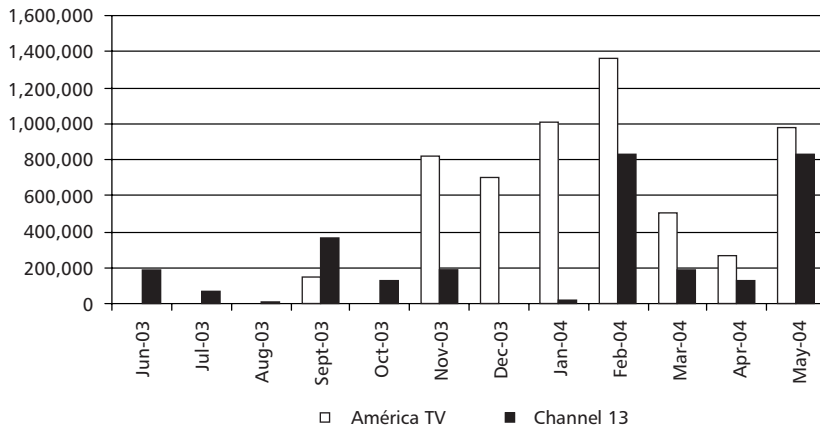
In sum, it seems clear that the national government has given *Página/12* a highly disproportionate share of government advertising, both in terms of space and peso amounts. Such generous allocations cannot be justified by the paper's circulation or any other competitive advantages, such as profile or readership niche, that are commonly used in procuring advertising services. Since President Kirchner took office in May 2003, *Página/12* has taken a generally pro-government editorial line. This appears to be the product of its ideological compatibility with the current administration, rather than a result of pressure, especially on issues of historic importance to *Página/12*, such as human rights. Sergio Kiernan, the paper's weekend editor, was quoted as saying, "The paper has the right to back the government if we agree on certain issues."⁴² Neither the national media secretary nor *Página/12* responded to our request for information or comment on these advertising figures.

Unjustified Allocation of Advertising in Television: The Case of América TV

As in the case of *Página/12*, the large amount of government advertising time purchased at the television station América TV (Channel 2) in 2003 and 2004 appears to have been allocated on the basis of political or other improper considerations. According to government figures for the period from June 2003 to May 2004 (excluding autonomous agencies), advertising spending on América TV was significantly higher than the allocations to its main national competitors. The total amount received by América TV was nearly double that of, for example, Channel 13 (5.8 million pesos versus 2.95 million pesos), although América TV's audience ratings were consistently significantly lower than Channel 13's (the average rating for América TV was 8.5 points at peak times, while that of Channel 13 was 21.13 points).⁴³ According to the chief of staff's report, América TV also ran an unspecified amount of free publicity in exchange for fines in the first six months of that period, which further widens the revenue gap between the two stations.

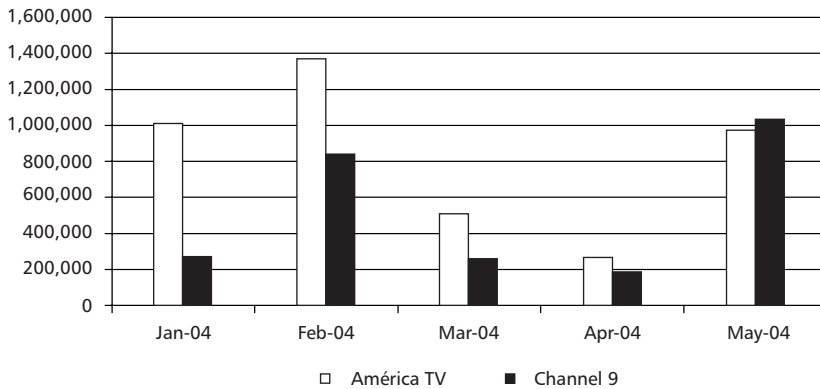
Similarly, for the period January through May 2004, América TV received 160 percent of the advertising revenue received by Channel 9 (4.1 million pesos compared to 2.6 million pesos), despite the fact that their ratings for that period were roughly equivalent (in fact, Channel 9's were generally higher, with the exception of January 2004).⁴⁴ Even assuming that América TV's actual ratings are somewhat higher than those provided by IBOPE, the difference is unlikely to justify its significantly more generous treatment by government advertisers, compared to Channel 9. Channel 9 is widely considered to be conservative in its editorial line, and is owned by a group of investors including Daniel Haddad and Raúl Moneta, the latter with links to former Peronist president Carlos Menem.

**Federal Government Advertising Expenditure for América TV and Channel 13,
June 2003–May 2004, pesos**



Source: Report by the Presidential Chief of Staff to the Lower House of Congress, July 2004

**Federal Government Advertising Spending for América TV and Channel 9,
January through May 2004, pesos**



Source: Report by the Presidential Chief of Staff to the Lower House of Congress, July 2004

Advertising spending on América TV was also roughly double that of Channel 11 (however, according to Télam’s former general director Luis Lazzaro, Channel 11 had for several months refused to run government advertising due to government delays in making payments for past services).⁴⁵

Since 2003, Julio Bárbaro has been the head of the government’s federal broadcasting agency, known as COMFER. When asked, in a February 6, 2005, interview, why América TV and Channel 9 receive more government advertising than other channels, he replied, “Because

if the government does not help them, they will go out of business. If the government does not give alms to América [TV], the channel will go out of business.” According to Bárbaro:

América TV and Channel 9 receive government advertising because they are unable to survive in the market.... When the situation changes, the State will take some distance.... The State does not help according to ratings, but rather sustains those channels that society needs. I believe that with the arrival of [television host and media investor] Marcelo Tinelli, Channel 9 will save itself, and in that case, the State will only have to continue helping América TV.⁴⁶

The case of América TV illustrates the dangers of allowing the federal government to decide which media “society needs” and should be subsidized with public advertising. Neither América TV nor the national media secretary responded to our written requests for explanations regarding the amount of public advertising received by the station in 2003 and 2004. The lack of convincing justifications for the special treatment received by América TV during that period, relative to Channels 9 and 13, suggests that political or personal favoritism was at play.

During the first six months of 2005, the amount of government advertising carried by América TV appears to have dropped considerably. During this period Channel 11 received some 3.6 million pesos, Channel 13 received 3.5 million, Channel 9 was next in line with 3.2 million pesos, and América TV received 2.1 million pesos.⁴⁷ Neither América TV nor Media Secretary Enrique Albistur responded to our requests for an explanation of this significant change in the advertising relationship between América TV and the national government.

Other Content-based Interference by Government

As in the provinces, our research revealed that governments at different levels sometimes interfere with freedom of expression through indirect means unrelated to government advertising. The following examples show how these pressures work at the national level.

Pressure on the Television Program *Día D Clásico*: Attempts to Cancel a Critical Story

At times, a station that receives generous amounts of government advertising can also be the subject of pressures regarding content, as was the case with América TV. In late 2003, a series on this channel was subjected to government pressure not to broadcast a critical program. Although the program was broadcast, the series was subsequently taken off the air. *Día D Clásico* (literally *D-Day Classic*⁴⁸) was a weekly political commentary program that aired Sunday evenings from 9:00 to 11:00 p.m., hosted by Jorge Lanata, the founder of *Página/12* (which he subsequently left). Lanata is known for his hard-hitting reporting on corruption and irreverent

style, and his television programs have won numerous national awards for best journalist and best journalistic program.

On October 5, 2003, *Día D Clásico* journalist Andrés Klipphan broke a story on the government's multi-billion peso "PAMI" health program for retired persons, which in the 1990s became a byword for government corruption. The PAMI program has been bankrupt since mid-2003. On the show in question, Klipphan reported allegations that Juan González Gaviola, the person designated by President Kirchner to head up PAMI, had appointed friends and relatives to PAMI posts and was responsible for spending irregularities. Klipphan had additional information to present on the following Sunday.

Lanata told our researchers that between the first program and the second, presidential chief of staff Alberto Fernández spoke with Carlos Ávila, the owner of América TV, and that Ávila subsequently called Lanata to tell him to cancel the program segment on the PAMI scheduled to run on October 12. Lanata said he argued with Ávila and ran the segment anyway.⁴⁹ On the October 12, 2003, program, Lanata further denounced the pressure he had received and announced that the broadcast might be his last. However, he finished out the season on *Día D Clásico* at the end of 2003, as scheduled, though the program has not returned to the air since.

Andrés Klipphan reported that up until a few minutes before the October 12 program aired, it was not clear whether or not it would be cancelled altogether. Furthermore, he stated that in retaliation for the show, and despite regular contact before then, presidential spokesperson Miguel Nuñez no longer takes his phone calls.⁵⁰ Lanata also stated that at the government's request, Ávila asked him to remove Andrés Klipphan from the show.⁵¹

Lanata told our researchers that throughout 2003, the government exercised a remarkable level of pressure on the station's editors and owners to tone down the content of *Día D Clásico*. According to Lanata, President Kirchner's chief of staff, Alberto Fernández, called him personally on two different Saturdays to find out what stories would appear on the program the next day. "It was outrageous that they were calling me like that," he said, and remarked that even when former president Carlos Menem (1989–1999) cut off government advertising at *Página/12*, no-one ever called him to exert pressure on content in such a direct way.⁵²

Neither Chief of Staff Fernández nor Carlos Ávila responded to our requests for comments or information regarding this case.

Content-based Pressure on Reporters, Editors, and Media Owners

According to multiple firsthand accounts, high level executive officials routinely seek to interfere with media content by pressuring media directors and, at times, contacting journalists directly.

According to a political reporter in a major national daily, once Kirchner assumed the presidency, it was normal for members of his staff to make calls that this journalist perceived as pressure.⁵³ The journalist recalled that after he wrote an article on a summit of Latin Ameri-

can presidents, a member of the president's staff called him and spent approximately 20 minutes on the phone asking him to reveal the source of certain information viewed as critical of the president. "There is a special concern about irritating the president," the journalist said. "All of us who cover the government have the feeling that we must be more moderate."⁵⁴

Journalist Nelson Castro, of Radio La Red (the Network) and the cable news station TN (Todo Noticias), also confirmed reports that high level executive officials are in the habit of contacting journalists not to correct published information, but to complain about coverage critical of the government.⁵⁵ Dardo Fernández told our researchers that at least four journalists had told him that they had been contacted on their mobile phones by high level officials who complained about stories.⁵⁶ According to Andrés Klipphan, it is not uncommon even for cabinet ministers or their press secretaries to call reporters, including radio and television reporters on the ground (known as *movileros*) to complain about stories.⁵⁷ Matías Méndez, press director for former congresswoman and presidential candidate Elisa Carrió, said several journalists, including *movileros*, had contacted him with complaints of aggressive phone calls from high-level officials.⁵⁸

It appears that, starting in early 2004, members of the president's office have called journalists less frequently, opting instead to communicate their discontent to media owners and directors who, in turn, often pass that information to their section chiefs. A political editor at a leading national daily confirmed that a high level government official has called the paper's top management to complain about stories printed, to discuss how the paper is planning to cover potentially sensitive topics, and to request that certain information not be printed. The editor added that, at times, headlines and articles have been altered as a result, especially material that appears on the front page.⁵⁹

In reply to allegations by the Inter-American Press Society that the national government limits press freedoms, President Kirchner stated that, "If I do not agree with a media outlet, no matter how many newspapers it may sell, I'm going to tell them. In the end, what's most important is to say what one thinks and not look at how one stands vis-a-vis the media."⁶⁰ According to the Argentine news agency Diarios y Noticias (Newspapers and News), President Kirchner's Chief of Staff Alberto Fernández stated that he has the right to call a journalist and say "Hey, what you are saying is not true" and opined that such calls do not constitute pressure on the press.⁶¹

While it is not necessarily inappropriate for government officials to communicate with media professionals on matters of media coverage, the aggressive attitude of the current administration revealed by the testimonies above is clearly unacceptable. The apparent barrage of phone calls coming out of the presidential offices is clearly intended to keep the national media in line and "chill" future reporting that may not be to the liking of the Casa Rosada, the national executive offices in Buenos Aires.

Denial of Access to Government Institutions and Information as Reprisal for Critical Coverage: *Noticias Magazine*

Noticias (News) is a weekly news magazine that, according to its national political editor, Darío Gallo, sells approximately 50,000 copies per week. It is one of the few magazines that have been consistently critical of the Kirchner administration.

