

The Price of Silence



The Growing Threat of Soft Censorship in Latin America

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Asociación por los Derechos Civiles

Open Society Justice Initiative



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You are not going to publish information against those who give you advertising You are not going to bite the hand that feeds you.

–A Colombian journalist describing provincial government practices of handing out advertising contracts to individual journalists.

One colleague from a news program was strongly opposed to the government, but changed after a presidential trip to Europe. “One must rethink one’s positions,” he told me.

–A Honduran journalist describing payments and other benefits received by colleagues who accompany the president abroad.

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I. Executive Summary and Summary of Recommendations

Executive Summary

This report examines a growing trend in Latin America: behind-the-scenes government interference with media freedom and editorial independence. These abuses, which we characterize as “soft censorship,” are not entirely new. What distinguishes them from the more obvious and often-documented violations—such as legal harassment or acts of violence and intimidation against journalists—is that they remain largely invisible to the general public, while casting a long, insidious shadow on free expression. In particular, this report documents government abuses of financial and regulatory powers over the media, such as those related to advertising and licensing processes, as well as other content-based interferences. It also describes forms of government pressure that may be very powerful and direct—such as ultimatums to fire vocal journalists—but which have remained unexposed and unchallenged.

Because reformers and rights groups usually focus on more traditional, heavy-handed methods of interference, there is to date limited systematic monitoring of soft censorship. This report seeks to fill that information gap in the region, and is a follow-up to the 2005 publication by the Justice Initiative and the Buenos Aires-based Asociación por los Derechos Civiles (Association for Civil Rights, ADC), *Buying the News: A Report on Financial and Indirect Censorship in Argentina*. *Buying the News* exposed the many subtle yet powerful ways in which

government officials wield influence over Argentina’s media, from the misuse of government advertising to the exertion of behind-the-scenes pressure on reporters and editors.

The seven countries covered in this report are Argentina, Chile, Colombia, Costa Rica, Honduras, Peru, and Uruguay. The report is based on research that was carried out, for the most part, between January and October 2007, and was updated as the publication went to press.

A recurring pattern addressed in this report is the exploitation of government advertising and related services to secure favorable news coverage and discourage critical reporting. In most of the countries studied, we found pervasive abuse by 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, which is particularly true for local media. Provincial governments, we found, routinely use their control of advertising resources as financial sticks or carrots, whether to bankrupt an annoying publication or to inappropriately influence content. Certain national governments, particularly various Honduran administrations, have also engaged in this practice.

Fewer national-level (as opposed to provincial) media outlets depend on government advertising for their survival. This does not stop national governments, however, from allocating advertising in ways that involve favoritism and/or outright retaliation. Direct advertising payments to individual journalists and other content producers—a widespread practice—are often abused to undermine the journalists’ independence. In addition, senior government officials in some countries routinely pressure and intimidate media owners, editors, and even individual reporters to spin news coverage to their liking. Financial and editorial pressures by private actors such as large companies are also prevalent and worrisome. However, states have the primary responsibility both to respect and affirmatively ensure freedom of expression.

Government Advertising-Related Abuses

Our investigation revealed that governments across the region routinely use advertising contracts to reward or punish media outlets for their content, often seeking to control what is published or broadcast. Government officials who commit such abuses rarely violate the letter of domestic law, which generally allows for nearly complete discretion in allocating advertising contracts. There are no laws in the countries we studied that specifically prohibit discrimination based on media viewpoint—a danger inherent in allocation of government advertising, and what sets it apart from other types of government procurement.

In fact, legal frameworks governing the purchase of advertising in each of the countries under study are insufficient and inadequate: they lack rules and criteria that would make advertising allocations transparent and fair, and fail to establish effective safeguards against

abuse. The lack of transparency built into the contracting of government advertising, particularly when combined with the centralization of decision-making in political appointees, lends itself to politically motivated abuses of government advertising and ensures little or no control by citizens and civil society.

Across the region, while tens of millions of dollars are spent each year on advertising contracts, open and competitive processes are the rare exception. In Argentina, Chile, Colombia, Costa Rica, Honduras, and Uruguay, government advertising is subject to the same contracting regime as the rest of government procurement, with no regulations setting the criteria or process to be used. Only Peru has a law specifically addressing government advertising contracting, but its provisions are so vague and general as to make it ineffective—as evidenced by the abuses by Peruvian officials documented in this report. As this report went to press, the governor of the Argentine province of Tierra del Fuego issued a decree regulating the allocation of provincial advertising by executive branch agencies.¹

Currently, some or all of the countries examined in this report are marked by a variety of advertising-related abuses, including:

- ▶ ***Abuse of government advertising to directly influence content.*** Our research uncovered numerous cases of governments at the local and national levels using official advertising to influence what is published in the media. In 2004, for example, then-Costa Rican president Abel Pacheco ordered his administration to stop advertising in *La Nación*, the country's leading daily, in retaliation for its critical coverage. In 2007, Costa Rica's vice president resigned after a scandal that involved proposals he and another top official made about using advertising contracts to secure favorable media coverage during a protracted political battle over a free trade agreement with the United States.

In September 2007, Argentina's Supreme Court ruled that the government of the province of Neuquén violated the free speech rights of the *Río Negro* newspaper by withdrawing advertising in retaliation for critical coverage, in what amounted to indirect censorship. The court ordered the Neuquén government to desist from allocating future advertising funds in a discriminatory fashion. This is the first time that a Latin American supreme court found unequivocally that retaliatory allocations of public advertising violate media freedom.

In 2006 and 2007, the