In an interview with our researchers, Gallo reported that officials of the Kirchner administration to whom he had regular access since Kirchner took office repeatedly and arbitrarily denied him and other journalists at *Noticias* interviews and information since October 2003 in retaliation for reporting critical of the government. He cited the specific case of the denial of access to the Media Secretary Enrique Albistur in response to information that appeared in *Noticias* on October 18, 2003, regarding the government's arbitrary selection of journalists to travel with President Kirchner on the presidential aircraft (see below). Gallo reports that before the publication of that article, he had had regular and unimpeded access to Albistur. After the article, Albistur no longer responded to his phone calls and refused to give him an interview, despite approximately 20 requests. During one attempt by phone, one of Albistur's assistants told him that Chief of Staff Alberto Fernández had prohibited Albistur from meeting with Gallo.⁶²

The situation has been similar with other government officials. According to Gallo, since October 2003, ministers and other officials who had before given him interviews will now only meet with him clandestinely. They will only communicate by email but not telephone. They will not meet in their offices but only in cafés where they are not likely to be seen, and none of them are willing to speak on the record. Secretary Albistur did not respond to our written request for information or comment regarding this case.⁶³

Discretionary and Discriminatory Access to the Presidential Aircraft: The Case of Tango 01
María O'Donnell is a former Washington, D.C., correspondent for the daily *La Nación* and currently a member of the Foro de Periodismo Argentino (Forum of Argentine Journalism, FOPEA). She believes the president's office has abused its discretion by inviting and vetting specific journalists for travel on the presidential aircraft, Tango 01, rather than inviting media outlets to send their own journalists on Tango 01. This discretion lends itself to the use of access to Tango 01 as prize or punishment for journalists, and led FOPEA to ask the government to provide an interview and information about the criteria used for selecting journalists. FOPEA received no reply.⁶⁴

A journalist who covers politics for *La Nación* gave two examples of how the president's office has attempted to provide or deny access to Tango 01 to particular journalists.⁶⁵ In January 2004, he traveled on Tango 01 to a meeting of Latin American presidents and subsequently published an article in *La Nación* viewed as critical of President Kirchner. Before the president's next international trip, the government called *La Nación* to inquire regarding whom they planned to send—indicating, it was understood, that a different *La Nación* journalist was

wanted. Closer to the date of the trip, an editor of the politics section called the presidential offices to find out if *La Nación* would have a place on Tango 01. A press-related employee told him it would not, because they needed to invite other media outlets, but when asked, admitted unofficially that the reason was that the president's office was unhappy with the journalist's critical article.⁶⁶

This journalist also told our researchers that in early 2004, a colleague with a track record of favorable coverage of the president at another major daily newspaper told him that the president's office repeatedly asked his paper to send him on Tango 01. This colleague actually asked the president's office to stop requesting him because he felt "compromised"—fearing he would be perceived as too close to the government to publish anything critical. He was also given special access to the president that was denied to other journalists on Tango 01. For example, on one trip a number of journalists entered a room where the president was holding a meeting. The security guards were asked by the president's staff to usher out all of the journalists except this colleague, who was singled out to stay.⁶⁷

A third example involves Daniel Gallo, a reporter who covers defense and security issues for *La Nación*. According to someone with firsthand knowledge of the events, in August 2003, *La Nación* received an invitation to send a reporter on a trip to the province of Tucumán. The publication informed the government they would be sending Gallo. The next morning, Gallo went through the check-in process and was issued a boarding pass for the presidential jet. Minutes before the flight was to board, he was told that he would not be able to travel. When Gallo asked why, he received no answer. Other journalists who traveled reported that there had been empty seats where Gallo could have sat.⁶⁸

The practices of the president's office regarding Tango 01 contrast with general practice in other countries. In the United Kingdom, for example, according to Mike Dodd of the British Press Association, the prime minister's office makes institutional invitations to media outlets, which then send journalists of their choice.⁶⁹ According to *Washington Post* White House correspondent Dana Milbank, access to the U.S. presidential aircraft Air Force One is a "rotating pool" system coordinated with the White House Correspondents Association.⁷⁰ President Kirchner's chief of staff did not respond to our written request for comment or information regarding these issues and cases.

Conclusions

Unlike in some of the provinces, there appears to be no legal basis for the national government to bypass competitive contracting processes when allocating public advertising. Still, in practice, the government uses no competitive process whatsoever. As we have seen, the government's practice of allocating advertising in this way lends itself to grossly unjustified allocations that seem to operate as subsidies for favored outlets.

Although government advertising is not necessarily the most powerful tool for conditioning media content, we detected significant imbalances in the magnitude of advertising granted, measured in terms of both volume and pesos. Yet the national government seems to be motivated principally by the desire to reward friendly media, rather than to actively punish critical media.

Furthermore, numerous accounts from journalists, editors, and media observers confirm the open secret that senior executive officials regularly and forcefully pressure media directors and journalists regarding information published or to be published. In some serious cases, presidential advisers have gone as far as attempting to stop critical TV programs or derail the careers of individual reporters. Such actions may amount to serious abuse of office, and warrant further official investigation. In general, the trends described above demonstrate that the current government has made control of national media content a priority that it pursues with systematic vigor, subjecting the media to a behind the scenes executive siege.

VI. Access to Information Issues

Our researchers encountered numerous obstacles when seeking public information on government advertising in the four provinces and at the national level: with relatively few exceptions, our requests for public information went unanswered, as did our requests for interviews.

Córdoba

The province of Córdoba passed an access to information law in 1999.¹ Nevertheless, Marcelo Falo, the general secretary of public information, did not respond to our requests for information on advertising practices, nor did he grant us an interview. Overall figures regarding spending on public advertising were gleaned from the 2002, 2003, and 2004 spending reports provided by the executive to the provincial Congress. In the municipality of Córdoba, we were able to obtain access to the budget for 2004 only. However, Gustavo Balladore, the media director for the municipality, did grant us an interview.

Furthermore, our written request to the government of Córdoba for information and comment on the various cases included in this report received no response.

Río Negro

The first freedom of information law in Argentina was passed in the province of Río Negro in 1984, but only benefits persons residing in the province.² Information regarding spending on government advertising for the years 2002, 2003, and 2004 was eventually provided more than a month after our initial request (the information law in Río Negro does not establish a time limit for providing information). The information does not include figures for the lottery agency, social security agency, or provincial bank. Also, the information provided was so disorderly—with some figures corrected and added in pencil—as to be extremely difficult to process. Although this information was requested in electronic form, it was only provided on paper.

Furthermore, comparisons of figures provided by the government on advertising run in the *Río Negro* newspaper showed the government's information to be significantly inaccurate.³ It is not clear whether these problems were due to lack of political will or inadequate public accounting systems, or some combination of both.

In contrast to the executive and judicial branches, the Río Negro legislature does not publish its resolutions, personnel designations, or detailed information on its spending or other internal measures in the official journal. The legislature's press director gave us an interview and, over a month later, provided our researchers with information on its advertising spending, which was disorganized and contained contradictions.⁴ Coincidentally, although the overall figures are not particularly high, they showed that advertising spending tripled in 2003, an electoral year, over that of 2002 (from 89,108 pesos to 264,759).

Although Media Subsecretary Mozzoni did communicate with us during the course of our research, our final written request to the government of Río Negro for information and comment on the various cases included in this report received no response.

Neuquén

There is no freedom of information law in Neuquén, and with the exception of the provincial Supreme Court,⁵ the government provided no information in response to our requests, despite letters to more than half a dozen agencies, often more than once. Interviews requested were denied, except for two directors of the provincial energy company and the president of the provincial social security institute. Our detailed Neuquén analysis was made possible, however, by an individual who, at considerable personal risk, informally provided our team with comprehensive information regarding government spending on advertising by all three branches of government for the years 2002, 2003, and 2004. These figures exclude certain executive agencies (those which do not “consolidate” their budgets, that is, whose budget and spending figures are not included in the overall national budget), including the lottery agency,

social security agency, and provincial bank, which contract a significant amount of government advertising—so our numbers are representative but partial. We verified this information using several methods.⁶

Attempts by others to obtain information regarding government advertising in Neuquén were equally unsuccessful. In a case still pending before the national Supreme Court, legislators sued the provincial government for refusing to provide information requested in 2001 regarding advertising related to the Banco de la Provincia de Neuquén, the provincial bank, and its related foundation, Fundación Banco de la Provincia de Neuquén. The Neuquén government was the least transparent and accountable of those investigated.

As in the other provinces, our written request to the government of Neuquén for information and comment on various cases included in this report received no response.

Tierra del Fuego

The government of Tierra del Fuego publishes in its official journal the names of media outlets and journalists who receive payments for government advertising, the amount, and a bill number, although it does not detail the goods or services rendered. The municipality of Ushuaia publishes the same information in its official journal, which appears on its website, and also includes information regarding the goods and services rendered in return. In the provincial and two municipal governments, workers and/or officials gave interviews that were off the record, but remarkably frank.

On December 12, 2004—after the bulk of the research for this report had been concluded—the provincial legislature passed a law allowing any person to request information from all three branches of government.⁷ Again, our written request for information and comment on various cases included in this report received no response.

National Level

Argentina does not yet have a national access to information law.⁸ However, a 2003 decree, which went into effect in April 2004, requires agencies of the executive branch to provide non-exempted public information within 10 working days.⁹

Nevertheless, our October 2004 requests to the lottery and revenue collection agencies and the National Bank for information regarding their advertising practices and expenditures went unanswered, as did our requests to Media Secretary Enrique Albistur and to the National Contracting Office. The general director of Télam and the general director of Government Advertising granted us interviews in a timely fashion. Likewise, the tourism office (the Secretaría de Turismo) and the Sindicato General de la Nación (SIGEN), the executive auditor,

responded to our requests for written information in a timely and thorough manner.¹⁰ The national auditing office (Auditoría General de la Nación) provided the information contained in our request, however, this reply arrived six months after the request was submitted.

Requests for information related to government advertising filed on May 31, 2004, by the magazine *Noticias* and on October 14, 2004, by Martín Yebra, an Argentine scholar and journalist, went unfulfilled as well. A national legislator provided us with a copy of the report provided by the executive to the Congress with data on government advertising spending for the period of July 2003 to June 2004.

Overall, the response of the federal agencies was poor and, in the multiple cases of total silence, in flagrant violation of the freedom of information decree. This suggests a lack of political will in the respective agencies to address the transparency deficit within the federal executive, especially on issues of political freedom and financial accountability.

Furthermore, our written request to the media secretary and the presidential chief of staff for information and comment on various cases included in this report received no response.

VII. Chilling Effects

Government misuse of financial pressures, including those related to advertising, for the purpose of interfering with freedom of expression has powerful inhibitory effects that go beyond the cases documented above. In fact, such practices chill the entire media environment by fostering self-censorship and widespread uncertainty about the limits of acceptable criticism, as demonstrated by the following testimonies.

Financial precariousness and the specter of the government's watching over their shoulders keep many Argentine media managers in a constant dilemma. Speaking off the record, a journalist at one of the most important radio stations in Neuquén said, "I understand the pressure on the director, who has to scrape up the funds to pay us at the end of the month. The issue is to be able to...say 'I am denouncing so and so.' [To be able to denounce wrongdoing] would be ideal. [But] I am not the director of the radio. If I put myself on the other side, and imagine that I have to keep the radio station going, that definitely conditions [my actions]."¹

Government interference often sets in motion a vicious circle of perverse incentives for media owners and managers. Shortly after the power cut at Servicios de Radio y Televisión at the National University of Córdoba in December 2002, Jorge González, the president of the university, said of Córdoba's newscaster Jorge Martínez, "Sometimes one has to moderate one's opinions. ... Regarding freedom of the press, the question of business exercises its influence on the editorial line of the media outlets Institutionally, I have to find a balance between the journalistic and the commercial."²

Several journalists and media observers noted that the lack of job opportunities for journalists in the provinces under study makes them particularly susceptible to this chilling effect. According to Neuquén journalist Fabián Bergero, “[Self-censorship] operates because many colleagues have few options, as the job market is very small, and 80 percent pro-government The consequence is that the right of citizens to be informed is notably affected in the province. They only find out the story that the provincial government wants to tell them.”³

Similar dynamics are at play at the national level, as well. Our researchers received reports of numerous cases of high-level government pressure on individual journalists who would not tell us their stories, even anonymously. Dardo Fernández of *Diario sobre Diarios* summed up the justification we heard from several journalists and media observers: journalists are afraid of losing their jobs, even if they speak off the record. In addition to having few alternative work opportunities, the vast majority of journalists are employed informally and do not have contracts, making their jobs and incomes particularly vulnerable.⁴ Defying the “rules of the game” makes an already precarious profession even riskier.

In this environment, some media owners are unfortunately all too happy to play the “game,” with the carrot and stick of government advertising now a basic part of it, especially in the provinces. As discussed in the Río Negro section, Carlos Fernández, the owner of FM Alamo in the city of General Roca, is an ally of former Radical Party governor Pablo Verani. He complains that because the local municipality is currently governed by the Peronist party, he no longer receives “a single peso” in municipal advertising.

If [Mayor] Soria were smarter, he’d come and tell me ‘Tony, here’s advertising worth 3,000 pesos per month. And I would not speak well of Soria, but I would not speak poorly of him. In contrast, today I am speaking of the disaster in General Roca ... a ton of things that day-to-day I criticize about the municipal government I believe I am the only radio station that speaks poorly of him, and if he comes and tells me ‘Tony, as of this month you are going to get 3,000 pesos per month,’ I can’t go out tomorrow and speak badly of Soria. I won’t speak. They will buy my silence But I think that all the media do this. It’s happened to me.’⁵

Government advertising leverage is often so overwhelming in the provinces that it manages to buy the silence of small and big media alike. José Luis Taricco, a professor of communications and advertising at the National University of Córdoba and consultant to various cooperatives in the province, described Córdoba’s LV3 Radio, a key provincial media and major beneficiary of government advertising largesse, like this:

As the principal media outlet, [this radio station] receives a very important amount of government advertising. There are certain topics related to the provincial government that [the station] neutralizes with silence....[Take the case of] the Service Cooperative

of the Río Tercero dam, the conflict with [governor] De la Sota's Justicialista party. Not only were we unable to get them to comment on the issue, we couldn't even get the LV3 correspondent in the area to go report on the events. They didn't want to have a conflict with the government.⁶

A media professional in Neuquén who works in television production told of preparing a story in April 2004 for a program on Channel 7 related to the "*angustias*" (feelings of desperation or being upset) experienced by many residents of Neuquén. According to this source, staff at Channel 7 decided not to run the story due to concern about provoking the ire of provincial government officials, who might interpret the story as implying that people's "*angustias*" were the result of the government's inability to respond to their basic concerns.⁷

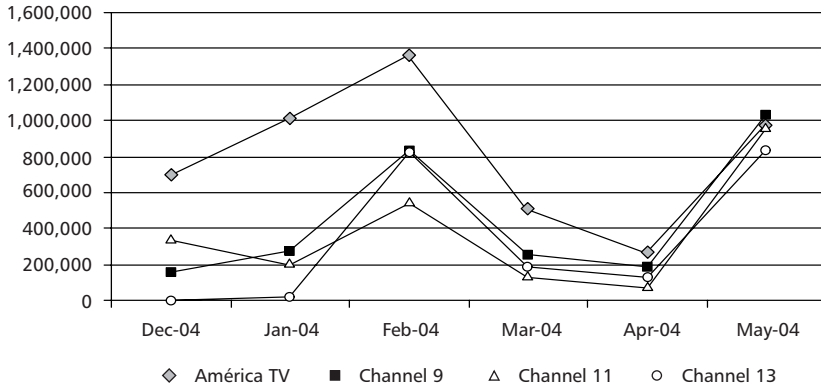
National level media are not immune to the federal government's "rules of the game" either. The case of Jorge Lanata of *Día D Clásico* is a case in point. Lanata had a signed contract with América TV for the program's return to the air on Sunday nights, scheduled to begin in May 2004. In April 2004, he learned that despite the contract, another journalist had been given a contract for his time slot and that *Día D Clásico* would not be going on the air. When he requested an explanation, the station management suggested that he "go to the Casa Rosada," the presidential offices, to find out why, which he did. According to Lanata, the president and his staff denied any involvement in the cancellation of his program. Lanata believes he is no longer on the air due to a strategic decision by the owner of América TV to protect his business interests.⁸

Lanata also said that according to sources at América TV, national government advertising increased dramatically right after the last edition of *Día D Clásico*: it went from approximately 300,000 pesos per month in December 2003 to 1.2 million pesos per month in January 2004.⁹ This information was roughly corroborated by the government's own information regarding centralized agency spending on América TV during the period December 2003 to May 2004. As seen in the graph below, spending increased almost 100 percent between December 2003 and February 2004 (from 701,000 pesos up to some 1.37 million), and though it descended from those levels in March, April, and May, it was still higher than Channels 9, 11 and 13 (except for a minor difference with Channel 9 in May).

The ultimate goal of the "game" is, of course, across the board self-censorship. A political reporter in a major national newspaper told us that high level government officials called his paper preemptively to discuss sensitive topics and events before the paper has decided what to publish on them—and apparently his paper will sometimes accommodate the government's concerns. For this reason, he said, "It's not necessary for [the government] to censor you." A political editor at a major daily told our researchers that sometimes he submits materials knowing that his superiors are likely to make politically motivated changes, and sometimes he and others limit what they write in anticipation of such limitations. "Why make the effort if I already know that they are not going to publish what I submit. Sometimes you feel like leaving

things so that [your editors] have the obligation to give you the instructions. But if you've been hit several times recently, you hold back," he said.¹⁰

**Federal Government Advertising Expenditure, Channels 2 (América TV), 9, 11 and 13
December 2003–May 2004, pesos**



Source: Report by the Presidential Chief of Staff to the Lower House of Congress, July 2004

The issue of self-censorship emerged forcefully into the political debate in late October 2004, when the late economic journalist Julio Nudler had his weekly Saturday column in *Página/12* blocked by the paper's editor-in-chief, Ernesto Tiffenberg. The article he had submitted focused on the government's designation of Claudio Moroni as head of the SIGEN (the executive agency that audits the executive branch) and specifically accused both Moroni and presidential chief of staff Fernández of financial abuses. According to Nudler, this was not the first case of articles critical of the government by him or other journalists being changed or canceled, and that it was happening with ever greater frequency.¹¹

On October 27, 2004, Tiffenberg published a column in which he defended his action on the basis that Nudler's article was submitted past deadline and contained statements that the paper felt needed greater explanation before being published.¹² Nudler, however, maintained that the column contained only commentary on information previously published in *Página/12*, all of it edited by Tiffenberg himself, and none requiring updates. On that same day, the majority of the journalists at *Página/12* held an assembly at which they unanimously adopted a statement supporting Nudler and repudiating Tiffenberg's column.¹³ On November 11, 2004, the nine-year-old journalists association *Periodistas* announced its decision to dissolve as a result of its inability to achieve agreement on a position regarding the dispute.¹⁴ Despite our request, Ernesto Tiffenberg provided no comments or information about this case.

In sum, the ultimate consequence of the indirect interference described in this report is the tendency by journalists and media owners to proactively modify journalistic content in anticipation of government pressures or reprisals. Indeed, our research found the chilling effect of financial and other indirect interferences with freedom of expression in Argentina to be both deep and widespread.

VIII. Recommendations

To the National, Provincial, and Municipal Governments

1. Make a political commitment to refrain from using advertising and other financial or indirect pressures as a tool for interfering with media freedom and independence. Demonstrate such a commitment by investigating credible past and, in particular, future allegations of such interference.
2. The respective legislative bodies should pass clear and specific laws that establish fair, competitive, and transparent contracting procedures for all branches of government and ensure the unbiased allocation of all advertising-related spending (creative, production, print space, or air time).
 - a. This legislation should include clear, objective, and transparent criteria for the selection of media outlets. These criteria should include and weigh factors such as price (which should be measured against a system of price spotting), circulation or audience measurements (using reliable and independent circulation data), profile of the media outlet and its target audience, and other relevant considerations. Specifications other than price must be as objective and quantifiable as possible.

- b. The legislation should also modify existing legislation and decrees as necessary to clearly establish the positions responsible for each aspect of advertising, and their roles and responsibilities.
- c. The legislation should require all agencies to conduct budget planning for all advertising they anticipate for the year.
- d. As a general rule, all advertising should be allocated through competitive processes, and single-source contracting should only be reserved for genuine emergency advertising in the print media. For all other advertising in both print and electronic media, agencies should be required to invite a minimum of three parties to bid in a rapid and flexible procurement process. For emergency-related advertising on television and radio, governments should use the free advertising provision contained in article 72 of the National Radio Broadcasting Law. The terms of the ads for all advertising contracts, including direct contracts, should be made public.
- e. Whenever feasible, agencies may use periodic and competitive wholesale bidding processes for all advertising which can be predicted with reasonable approximation for that period. Wholesale bidding allows the agencies to negotiate lower rates, while giving the media greater certainty about their advertising revenues. Every major advertiser within the government should be able to use this kind of process for at least some of its advertising needs.
- f. The law should prohibit advertising-related payments to journalists and others who are not part of the formal procurement procedures. Intermediaries and other sub-contractors, such as advertising agencies, hired by government agencies should be subject to similar conditions of competitive bidding and transparency as the agencies themselves.
- g. The law should require publication of contract-related information and comprehensive data on advertising spending, as outlined below.
- h. Specifications for the types of media in which advertisements related to general public auctions or government bidding are to be published should be specific enough to preclude arbitrary allocations.
- i. According to the Argentine Constitution, criminal and civil sanctions established by the national Congress apply uniformly to all provinces. As such, the law passed

by the national Congress should include proper criminal and civil sanctions for the abuse of any of its provisions, as well as appropriate remedies that enable stakeholders to challenge unlawful allocations of advertising. The national and provincial laws should include administrative sanctions, as well.

- j. The law should also give the national and provincial ombudsmen standing to challenge violations of advertising laws.
3. Decentralize responsibility for allocation of advertising so it is not concentrated in the hands of political appointees, such as media secretaries, but left to individual agencies or technical bodies. Apart from facilitating abuses, centralized political control over advertising does not serve sound management of advertising resources and is not compatible with their competitive allocation. It should be for individual agencies to decide what and when they need to advertise.
4. All branches of government, at all levels, should increase the transparency of state advertising by publishing timely information pertaining to advertising-related procurement in print and on-line versions of the respective official journals, at all stages of the process (such as invitation to bid, selection of winning bid and so on).
5. The legislative branches at all levels should increase the transparency of public sector advertising by requiring all government entities that advertise to publish detailed, periodic reports—at least annually—of their advertising activities and the procedures used to assign advertising contracts. While advertising is still centralized generally in the national or provincial offices of the media secretary (or related position), this office should provide a detailed annual report of its advertising activities and procedures. Legislatures should also consider imposing stricter reporting requirements for direct contracting of advertising.
6. All government agencies should post their annual advertising budgets and spending reports on their websites, and these should include no more than three or four clear and easily discernible line items for advertising spending. Even though all executive branch budget and spending information may be centralized in the Ministry of the Economy, access to agency-specific information would be justified in this case by the freedom of expression implications of the advertising regime.
7. The justice system should diligently investigate and punish unlawful practices in procurement of government advertising, and in particular any allegations of political or personal bias in making allocation decisions.

8. The appropriate executive and legislative authorities should require audit agencies, such as executive audit agencies at the municipal and provincial levels, and the Sindicatura General de la Nación (SIGEN) and Auditoría General de la Nación (AGN) to conduct and publish an annual audit of government-advertising spending and practices.
9. Government subsidies to the media should be allocated by independent bodies, in accordance with pre-established, fair, and transparent principles and procedures. Government advertising should not be used as a form of subsidy.
10. The government should cease all practices that seek to improperly interfere with the editorial content and autonomy of the media, including denial of interviews or other forms of access as reprisal for critical coverage, attempts to prevent publication of stories critical of the government, and other forms of harassment and intimidation.

To the National Government and the Government of Neuquén

11. Pass a comprehensive law on access to public information, based on presumption of openness and maximum disclosure to the public.

To the National Government

12. The executive branch should adopt and enforce fair and transparent procedures for media access to the presidential aircraft.

To National and Provincial Civil Society Organizations

13. Systematically monitor financial and indirect censorship practices and continue to push for accountability in this area, including through litigation, legal assistance to media professionals and use of access to information laws.

To Media Outlets and Journalists Associations

14. Actively support reform of government advertising laws and practices, and denounce all related abuses and financial pressures.
15. Develop and adhere to a code of ethics that contains commitments to a fair and transparent government advertising regime, and editorial independence.
16. Reach a comprehensive agreement on the formal and lawful employment of journalists and other media professionals that guarantees their basic labor rights.

IX. Appendices

Appendix A

Neuquén Government Advertising Purchased in the Dailies *Río Negro* and *La Mañana del Sur*¹ September 2002–June 2004 (cm²)

Month	2002	
	<i>Río Negro</i>	<i>La Mañana del Sur</i>
September	1,037	1,034
October	1,106	1,249
November	1,883	2,344
December	782	1,968
Total	4,808	6,595

2003

Month	Río Negro	La Mañana del Sur /de Neuquén
January	42	2,581
February	57	2,870
March	30	2,990
April	967	4,091
May	20	3,808
June	99	2,460
July	26	2,564
September	827	6,748
October	759	5,446
November	20	4,428
December	342	2,695
Total	3,189	40,681

2004

Month	Río Negro	La Mañana de Neuquén
January	393	1,580
February	455	4,289
March	18	4,686
April	0	4,320
May	0	4,425
June	120	5,335
July	0	4,367
Total	986	43,227

Source: Río Negro

Appendix B


Spending by the Neuquén Provincial Government in Three Buenos Aires-based Newspapers (pesos)

	2000	2001	2002	2003	January–May 04
<i>Ámbito Financiero</i>	255,355	289,511	449,589	500,950	305,717
<i>La Razón</i>		8,276	258,566	621,173	222,493
<i>La Nación</i>		86,867	106,422	87,260	44,849
TOTAL	257,355	386,655	816,579	1,211,386	573,063

Source: Government advertising spending figures (see endnote 6 in Chapter VI)

Appendix C

Sample advertising purchase order (national level)

 Télam S.E. Bolívar 50 - Telégrafo 41200020 - www.telam.com.uy		ORDEN DE PUBLICIDAD		FECHA: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> A. F. P. M.	
SÍMBOLOS Solicitamos se sirvan en lo posible y orden de cliente el (los) emisor (es) a continuación detallamos: aviso y/o campaña.I. PGR 13/94		IMPRESOS (D): <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> EL IMPORTE NO INCLUYE I. + A		Pág. 1	
ESPECIFICACIONES	MATERIAL	FECHA	BRUTO	NETO	ALTO
CONDICIONES GENERALES					
<p>1. IMPORTANTES CERTIFICACIONES O COMPLEMENTOS DE AVISOS: DEMANDAS ENTREGAS DEMOS DE LOS 10 DIAS DE FINALIZADO EL MES DE PRESTACION, CASO CONTRARIO SE PROCEDERÁ A LA ANULACION DE LA ORDEN DE PUBLICIDAD CORRESPONDIENTE. LAS CERTIFICACIONES SERÁN ENTREGADAS JUNTO CON LA FACTURA A TELAM S.E., SECCION MESA DE ENTRADAS.</p> <p>2. Todo cambio o modificación en este orden, o en el contenido que se refiere a misma, deberá ser comunicado inmediatamente a TELAM S.E., para su autorización, bajo pena de no ser válida.</p> <p>3. Este orden no podrá ser repetido sin indicación previa por escrito.</p> <p>4. TELAM S.E. se reserva el derecho de modificar por cualquier motivo el presente Orden, sin derecho a reclamo por parte del cliente y que dicho accionar genera ninguna responsabilidad para la Agencia. Esta facultad es irrevocable para la conformidad y el consentimiento de la presente orden o conformidad.</p> <p>5. TELAM S.E. se reserva el derecho de emitir por cualquier motivo avisos o que sean emitidos con variando las especificaciones especificadas.</p> <p>6. La factura por el presente orden contendrá: a. El número de este orden y el número de factura. b. Fecha de Orden modificatoria de la presente Orden de Publicidad, si existiere. c. Cantidad de líneas o inserciones. d. Duración de las avises. e. Tarifas e importes pactados. f. Expresiones de agencia. g. Se indicará el número de Cuentas Únicas de Identificación Tributaria (CUIT) de la Agencia. En caso de emisión al Valor Agregado y en el momento de inscripción a este tipo de Previsión Social correspondiente.</p> <p>7. La exigibilidad del pago estará sujeta al cumplimiento de las especificaciones detalladas y el plazo comenzará a regir a partir de la fecha de recepción de la factura en TELAM S.E.</p>					
CLIENTE:	6267791	DIRECCION:	RUBRO:	COND. PAGO:	CANJE <input type="checkbox"/> SI <input type="checkbox"/> NO
CONDICIONES DE PAGO:	PARA USO EXCLUSIVO DE TELAM S.E.				VERIFICACION PROVEEDORES
REVISO:	RICARDO GONZALEZ Sr. de Enfoque de Medios DPTO. MEDIOS	FACTURA N°: FECHA:	NÚC. N°: NÚC. N°: FECHA:	N° FACT. MEDIO: IMPORTE: DIFERENCIAL: FIRMA:	

Notes

Foreword

1. See *Annual Report of the Inter-American Commission On Human Rights* (2003), Volume III, *Report of the Special Rapporteur for Freedom of Expression*, Doc. OAS/Ser.L./V/II.118 Doc. 70 rev.2, December 29, 2003 [hereafter Special Rapporteur's 2003 Report].
2. See *Special Rapporteur's 2003 Report*, introduction, para. 5.
3. See *Annual Report of the Inter-American Commission on Human Rights* (2004), Volume III, *Report of the Special Rapporteur for Freedom of Expression*, Doc. OAS/Ser.L./V/II.122 Doc. 5 rev. 1, February 23, 2005, Chapter V, para. 2.
4. See *Special Rapporteur's 2003 Report*, Chap. V, para. 2, among others.
5. See *Special Rapporteur's 2003 Report*, Chap. V, para. 89.
6. It should be noted that the Special Rapporteur for Freedom of Expression receives information sent by independent organizations for human rights and the defense and protection of freedom of expression, directly affected independent journalists and information requested by the Rapporteur from representatives of OAS member States, among others. Once the information is received, and considering the importance of the matter, it is subject to analysis and verification. The information coming from this report will be appropriately analyzed.

II. Introduction

1. Report of the Office of the Special Rapporteur for Freedom of Expression, in *Annual Report of the Inter-American Commission on Human Rights* (2003), OEA/Ser.L/V/II.118, Doc. 70 rev. 2, (December 29, 2003) 179–200. One case involved the October 2001 withdrawal of advertising by the National Lottery on the radio program *Danza de la Fortuna* after the program aired remarks critical of the then-president of the Lottery agency. Another involved the May 2001 revelation that the partly state-owned Bank of the Province of Chubut included clauses in its advertising contracts that authorized the denial of advertising to media outlets that aired stories critical of the bank. A third case involved the June 2001 allegations by *El Liberal* (*The Liberal*) in the province of Santiago del Estero that the provincial government discriminated in its allocation of government advertising after *El Liberal* criticized the women’s division of the then-ruling Peronist party in the province.

2. These four provinces were selected for their geographical, political, and thematic diversity. The governors of Tierra del Fuego and Río Negro are Radicals, Córdoba’s is Peronist, and Neuquén’s governor belongs to a provincial party with roots in the Peronist party.

3. A 2003 report entitled *Ataques a la prensa* (*Attacks on the Press*) by the Asociación para la Defensa del Periodismo (Association for the Defense of Journalism), known as and hereafter as Periodistas (Journalists) contains 159 accounts of clear violations of the right to free expression in Argentina that year, including 12 physical attacks and 31 other cases of aggression against journalists, 46 instances of threats, 19 of censorship, 18 of intimidation, 31 of judicial harassment, and 11 of verbal harassment. The report also describes 14 instances of judicial and 2 of legislative support for freedom of expression.

4. Public sector advertising here refers to all advertising, including public service announcements and other communications placed in media outlets by all branches of government at all levels (federal, provincial, local), as well as by their subordinate agencies. This includes all advertising placed by state-controlled companies and autonomous public agencies, whether or not they are subject to public procurement laws. In addition to placement costs, advertising spending includes design and production charges. The phrases “government advertising” and “public sector advertising” are hereafter used interchangeably.

5. Our study of four Buenos-Aires based national dailies between April 19 and May 3, 2004, found that 71 percent of total advertising in *Página/12*, was private and 29 percent public (18 percent corresponded to the national government, 7 percent to the government of the City of Buenos Aires, and 4 percent to provincial governments). This study covered the 14 issues in print version for *Página/12*, *Clarín*, and *La Nación*, and 12 issues for *Ámbito Financiero*, which comes out only Monday to Friday, which reduces the sample by approximately 15 percent related to the other papers. Judicial announcements, such as court-ordered publications, were counted as private publicity, since our understanding is that the majority is paid for by the parties involved. Ads regarding government bidding of contracts were counted as government advertising. The percentage of government advertising was 5 percent for *La Nación* and *Clarín*, and 17 percent for *Ámbito Financiero*. Data on file at the Asociación por los Derechos Civiles (Association for Civil Rights, hereafter ADC).

6. “Día del periodista: repercusiones de un controvertido aviso del gobierno” (Journalists’ Day: Repercussions of a Controversial Government Ad), *Gacetilla TEA Imagen* No. 113 (Newsletter of the Buenos Aires-based TEA Journalism School), June 9, 2005, accessed August 1, 2005 at <http://www.gacemil.com.ar/Detalle.asp?NotaID=2250>. This article cites Ricardo Kirschbaum, general editor of the daily *Clarín*, and journalist Osvaldo Bayer, and states that the Union of Press Workers of Buenos Aires “deplored” the advertisement, as well.

7. “Kirchner desautorizó un irónico aviso oficial sobre la prensa” (“Kirchner Questioned an Ironic Government Advertisement about the Press”), *La Nación*, June 8, 2005, http://www.lanacion.com.ar/politica/nota.asp?nota_id=711030.

8. On a methodological note, where possible, data on the advertising purchased by national and provincial bodies is expressed in peso amounts, based on official or unofficial government sources. In cases where this data is unavailable, the information is presented in terms of advertising space (square centimeters for print publications and seconds for broadcast media). In these cases, we did not estimate the cost in pesos of the advertising space, because peso amounts actually paid by government for space contracted differ significantly and consistently from published rates, which are, in addition, highly complex. The research indicates that space comparisons alone are sufficient to indicate the inequities and pressures that result from biased allocation of advertising.

9. Interview, April 16, 2004, Neuquén, Neuquén.

10. Interview, October 12, 2004, Buenos Aires.

11. American Convention on Human Rights, art. 13.3. Argentina has been a party to the Convention since August 14, 1984.

12. Inter-American Declaration on Principles of Freedom of Expression, adopted at the 108th Regular Session, October 19, 2000, para. 13.

13. Adopted by the African Commission on Human and Peoples’ Rights, 32nd Ordinary Session, October 17–23, 2002, Principle XIV.

14. Recommendation No. R (99) 1, Committee of Ministers, Council of Europe, “Measures to Promote Media Pluralism” (adopted on January 19, 1999).

15. *Ushodaya Publications Pvt Ltd v. Government of Andhra Pradesh*, AIR (1981) AP 109.

16. *Humberto Rubin v. Paraguay* (Radio Nanduti case), Decision of March 28, 1987, OEA/Ser. L/V/II.71, Doc. 9 rev.1, p. III.

17. *Emisiones Platenses, S.A. s/acción de amparo*, Decision of June 12, 1997.

18. In Canada, for example, design and placement of government advertising is procured following competitive procedures. See *Communications Policy of the Government of Canada*, para. 23, available at http://www.tbs-sct.gc.ca/pubs_pol/sipubs/comm/comm1_e.asp#23. Recently, Romania amended its procurement laws to make allocation of all government advertising contracts above

2,000 Euros subject to fully competitive bidding; it also set up a special web portal to facilitate, and increase the transparency of the bidding process. See Open Society Justice Initiative, “Romania Reforms Advertising Law to Protect Media Freedom,” May 19, 2005, at http://www.justiceinitiative.org/db/resource2?res_id=102722.

III. Background on Provinces

1. *Guía de Medios (Media Guide)*, Córdoba: *Universidad Empresarial Siglo 21 y Signo y Acción* (2002).

2. Instituto Verificador de Circulación (Institute of Circulation Verification, IVC) data for May–July, 2004. IVC provides free on-line ratings information. See <http://www.ivc.org.ar/principal.asp?content=megr.asp>.

3. Estimates based on figures provided by the IVC and the newspapers’ own figures.

4. IVC, data for May–July 2004.

5. Interviews with Ricardo Villar, April 16, 2004, and Fabián Bergero, April 8, 2004, Neuquén, Neuquén.

6. See “Vino en la ruta de Darwin” (“Wine on Darwin’s Route”), *Fortuna*, January 10, 2005, http://www.fortuna.uolsinectis.com.ar/edicion_0084/negocios/nota_01.htm.

7. From April 1991 until January 2002, the Argentine peso was pegged to the U.S. dollar at the rate of one-to-one. After the 2002 devaluation, the value of the peso varied from as low as 1.4 to as high as four pesos to the dollar. Since mid-2002, the exchange rate has been fairly stable at approximately 2.9 pesos to the dollar.

8. We obtained detailed information on provincial spending on advertising from a well-placed source; see endnote 6 in Chapter VI (Access to Information Issues) for details regarding the nature and reach of the information obtained. In many cases, the overall increase in spending translated into dramatic increases in advertising given to individual media outlets, as illustrated by these figures on government expenditure on advertising in the province of Neuquén, by media outlet (pesos):

	2000	2001	2002	2003	January–May 2004
Channel 7 of Neuquén	5,488	n/a*	87,545	548,863	160,251
Radio and TV Río Negro S.E. (Aire Valle)	6,800	22,977	81,155	616,813	328,550
Cable Visión del Comahue S.A.	n/a	n/a	16,180	245,007	48,854
Canal Rural Satelital (Rural Satellite Channel)	n/a	n/a	n/a	435,600	181,500

* n/a indicates no data provided.

9. These figures were provided by the province’s media subsecretary and do not include advertising for the lottery agency, the social security agency or the provincial bank.

10. From the 2001 national census, see <http://www.tierradelfuego.gov.ar/estadistica>.

11. In interviews held separately with one newspaper editor, two newspaper journalists, six radio journalists, one municipal authority and one provincial authority, the interviewees generally estimated that 75 percent of advertising in the province comes from public sources, on average. Interviews held in the months of July–August, 2004 in Ushuaia, Tierra del Fuego.

12. *Secretario de gobernación* generally translates to secretary of the interior, though in Argentina *secretario del interior* at the national level is a post related to affairs involving the interior of the country.

13. Interviews between July and August, 2004, Ushuaia, Tierra del Fuego.

14. Interview, April 16, 2004, Neuquén, Neuquén.

15. Interview, April 25, 2004, Viedma, Río Negro.

16. Interview, May 14, 2004, Bariloche, Río Negro.

17. Interview, April 6, 2004, Neuquén, Neuquén.

18. We have translated *Tribunal de Cuentas* as “Executive Audit Agency.”

19. Interview, May 7, 2004, Neuquén, Neuquén. Mandón denied our researchers access to the files of the two cases, arguing that they did not have standing to see this information. Mandón stated that while the Executive Audit Agency recognizes a broad concept of standing, it is not broad enough to allow them to see the files. She added that when local legislators request information, she only responds favorably if their request is made formally through their legislature. Although she did not mention the legal basis for her refusal to show our investigators the files, article 176 of Neuquén’s Law 1284 on Administrative Procedures, regarding administrative procedures restricts standing to see the agency’s case files to those who are directly involved in the case in question. Mandón suggested our researchers present a formal request in writing for consideration by the full board of directors, which they did, and on July 13, 2004 were contacted by phone and informed that the requested files did not exist, even though the agency had clearly reviewed the two advertising cases.

20. Interview, May 5, 2004, Córdoba, Córdoba.

21. Law 9156/2004 on the Organic Structure of the Executive Branch. Article 5 changed the name of this secretary to secretary of interior and public information. The position has the rank of a ministry and is responsible for coordinating the governor’s cabinet.

22. Decree 1815/1999, article 3.

23. Law 9156/2004, article 5, subsections 8 and 18.

24. Decree 1932/1999, article 1. Article 2 of Decree 1815 defines government advertising as: “the investment of funds for the dissemination of all those acts, works and realizations that, in compliance with republican precepts, the executive branch must communicate to public opinion in general;

the purchase of advertising space on radio, television and other media, as well as official advertisements.” This article defines mass media as: “graphic: newspapers, periodicals, books, magazines, posters, signage, brochures and other printed material; radio, television, and cinema, on streets and roads (graphic and electronic signage) and electronic (email, internet, telephone, etc.).”

25. Interviews with a publicity agent and a provincial legislator with knowledge of issues related to government advertising, both of whom wished to remain anonymous, March 21, 2005, Córdoba, Córdoba.

26. Law 7631/1988 on Accounting, Budget and Administration, Chapter VII (Contracting Regimen), article 110.

27. See, for example, Río Negro’s Decree 520/2003 that establishes that direct contracting will consist of the invitation of “at least three possible bidders.”

28. Each year, in its approval of the annual budget, the legislature sets monetary ceilings for the amount of *individual* direct contracts each government official can authorize. According to the 2004 budget, the general secretary of the interior was subject to a limit of 105,000 pesos per direct contract; the limit for the press director (*director de difusión*) was 22,500 pesos (at times the secretary authorizes spending which is executed by the press director, up to 22,500 pesos). The law allows the provincial finance minister to “update” these values “to maintain their purchasing power.” Law 9137/2003 on the General Budget of the Provincial Public Administration, article 28.

29. See Ordinance 244, article 23.

30. Interview, July 28, 2004, Córdoba, Córdoba.

31. Interview, March 3, 2004, Córdoba, Córdoba.

32. Interview, October 18, 2004, Córdoba, Córdoba.

33. The Official Registry for the months of April 2003, September 2003 and April 2004 contains no evidence of advertising contracts except a handful of advertisements for the bidding of public works. However, these advertisements were not competitively bid.

34. Spending reports for 2002 and 2003 provided by the executive branch to the provincial legislature.

35. Law 847/1973 on Accounting, as amended by Law 3186/1997 on Financial Administration and Internal Control, and Decree 750/1993.

36. Decree 750/1993, article 1.

37. Article 8 provides that the media subsecretary “shall elaborate within two working days the placement [in] the media that have been selected...” (“elaborará dentro de dos días hábiles la publicación de los medios de difusión ordenados...”).

38. Decree 750/1993, articles 5 and 8.
39. Decree 520/2003.
40. Interview, April 15, 2004, Viedma, Río Negro.
41. One particularly large agreement was reached with direct, single-source contracting: a 250,000 peso contract (to be paid in 10 installments) with the Reale-Dalla Torre public relations firm. This company provides public relations services to the government of Neuquén, but in this case was contracted by the province of Río Negro to improve the image of the provincial government and, to that end, produce print ads and television spots.
42. Interview, April 15, 2004, Viedma, Río Negro.
43. Interview, April 15, 2004, Viedma, Río Negro.
44. Interview, April 15, 2004, Viedma, Río Negro.
45. According to Law 2141/1995 on Financial Administration and Control, “government advertising may be contracted directly.” (“Podrá contratarse...directamente...la publicidad oficial.”) Art. 64(1)(m).
46. Decree 2758/1995, Schedule 1, article 76.
47. Decree 514/2001, article 1 provides: “All government advertising by centralized and decentralized government bodies dependent on the provincial Executive Branch will be presented to the general subsecretary of the interior, who will exercise technical and coordination functions, being this agency the only one responsible for approving the proposals sent and authorizing contracting by emitting the respective advertising orders.”
48. Decree 514, article 1.
49. According to the information we obtained informally on Neuquén government spending, the portion of advertising not paid by the subsecretary’s office was paid for by various decentralized agencies. As demonstrated by the case of EPEN (see note 52), even those advertising budgets that formally correspond to other government entities—generally decentralized agencies—are largely controlled in practice by the subsecretary of the Interior.
50. See endnote 8 in Section III (Background on Provinces).
51. Interview with Francisco Zambón and Rubén Gómez, April 20, 2004, Neuquén, Neuquén.
52. Ibid. Zambón and Gómez also told ADC researchers that some FM radios and an AM station in the city of Neuquén exchanged advertisements for energy. In fact, according to receipts obtained from an anonymous source, AM Cumbre submitted advertising bills to EPEN for amounts that were identical to those owed to EPEN by the radio: AM Cumbre bill No. 2-528 for 1,122.22 pesos

and EPEN bill number No. 921424 for 1,122.22 pesos, AM Cumbre bill No. 529 and EPEN bill No. 951160 both for 2,013.49 pesos; and AM Cumbre bill No. 384 and EPEN bill No. 867577, both for 1,673.71 pesos.

53. Interview, April 20, 2004, Neuquén, Neuquén.

54. Decree 2758/1995, article 8(a).

55. Law 2141/1995, article 67, provides only that “[d]irect contracts, after their realization, shall be publicized monthly.” Similarly, Decree 2785/1995, article 75, states that “direct contracts ... shall be published once a month in the official journal of the province.”

56. See Chapter VI (Access to Information Issues), endnote 6 and accompanying text.

57. Interview, March 3, 2005, General Roca, Río Negro.

58. Interview, May 28, 2004, Neuquén, Neuquén.

59. According to the information we obtained informally regarding spending on advertising in Neuquén, among a dozen publicity agencies, Gran Publicidad received the largest sums: 1.5 million pesos or 55 percent of the total in 2002; 2 million pesos or 44 percent of the total in 2003; and some 678,000 pesos or 32 percent of the total for the first five months of 2004.

60. See www.clippingdemedios.com.ar.

61. Interview, April 15, 2004, Neuquén, Neuquén.

62. Interview, September 28, 2004, Neuquén, Neuquén. Thanks to another well-placed source, we were able to examine two such reports. These reports covered two radio programs aired on April 22, 2004, *Línea Abierta (Open Line)* on LU5 and *Las Dos Campanas (Both Sides)* on Radio Universidad-CALF (University Radio-CALF). The reports carried an approximately 350 and 590 words, respectively. They first listed sequentially the content of program (interviews, including interviewee, calls from listeners, etc.), and then described in more depth the potentially political or “sensitive” aspects of the programs (from the government’s point of view), and included excerpts of quotes from interviewees.

63. Among the targets were the following programs on University Radio: *La Palangana* (roughly *The Washtub*), from which several journalists critical of the provincial government have been fired, *No Sé Si Me Explico (I Don’t Know if I’ve Made Myself Clear)*, and *Las Dos Campanas (Both Sides)*; *El Megáfono (The Megaphone)* on FM Mix, as well as programming on smaller radio stations such as FM Argentina.

64. Interview, September 28, 2004, Neuquén, Neuquén.

65. *Ibid.*

66. Law 6/1971 on Accounting.
67. Resolution 12/1996.
68. Resolution 12/1996.
69. Interview, July 14, 2004, Ushuaia, Tierra del Fuego.
70. Organic Charter of Ushuaia Municipality, article 178.
71. Interview, October 28, 2004, Ushuaia, Tierra del Fuego.
72. The government later claimed that the overpayment was due to the fact that the government did not have *Botella al Mar's* advertising fees, and therefore used the fees normally charged by Radio FM del Sur. *Botella al Mar's* journalists maintained that these advertising fees had been the same for the past five years. "Descartaron 'sobrepuestos' y respondieron los cuestionamientos del programa" ("They Rejected Overpricing and Responded to Questions Regarding the Program"), *Botella al Mar* (on-line news service), February 21, 2005, at www.botellaalmar.com.ar.
73. "Periodistas Denunciaron Coimas del Gobierno" ("Journalists Denounce Government Bribes"), *Periodismo Social* (*Social Journalism*, an on-line news service), May 5, 2005, <http://www.periodismosocial.org.ar/notacompleta.cfm?id=1593>.
74. Telephone interview with Gabriel Ramonet, August 8, 2005, Ushuaia, Tierra del Fuego. See also "Periodistas Denunciaron Coimas del Gobierno" ("Journalists Denounce Government Bribes"), *Periodismo Social*, May 5, 2005, <http://www.periodismosocial.org.ar/notacompleta.cfm?id=1593>.
75. Telephone interview with Ramonet, August 8, 2005; and "*Botella al Mar* denunció que el Gobierno intentó pagarle \$20,000 sin contraprestación" ("*Botella al Mar* Denounced that the Government Attempted to Pay 20,000 Pesos with No Corresponding Services"), *Botella al Mar*, February 18, 2005, at www.botellaalmar.com.ar. Judge María Cristina Barrionuevo required the government to provide the files in question to the prosecutor investigating the case. "Confirmado: No fue 'un error' el depósito del Gobierno en la cuenta de Botella al Mar" ("Confirmed: The Government's Deposit in Botella al Mar's Account Was Not an Error"), *Botella al Mar*, February 18, 2005. The provincial legislature also requested that the executive branch provide a report and a copy of the relevant files regarding this case (see Resolution No. 022/2005).
76. "Descartaron 'sobrepuestos' y respondieron los cuestionamientos del programa" ("They Rejected Overpricing and Responded to Questions Regarding the Program"), *Botella al Mar*, February 21, 2005.
77. For March, they received payment only for Internet advertisements; for April, they received only a quarter of their regular monthly payment for Internet and radio advertisements, and for May they received 50 percent of their regular monthly payment for Internet and radio advertisements. As these payments occurred, which was never on a regular schedule, they attempted to adjust the advertising actually run during those months accordingly.

78. Telephone interview with Gabriel Ramonet, August 8, 2005, and with *Botella al Mar*'s current producer, Carolina Valls, August 11, 2005.
79. Interview, July 12, 2004, Ushuaia, Tierra del Fuego.
80. Interview, June 4, 2004, Ushuaia, Tierra del Fuego.
81. Interviews, May 27, 2004, in Río Grande, and May 25, 2004, in Ushuaia, Tierra del Fuego.
82. Interview, May 27, 2004, Río Grande, Tierra del Fuego.
83. Interviews with various members of the station in the first two weeks of June 2004.
84. Interview, May 25, 2004, Ushuaia, Tierra del Fuego.
85. Interviews held in May and June, 2004, Ushuaia, Tierra del Fuego.
86. Interview, June 4, 2004, Ushuaia, Tierra del Fuego.
87. Interview, May 14, 2004, Ushuaia, Tierra del Fuego.

IV. Misuse of Government Advertising and Related Abuses in the Provinces

1. Interview with Sergio Vaudagnato, May 5, 2004, Villa María, Córdoba.
2. Ibid.
3. The ADC and Periodistas have both presented *amicus curiae* briefs in this case. On October 14, 2003, the newspaper also presented the case to the Inter-American Commission on Human Rights of the Organization of American States.
4. “*Editorial Río Negro S.A. c/ Provincia de Neuquén s/ acción de amparo*” (*Editorial Río Negro v. Province of Neuquén*), Judgment of January 23, 2003.
5. See Appendix A for a comparison of the public advertising received by the *Río Negro*, and another leading paper, *La Mañana de Neuquén*, in 2002–2004.
6. *Editorial Río Negro v. Province of Neuquén*.
7. *Editorial Río Negro v. Province of Neuquén*. *Río Negro* claims it sells approximately three out of every four papers sold in Neuquén. This percentage is based on overall circulation figures for *Río Negro* provided by the non-profit Institute of Circulation Verification, the *Río Negro*'s breakdown of circulation figures by province and locality, and estimates of the circulation of *La Mañana de Neuquén* based on a survey conducted by the *Río Negro* at kiosks and other points of sale. The circulation of *La Mañana de Neuquén* is not measured by the IVC, and the paper refused multiple requests by our researchers to provide circulation figures and other information. According to a recent study

conducted by a firm that wished to remain anonymous (because it also provides services to the government of Neuquén), and including national papers, the *Río Negro* sells 56 percent of the papers in the province, versus 38 percent sold by *La Mañana de Neuquén*. According to a September–October 2002 study conducted by the private firm ECO Consultores, 51 percent of households in Neuquén city bought the *Río Negro* and 24 percent bought *La Mañana del Sur*.

8. This paper was bought out in March 2003 and changed its name to *La Mañana de Neuquén* (*The Neuquén Morning*).

9. See Appendix B for a comparison of expenditure on advertising by the Neuquén government in three papers between 2000 and 2004.

10. We obtained detailed information on provincial spending on advertising from a well-placed source; see endnote 6 in Chapter VI (Access to Information Issues) for details regarding the nature and reach of the information obtained.

11. ADC study of advertising trends in Neuquén from June 1 to June 15, 2004. Advertising was measured in square centimeters and was broken down into three categories including the executive branch (both centralized and decentralized bodies), legislature, and municipalities. Data on file with the ADC.

12. Interview with Hector Mauriño, Head of the Neuquén bureau of the *Río Negro*, May 28, 2004, Neuquén, Neuquén.

13. Interviews with Horacio López, general manager of Editorial Río Negro S.A., which edits the *Río Negro*, April 12, 2004, and with the paper's director, Julio Rajneri, June 22, 2004, General Roca, Río Negro.

14. Email communications with Ernesto Tenenbaum, November 12 and 15, 2004.

15. Executive branch spending reports for 2002 and 2003 provided to the provincial legislature.

16. Interview with Ricardo Fonseca, May 12, 2004, Córdoba, Córdoba.

17. The first article appeared three days after Governor De la Sota launched his campaign to run in the Peronist party's presidential primary (which never took place) and his then-wife, Olga Riutort, assumed the role of director of his campaign.

18. According to *La Voz del Interior*, Riutort was carrying back provincial bonds that had been printed in Chile before the governor had declared a state of "economic emergency," which was legally required before the printing of the bonds. See Carreras, S., "Un viaje secreto y con problemas" ("A Trip Both Secret and with Problems"), *La Voz del Interior*, July 24, 2002, www.lavozdelinterior.com.ar/2002/0724/portada/nota109711_1.htm.

19. Periodistas, *Libertad de Expresión, Córdoba Septiembre de 2003* (*Freedom of Expression, Córdoba, September 2003*), p. 8, and interview with source from *La Voz del Interior* in Córdoba, Córdoba, in July 2004.

20. Periodistas, *Freedom of Expression*, Córdoba, September 2003, p. 8.
21. See below on favoritism shown to *Comercio y Justicia* and *La Mañana de Córdoba*.
22. According to *Hoy Día Córdoba* Director Alejandro Piñero Sastre, the paper's daily circulation in May 2004 was certified at 13,100 by a local branch of the international accounting firm, Ernst and Young. Personal communication by fax, April 20, 2005.
23. Interview with Ernesto Ponsati, May 19, 2004, Córdoba, Córdoba.
24. This study was conducted in two phases: three Córdoba city papers (*La Voz del Interior*, *Hoy Día Córdoba*, and *La Mañana de Córdoba*) were surveyed from September 15 to 30, 2003 (the period leading up to the Córdoba mayoral and city council elections), and the same three plus a fourth (*Comercio y Justicia*) were reviewed in May 1–31, 2004. Advertising by the governments of the province of Córdoba (including centralized and decentralized agencies) and the municipality of the city of Córdoba was measured in square centimeters. Data on file with ADC.
25. Interview, May 19, 2004.
26. This investigator is a member of the executive branch of the provincial government, responding to the secretary of justice. His or her responsibilities include investigating alleged acts of corruption by members of all three branches of government.
27. Interview, May 19, 2004.
28. The vendor was Editorial Amfin, S.A., owners of Buenos Aires-based *Ámbito Financiero*.
29. See, for example, "Contratos y conexiones con el poder" ("Contracts and Connections with Power"), *Río Negro*, June 9, 2003, <http://rionegro.com.ar/arch200306/ro9to9.html>.
30. ADC study of advertising trends in Neuquén from June 1 to 15, 2004. Advertising was measured in square centimeters and was broken out into three categories including the executive branch (both centralized and decentralized bodies), legislature, and municipalities. Data on file at the ADC.
31. See endnote 7.
32. Audience measures were provided by the Córdoba branch of the *Instituto Brasileiro de Opinião Pública e Estatística* (IBOPE) (a Brazil-based multinational public opinion firm) for the period from April to May 2003.
33. This study was conducted by CVA Medios, a leading Córdoba-based media analysis firm. The study covered all 24 hours for the period of July 1 to 15, 2004 and included AM stations and four FM stations that were selected on the basis of audience ratings and to contrast treatment of varying editorial lines. The AM stations were Cadena 3 (Chain 3) and University Radio, which in terms of audience rate number one and three, respectively. The FM stations were FM Córdoba (first in terms

of audience), FM Suquía (third in terms of audience), La Rocka (relatively marginal audience), and FM Power (relatively marginal audience). Public advertising was measured in number of seconds of transmission throughout the period monitored. Audience measures were provided for the city of Córdoba by IBOPE. Advertising amounts were measured in seconds. Data on file with the ADC.

34. Advertising by the governments of the province of Córdoba (including centralized and decentralized agencies) and the municipality of the city of Córdoba was measured in square centimeters. Data on file with the ADC.

35. Institute of Circulation Verification, March–May, 2004.

36. Personal communication by fax, *Hoy Día Córdoba* Director Alejandro Piñero Sastre, April 20, 2005.

37. *Comercio y Justicia*, which is sold by subscription. Neither *Comercio y Justicia* nor *La Mañana de Córdoba* are subject to any independent verifiers of circulation.

38. *La Mañana de Córdoba* told our researchers that their circulation is approximately 10,000. However, various independent observers and insider sources consistently estimated the circulation at 3,500–4,000. In May 2004 we also did an informal study at several points of sale, in which we compared the proportion of sales of *La Mañana de Córdoba* to those of *La Voz del Interior*, which resulted in an estimate of 3,500.

39. Interviews with two members of CISPREN (Círculo Sindical de la Prensa), anonymity requested, April 13 and 16, 2004, Córdoba, Córdoba.

40. Interview with José Luis Tarrico, June 25, 2004, Córdoba, Córdoba.

41. Radio Integración is owned by Ricardo Vignoni. Enterprises closely linked to the radio station include Producciones Integración, Cadena Integración, and La Radio Producciones, all in the name of Vignoni's brother-in-law Juan Carlos Marchettini, as well as Imagen Producciones, owned by Alicia S. Vignoni (Vignoni's sister and Marchettini's wife), and Ricardo Vignoni y Asociados, S.A. (a polling firm included in the list of advertising spending provided by the media subsecretary).

42. The government-provided information on advertising spending indicated that part of the 377,750 pesos were made in payments directly to three journalists for advertising on their programs: Gustavo Saber of Gustavo Saber Producciones, and Santiago Rey and Rubén Aguirre of Aguirre Producciones.

43. The study was contracted by the provincial government and conducted by the W Tracking Group consulting firm in 15 cities in Río Negro. It was provided to ADC by Iván Lázzeri, provincial minister of the interior, on August 10, 2004. It covered the period from December 19, 2003 to January 6, 2004.

44. Email communication from Claudio Mozzoni, October 26, 2004.

45. Interview with Iván Lázzeri, April 15, 2004, Viedma, Río Negro.
46. Interview with Antonio Zidar, May 14, 2004, Bariloche, Río Negro.
47. Channel 6 in Bariloche did receive government advertising, 11,000 pesos in 2002 and 17,450 in 2003.
48. Río Negro government study, see endnote 43 above.
49. Ibid. FM Alamo reaches 12.4 percent of the audience, FM Radio Popular 11.1 percent.
50. Ibid.
51. Email communication from Claudio Mozzoni, October 26, 2004.
52. Interview with Ricardo Villar, April 16, 2004, Neuquén, Neuquén.
53. Interview with Jorge Gadano, June 4, 2004, Neuquén, Neuquén.
54. Interview with Marcelo Pascuccio, June 15, 2004, Neuquén, Neuquén.
55. Ibid.
56. Anonymous interview, April 6, 2004, Neuquén, Neuquén.
57. Ibid.
58. Interview with Gabriel Ramonet, October 28, 2004, Ushuaia, Tierra del Fuego.
59. Anonymous interview, April 7, 2004, Neuquén, Neuquén.
60. Anonymous interview, April 24, 2004, Neuquén, Neuquén.
61. Anonymous interview, April 7, 2004, Neuquén, Neuquén.
62. Interview, April 7, 2004, Neuquén, Neuquén.
63. Interview, April 7, 2004, Neuquén, Neuquén. It is common in Argentina for certain radio and television stations to “lease” their airtime and infrastructure to independent producers in return for a fee.
64. Interview with Fabián Bergero, April 8, 2004, Neuquén, Neuquén.
65. The radio names and locations are withheld to protect the individuals involved at each radio.
66. Email communication from an individual closely connected to the Open Network system, September 11, 2004.

67. “Polémica por el retiro de un micro de los SRT” (“Controversy Over the Cancellation of a Micro-program on the SRT”), *La Voz del Interior*, October 4, 2002, http://www.intervoz.com.ar/2002/1004/politica/nota122890_1.htm.

68. When Méndez’ and Hairabedián’s contracts with SRT expired in August, 2003, the show was canceled. In May 2004, Méndez told our researchers that during the negotiation that followed the power cut in December 2002 (see below), high level government officials had requested that the show be canceled. On December 13, 2002, a judge declared that the electricity connection was not illegal. At that time, Olivero threatened that he had “1,500 pages of monitoring of radio and television programming” about his case, which could presumably be used in court against the journalists. Quoted in “‘Enganchados’ en electricidad: la Justicia le dio la razón a Hernán Olivero” (“‘Hooked’ on Electricity: the Courts Decided Hernán Olivero was Right”), *ServiPren*, December 14, 2002, <http://www.arteandina.com.ar/modules.php?name=News&file=article&sid=2535>. In late 2004, Hermán Olivero sued Tomás Mendez and Jorge Martínez for libel. See <http://infored.org.ar/VerArticulo.aspx?IdArticulo=5492>.

69. This press release is available (in Spanish) at: <http://web2.cba.gov.ar/web/News.nsf/news?openframeset>.

70. “EPEC cortó el servicio a los SRT” (“EPEC Cut Service to the SRT”), *La Voz del Interior*, December 5, 2002, http://www.intervoz.com.ar/2002/1205/portada/nota134725_1.htm. On April 11, 2005, we received a letter from Simon Alberto Dasenchich, the president of EPEC, in response to our January 2005 request for information regarding this case. In this letter, he asserts that the cutoff was prompted by the debt SRT accumulated over time and lack of willingness to pay it off, despite EPEC’s willingness to negotiate the conditions of payment.

71. “EPEC Cut Service to the SRT.”

72. Interview, July 28, 2004, Córdoba, Córdoba.

73. “EPEC Cut Service to the SRT.” Roca added that the provincial government owes SRT more than double what EPEC claims it is owed, and refuses to consolidate the two debts.

74. “Controversy over the Canceling of a Micro-program on the SRT,” *La Voz del Interior*, October 4, 2002.

75. Periodistas, *Freedom of Expression*, Córdoba, September 2003.

76. Interview with a member of the local press union, May 12, 2004, Córdoba, Córdoba.

77. Periodistas, *Freedom of Expression*, pp. 2–3.

78. For example, Lucas Balián of *Generation X* is president of Córdoba’s Juventud Radical, the youth wing of the Radical Party; Gonio Ferrari was press director for the municipality of Córdoba during the administration of Germán Kammerath, a former official in the administration of Peronist president Carlos Menem; Alfredo Guruzeta is currently secretary of the legislators for the New Front

Party and Ricardo Fonseca is a New Front legislator; and Alberto Beltrán is a journalist identified loosely with the Unión Cívica Radical.

79. At the national level, as in Córdoba, the Mesa de Diálogo was created with the leadership of the Catholic Church in the wake of the December 2001 uprising known as *El Argentinazo*. In addition to the Catholic Church, the Mesa de Diálogo includes representatives of other denominations, university and judicial authorities, members of non-governmental organizations and other public figures.

80. With regard to the lack of formal notification of his firing, he said, “They alleged that I was not a formal employee of the channel....I was chief of the news service for nine years and now they say I was freelancing.” *Periodistas, Freedom of Expression*, p. 6.

81. Ibid.

82. Interview with Lucas Balián, May 11, 2004, Córdoba, Córdoba.

83. Ibid.

84. Interview with Lucas Balián and Gastón Gracia, May 11, 2004, Córdoba, Córdoba. In their interviews with our researchers, the journalists estimated the value of the government advertising negotiated up to 40,000 pesos per month.

85. The five programs in question were: *A primera hora de la tarde* (*At the First Hour of the Afternoon*), hosted by José Ravalli and Daniel Alassia; *Conmigo* (*With Me*) hosted by Gonio Ferrari; *Con sentido común* (*With Common Sense*) hosted by Alfredo Guruzeta; and *Al fin y al cabo* (*When All is Said and Done*) and *Objetivos* (*Objectives*), both hosted by Ricardo Fonseca.

86. Interviews with Fonseca and Ferrari, May 12, 2004, Córdoba, Córdoba.

87. “Polémica por el levantamiento de programas de TV” (“Controversy Over the Cancellation of TV Programs”), *La Voz del Interior*, January 3, 2004, http://www.intervoz.com.ar/2004/0103/politica/nota213259_1.htm.

88. Interview with Ricardo Fonseca, May 12, 2004, Córdoba, Córdoba.

89. Ibid.

90. Interview with Ernesto Ponsati, May 19, 2004, Córdoba, Córdoba.

91. Interview with Alfredo Guruzeta, May 13, 2004, Córdoba, Córdoba.

V. Improper Interference at the National Level

1. Our definition of national media includes those produced in Buenos Aires that have a wide distribution in the provinces. Although we recognize the importance of radio, for the purposes of

this study we have limited ourselves to newspapers and television. After checking with experts in the field, we determined that the media outlets that qualify as “national” include the newspapers *Clarín*, *La Nación*, and *Página/12* and television channels 2, 9, 11 and 13, each of which is discussed in the section on Advertising and Related Abuses.

2. For example, when in December 2003, the conservative daily *La Nación* successfully renegotiated its U.S. \$140 million debt down by 75 percent, it still owed U.S. \$35 million. Sencion, G. “La Nación después del default” (“La Nación after the Default”), *Apertura*, No. 132, May 2004, p. 17.

3. Jorge Rendo, corporate director of external relations of the Clarín Group, wrote in a letter to the editor published in *La Nación*: “When the debacle of 2001 [the December 2001 popular uprising] exploded, the [Clarín] Group had international loans obtained to finance investments in earlier years... in dollars. The Group operates in [Argentina] and in pesos....far from any benefit, the crisis and the devaluation had a totally negative effect on our Group.” He also stated that “I want to make clear that in no way has the Clarín Group received any type of government assistance to manage the crisis.” *La Nación*, February 14, 2005.

4. See *Chasqui* #80 (2002), available at: <http://www.comunica.org/chasqui/80/rej80.htm>.

5. See the Inter-American Press Association’s mid-year report, March 2004, available in Spanish at: http://www.sipiapa.com/espanol/publicaciones/informe_argentina2004m.cfm. Subsequently, some media outlets challenged the government’s imposition of VAT in court, with the outcome that they (but no others) received other tax breaks to offset the burden created by the VAT. Court rulings have no precedential value under the Argentine legal system, so other media owners would have to go to court to have the measure apply to them, as well.

6. Grupo Clarín is the biggest media conglomerate in Argentina, which has seen in recent years a significant increase in the level of capital concentration in the media industry. In addition to owning *Clarín*, the most widely read daily newspaper in the country, this group also holds Radio Mitre (which reaches 80 percent of the country), the national Channel 13, the cable movie channel Volver (Return), and TN (Todo Noticias), the most-watched cable news channel. It also controls more than a dozen related enterprises, including Multicanal, one of the two leading cable television companies, *Olé* sports magazine, five digital media outlets, and CIMECO, an investing group which owns two of the most important newspapers in the provinces, *La Voz del Interior* (published in Córdoba) and *Los Andes* (published in Mendoza). See www.grupoclarin.com.ar for a complete list of the group’s holdings. Similarly, another major media group, Admira, owns Telefe (the national Channel 11), Radio Continental (the leading FM radio and third AM station), eight television channels in the interior, as well as stakes in a number of audiovisual companies. See www.telefe.com.ar. The same is true for other major groups, such as the group of investors that holds Channel 9, Radio 10 and the newspaper *Infobae*, and the group that holds América TV and La Red radio.

7. “De Kirchner depende si Clarín sigue con Canal 12” (“Whether Clarín Keeps Channel 12 Depends on Kirchner”), *Diario sobre Diarios*, June 17, 2004, at www.diariosobrediaros.com.ar.

8. Interview with Dardo Fernández, September 27, 2004, Buenos Aires.

9. Decree 527/2005, May 20, 2005.

10. Speaking of the Clarín Group, for example, “government advertising has never ... had a significant weight in [our] income. The total of all official advertising (national, provincial and municipal) does not reach even three percent of the Clarín Group’s advertising revenue.” Letter to the editor by Jorge Rendo, corporate director of external relations of the Clarín Group, *La Nación*, February 14, 2005.

11. “Se duplicó la publicidad oficial en 2004” (“Government Advertising Doubled in 2004”), *La Nación*, November 13, 2004, noting that spending by November 2004, had reached 99.8 million pesos, more than twice the amount for 2003 (46.3 million pesos) and in excess of the 2004 budget (68.9 million pesos). The above numbers include spending on newspapers, magazines, radios, cable and regular television, street advertisements, publicity agencies, and radio, television and movie producers. The 2005 budget for national government advertising was 88 million pesos. In the first six months of the year, the government had already spent 74.7 million pesos, that is 84 percent of the total budgeted. See “Cómo se invierte el dinero de la publicidad oficial” (How Government Advertising Money is Invested), *Clarín*, September 27, 2005, quoting information provided by the federal government to the non-governmental organization Poder Ciudadano (Citizen Power), <http://www.clarin.com/diario/2005/09/27/sociedad/s-03301.htm>.

12. These measurements were made for the randomly selected period of April 19 to May 3, 2004. They cover the amount (in square centimeters) of public and private advertising for all sections of the 14 issues in print version for *Página/12*, *Clarín*, and *La Nación*, and 12 issues for *Ámbito Financiero*, which comes out only Monday to Friday, reducing its sample by approximately 15 percent related to the other papers. Judicial announcements, such as court-ordered publications, were counted as private publicity, since our understanding is that the majority is paid for by the parties. Ads regarding government bidding of contracts were counted as government advertising.

13. This untitled report consists of approximately two pages of text and appendices of well over one thousand pages. These appendices contain detailed information regarding advertising payments for the period from June 2003 through May 2004 (with some information on advertising in newspapers provided for the months of June and July 2004), broken down by government agency and by media outlet or provider (such as production companies). This report was provided to the ADC by the office of representative Federico Pinedo.

14. Martín Sivak, “Crónica de un engaño” (“Chronicle of a Deception”), *TXT*, March 28, 2003, pp. 14–19. Crónica TV (Chronicle TV) is part of a small Argentine multimedia firm with two additional holdings: a national newspaper also called *Crónica* and a newspaper (*El Atlántico*) in the coastal city of Mar del Plata. According to IBOPE ratings in March 2003, Crónica TV was the cable station with the second-largest national audience share (after Cartoon Network). Also, interview with Martín Sivak, independent journalist, May 21, 2004, Buenos Aires.

15. Interview with Sivak, May 21, 2004. The government activities and campaign events covered by Crónica TV under this arrangement included a graduation ceremony for police cadets (nine

minutes), donation of provincial government funds to an association for the disabled (a six-minute broadcast), a public ceremony in the city of El Calafate to commemorate the anniversary of the baptism of Lake Argentina (twelve minutes), the signing of contracts for the construction of a public pre-school (nine minutes), and the construction of a bridge over the River Las Vueltas (six minutes of transmission).

16. Interview with Sivak, May 21, 2004, Buenos Aires.

17. See, among others, decrees 436/2000, 1023/2001, 666/2003 and 204/2004.

18. Decree 2219/1971 makes Télam responsible for the planning and contracting of all government advertising inside and outside Argentina. This decree was reaffirmed by Decree 56/1975, which provides in article 2 that Télam will contract advertising centrally, in the media outlets it considers “most convenient.”

19. Decree 436/2000, article 15.

20. Interview with Luis Lazzaro, September 14, 2004, Buenos Aires.

21. Decree 993/1996.

22. Interview with Graciela Misasi, September 22, 2004, Buenos Aires.

23. Ibid.

24. Interview September 17, 2004, Buenos Aires, anonymity requested.

25. Interview with Misasi, September 22, 2004.

26. This request, submitted on September 24, 2004, asked for information regarding the legal framework for government advertising, budgets, and information for 2003 and 2004, and copies of the contracts signed by his office in 2003 and 2004 with newspapers and television and radio stations. A similar request to the media secretary for information on advertising spending submitted by the NGO Poder Ciudadano was answered. See “Government Advertising Doubled in 2004,” *La Nación*, November 13, 2004.

27. Interview, September 14, 2004.

28. On September 30, 2004, an official at SIGEN told us that the agency has a policy of not giving interviews to private individuals or organizations. On October 12, 2004, we submitted a formal information request to SIGEN. In response to our inquiry as to whether they had carried out, or were carrying out, any audits of government advertising spending, they replied that this information constituted a “professional secret” under the law. With regard to our request for information regarding contracts and contracting procedures, they suggested we contact the National Contracting Office, and for the information related to budget, they suggested we contact the National Treasury. However, in September 2004 officials at the National Contracting Office canceled a scheduled interview, and

a subsequent written request for information regarding the contracting of government advertising went unanswered. Six months after our request, in a letter dated June 29, 2005, the national auditor (Auditoría General de la Nación) told us that an audit of Télam’s 2003 accounting records was in progress, and that no audit of the media secretary’s office had been carried out.

29. Interview, September 14, 2004. See, for example, the national lottery agency’s Resolution No. 195/1997, article 7, which states that advertising campaigns shall be contracted using the system of direct contracting.

30. Interview with Graciela Misasi, September 22, 2004, Buenos Aires.

31. Among other details, we were informed that the tourism office is exempted from Decree 2218/1971 (which centralizes all government advertising in the media secretary’s office) by Decree 292/1992; that the advertising budgets for 2003 and 2004 were around 5.7 million and 4.8 million pesos, respectively; that the budget line for advertising spending is no longer in the tourism office’s budget since it was transferred to the media secretary’s office; and that the procedures used for their contracting are contained in various complementary statutes.

32. The presidential chief of staff’s report gives the following breakdown of advertising spending by centralized and autonomous agencies in the principal national media outlets (*La Nación*, *Clarín*, *Página/12*, and *Ámbito Financiero* newspapers, television Channels 2, 7, 9, 11 and 13, and radio stations La Red, Radio Mitre, Radioro, Radio Continental, Radio del Plata, and Radio Nacional):

Spending in the Main Media Outlets by Centralized and Autonomous Government Agencies

June 2003–July 2004, (pesos)

	<i>Centralized</i>	<i>Autonomous</i>
Newspapers	12,023,666	3,458,641
Television	15,287,770	2,285,691
Radio	1,139,812	689,955
TOTAL	28,451,248	6,434,287

Note: “Autonomous agencies” here includes, among others, tourism, lottery, and revenue collection agencies, the National Bank, the National Port Administration and the National Motor Vehicle Agency.

33. Law 22285/80 on Broadcasting, article 72, sections a–g.

34. Interview with, among others, Julio Martínez, sales manager of Channel 9, September 8, 2004, Buenos Aires.

35. Marín, R. “Un asunto espinoso” (“A Thorny Issue”), *La Nación*, June 10, 2004. Decree 1301/2004 overturned decree 933/2003.

36. *Gambier Beltrán Case*, Second Chamber of the Contentious and Administrative Court, judgment of August 24, 1999. In this case, the station had been required to run these ads as payment for fines owed to the government.

37. Interview with sources at major national radio, anonymity requested, September 16, 2004, Buenos Aires.
38. Interviews with Dardo Fernández, September 29, 2004 and Julio Nudler, November 11, 2004, Buenos Aires.
39. The 106,640 figure was provided to us by the paper's marketing department on November 15, 2004. We were told that 118,000 copies are printed Monday through Saturday, and 160,000 are printed on Sundays, of which 86 percent are sold. *Página/12* journalist Julio Nudler told our researchers that estimates by colleagues at the paper range from 15,000 to 20,000. Interview, November 11, 2004, Buenos Aires. Dardo Fernández, director of *Diario sobre Diarios*, a media analyst, estimated the circulation at 15,000, based on estimates provided off the record by *Página/12* journalists, his market analysis, and comparisons of sales of *Página/12* and *Clarín* (which is measured by the Institute of Circulation Verification) at different points of sale. Interview, November 4, 2004, Buenos Aires.
40. However, we were unable to locate the information for government advertising expenditure in *Página/12* for the previous seven-month period (June–December 2003), and a request to the national media secretary, Enrique Albistur, for clarification as to the absence of this information received no reply. Similarly, we were unable to locate the amount of advertising by autonomous agencies in *Página/12* for the period January through July 2004. The information on advertising spending on *Página/12* covers all those agencies whose advertising is managed through Télam.
41. “Cómo se invierte el dinero de la publicidad oficial” (How Government Advertising Money is Invested), *Clarín*, September 27, 2005, <http://www.clarin.com/diario/2005/09/27/sociedad/s-03301.htm>.
42. Committee to Protect Journalists, *Attacks on the Press 2003*, see <http://www.cpj.org/attacks03/americanas03/argentina.html>.
43. Rating figures are based on data supplied by IBOPE for the period from June 2003 to May 2004. We calculated an average based on the five to six programs included in IBOPE's data, which are the highest rated programs for each channel. América TV has complained that IBOPE rates the station as much as 40 percent lower than do other ratings companies; this complaint has been supported by the National Commission to Defend Competition (Comisión Nacional de Defensa de la Competencia). See <http://www.americatv.uolsinectis.com.ar/rating.htm>.
44. The average rating for América TV was 8.5 points, while that of Channel 9 was 9.8 points. Rating figures are based on data supplied by IBOPE for the period from June 2003 to May 2004. We calculated an average based on the five to six programs included in IBOPE's data, which are the highest rated programs for each channel.
45. Interview, September 14, 2004.
46. Susana Reinoso, “Julio Bárbaro: ‘El manejo de la TV por cable es poder’” (“Julio Bárbaro: ‘Control of Cable TV is Power’”), *La Nación*, February 6, 2005.

47. "How Government Advertising Money is Invested," *Clarín*, September 27, 2005.
48. Run previously as *Detrás de las Noticias* (*Behind the News*) and before that, as *Día D* (*D-Day*).
49. Interview with Jorge Lanata, October 15, 2004, Buenos Aires.
50. Interview with Andrés Klipphan, October 26, 2004, Buenos Aires.
51. Interview, October 15, 2004.
52. Ibid.
53. Interview October 27, 2004, Buenos Aires, anonymity requested.
54. Ibid.
55. Interview with Nelson Castro, October 12, 2004, Buenos Aires.
56. Interview with Dardo Fernández, September 29, 2004, Buenos Aires.
57. Interview, October 26, 2004.
58. Interview with Matías Méndez, March 5, 2004, Buenos Aires.
59. Interview November 4, 2004, Buenos Aires, anonymity requested.
60. "El Presidente respondió con dureza a la SIP" ("The President Responded Harshly to the SIP"), *La Nación*, March 3, 2005, <http://www.lanaicon.com.ar/684295>.
61. "Fernández Sent a Letter to La Nación to Express his 'Discontent'," *Diarios y Noticias* (*DyN*) News Agency, April 16, 2004.
62. Interview with Darío Gallo, Buenos Aires, September 7, 2004.
63. On June 30, 2005, Media Secretary Albistur sued *Noticias* journalist Darío Gallo and the magazine's chief editor, legal director, and president for libel (and asked for the maximum prison sentence of three years) in connection with the publication of a January 29, 2005, cover story critical of Albistur's management of national government advertising. At the apparent insistence of the president's chief of staff, Albistur subsequently withdrew the lawsuit. "Albistur querelló a la revista Noticias" ("Albistur Sued the Magazine Noticias"), *La Nación*, June 30, 2005, and "Albistur retiró la querrela contra la revista Noticias" ("Albistur Withdrew The Lawsuit Against the Magazine Noticias"), *La Nación*, July 8, 2005.
64. Interview, June 4, 2004, Buenos Aires. This practice was confirmed by other journalists including Andrés Klipphan, who currently works at the weekly magazine *Veintitrés* (*Twenty-three*). Klipphan told us that in mid-October 2003, the president's office invited two specific journalists from the magazine (who cover presidential activities) to accompany Kirchner on a trip to El Calafate

in the province of Santa Cruz, where he met with Brazilian president Ignacio “Lula” da Silva—rather than extending an invitation to the magazine. Interview with Klipphan, October 26, 2004.

65. He added that former presidents Eduardo Duhalde (January 2002 to May 2003) and Fernando de la Rúa (December 1999 to December 2001) did not usually invite journalists to travel on Tango 01. This journalist also clarified that not long after Kirchner’s inauguration, the president’s office began to extend invitations to *La Nación* to send someone to fly on Tango 01, rather than inviting specific journalists. Interview, October 27, 2004, Buenos Aires.

66. Interview, October 27, 2004, Buenos Aires, anonymity requested.

67. Ibid.

68. Interview, November 1, 2004, Buenos Aires, anonymity requested.

69. According to Dodd, often the group traveling with the prime minister includes journalists who are resolutely opposed to his policies. Dodd and his colleagues at the Press Association are unaware of a case in which a correspondent selected for such a trip has been vetoed by the prime minister’s office for his political views, or for any other reason. Email communication, October 26, 2004.

70. The system consists of a rotating “pool” of approximately 15 journalists per trip that includes representatives of three wire services, one magazine, one newspaper, one television station, plus photographers and camera crews. The White House invites the media outlets to travel, which, in turn, select their own journalists. Furthermore, the newspaper and magazine reporters who travel file a “pool report” which is distributed to other journalists by the White House. Television and radio journalists make oral reports for the same purpose. Email communication, October 26, 2004.

VI. Access to information Issues

1. See Law 8803/1999 on Access to Knowledge of the Acts of State.

2. See Law 1829/1984 on the Right of Free Access to Sources of Public Information, modified by law 3441/2000 (unnamed).

3. According to the government, in 2002 it spent 44,482 pesos on advertising in the *Río Negro* newspaper, although the paper’s records show 115,915 pesos. For 2003, the government showed zero payments to this paper for advertising, while the paper’s records show advertising income of 191,129 pesos from the provincial government.

4. Legislative Director Roberta Scavo had recently assumed her position; the information provided corresponded to her predecessor’s term in office.

5. More than three months after the information was requested, and after our initial research was concluded, the provincial Supreme Court sent a letter to our researchers indicating the institutional processes for contracting advertising by the justice system, and the annual amounts

contracted, broken down by media outlet. However, the amount of advertising contracted by the justice system is minor, and its procedures are focused principally on the publication of judicial job announcements and present little opportunity for discretion or abuse.

6. First, we checked this information against accounting records held by the *Río Negro* for advertising contracted by the government of Neuquén. It was also verified by records held by another newspaper, and by an individual journalist who asked to remain anonymous, who confirmed the accuracy of advertising payments made through that journalist. Finally, the figures provided by the provincial Supreme Court were reasonably close to numbers we received informally from another source; (the Supreme Court claimed it spent 18,081 pesos in 2002 and 104,119 in 2003, while our numbers were 18,484 and 103,743 respectively).

7. Law 653 on the Right to Information was applauded by several civil society organizations involved in promoting its passage.

8. In 2001, the federal Anti-Corruption Office convened a number of civil society organizations, business persons, journalists, legislators, and others to work on a draft access to information bill. The result of this process was a bill approved by the lower house of Congress in May 2003. In December 2004, the Senate approved a version that introduced several problematic modifications. For example, requestors are required to fill out a form that is the equivalent of a sworn statement, with personal information such as a document/ID number and nationality, and the motive for their request. The changes expand the scope of those required to provide information upon request to include private businesses and organizations that hold information of “general interest”; these are required to divulge all of their information, not just the apparently “public information” they may hold (the term is not clarified in this context). The Chamber of Deputies now has until late 2005 to adopt the bill in its original form or with the Senate’s modifications. Approval of the original bill would require a difficult-to-achieve two-thirds vote, and if neither version is approved, the bill will lose parliamentary status.

9. Decree 1172/2003.

10. The tourism office (Secretaría de Turismo) invoked and justified the 10-day grace period before answering, and SIGEN answered 4 days after the 10-day limit.

VII. Chilling Effects

1. Interview, April 15, 2004, Neuquén, Neuquén.

2. “Cuestionamientos al Rector González” (“Questioning of President González”), *La Voz del Interior*, February 21, 2003. http://www.intervoz.com.ar/2003/0221/politica/nota148833_1.htm. The next day, the local press union CISPREN and journalists at Servicios de Radio y Televisión at the University of Córdoba issued a press release denouncing González’s statements, noting that he is president of an institution responsible for training professionals, among them journalists.

3. Interview, April 8, 2004, Neuquén, Neuquén.
4. Interview, September 29, 2004, Buenos Aires.
5. Interview, May 19, 2004, General Roca, Río Negro. He is also known as Tony Rey.
6. Interview, June 25, 2004, Córdoba, Córdoba.
7. Interview, April 7, 2004, Neuquén, Neuquén.
8. Interview, October 15, 2004, Buenos Aires.
9. Ibid.
10. Interview, November 4, 2004, Buenos Aires.
11. Interview, November 11, 2004, Buenos Aires.
12. “Campaña” (“Campaign”), *Página/12*, October 27, 2004.
13. Interview with Nudler, November 11, 2004, Buenos Aires, and “Los trabajadores de Página/12 apoyan a Nudler” (“The Workers at Página/12 Support Nudler”), *Diario sobre Diarios*, October 29, 2004.
14. “Se autodisolvió Periodistas” (“Periodistas self-dissolved”), *Clarín*, November 12, 2004.

Appendix A

1. This paper was bought out in March 2003 and changed its name to *La Mañana de Neuquén* (*The Neuquén Morning*).

Asociación por los Derechos Civiles (Association for Civil Rights)

ADC is an Argentine nonprofit, nongovernmental, and nonpartisan organization. It was founded in 1995 to contribute to the establishment of a legal and institutional culture that guarantees fundamental rights to the inhabitants of Argentina, based on democratic values and respect for the constitution. ADC's objectives include promoting and advocating respect for fundamental rights, defending the rights of the inhabitants of Argentina, especially those who have limited access to justice due to discrimination, and strengthening democratic institutions, with a particular focus on the justice system. ADC is known for its longstanding work in promoting public interest law in Argentina, especially via precedent-setting public interest litigation. The association also monitors government bodies and generates proposals for legal and institutional reform that are designed to complement its litigation work and strengthen democratic institutions.

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Open Society Justice Initiative

The Open Society Justice Initiative, an operational program of the Open Society Institute, pursues law reform activities grounded in the protection of human rights, and contributes to the development of legal capacity for open societies worldwide. The Justice Initiative combines litigation, legal advocacy, technical assistance, and the dissemination of knowledge to secure advances in four priority areas: national criminal justice, international justice, freedom of information and expression, and equality and citizenship. Its offices are in Abuja, Budapest, and New York.

The Justice Initiative is governed by a Board composed of the following members: Aryeh Neier (Chair), Chaloka Beyani, Maja Daruwala, J. 'Kayode Fayemi, Anthony Lester QC, Juan E. Méndez, Diane Orentlicher, Wiktor Osiatyński, András Sajó, Herman Schwartz, Christopher E. Stone, and Hon. Patricia M. Wald.

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Open Society Institute

The Open Society Institute, a private operating and grantmaking foundation, aims to shape public policy to promote democratic governance, human rights, and economic, legal, and social reform. On a local level, OSI implements a range of initiatives to support the rule of law, education, public health, and independent media. At the same time, OSI works to build alliances across borders and continents on issues such as combating corruption and rights abuses. OSI was created in 1993 by investor and philanthropist George Soros to support his foundations in Central and Eastern Europe and the former Soviet Union. Those foundations were established, starting in 1984, to help countries make the transition from communism. OSI has expanded the activities of the Soros foundations network to other areas of the world where the transition to democracy is of particular concern. The Soros foundations network encompasses more than 60 countries, including the United States.

www.soros.org

"When governments limit scrutiny of their actions through control of news coverage, the public suffers. This groundbreaking report spotlights often overlooked forms of indirect censorship and offers timely recommendations of global relevance."

JUAN MÉNDEZ

Former president, Inter-American Commission on Human Rights

"This serious and vital report documents various forms of government pressure and censorship that hinder press freedom in Argentina and are expressly prohibited by the Inter-American Convention on Human Rights to which Argentina is a party."

JOSÉ ZALAUQUET

Member, Inter-American Commission on Human Rights

"Though focused on Argentina, this report raises profound questions for many societies that claim to have high-quality democracies. This critical and sensitive issue has never before been treated in such a credible and balanced way that sets a new standard for policy research and will be of immense benefit to government officials, analysts and advocates."

MICHAEL SHIFTER

Vice President for Policy, Inter-American Dialogue

"This report documents how the censor has many faces—not just that of the policeman, but also that of an economic agent who distributes resources to the friends of the administration and denies them to critics and those deemed the administration's enemies. Such a practice is unworthy of any nation that considers itself a democracy."

OWEN FISS

Sterling Professor of Law, Yale University, author of *The Irony of Free Speech*

Buying the News examines some of the more subtle ways in which government officials interfere with media freedom and editorial independence in Argentina.

The report found an entrenched culture of pervasive abuse by government officials who practice "indirect censorship" by using advertising resources and regulatory power as carrots or sticks to manipulate the media for political and personal purposes—whether it is to inappropriately influence content or bankrupt an annoying publication. *Buying the News* responds to this official interference with media content by offering policymakers, journalists, and media freedom advocates a comprehensive set of recommendations for reform.



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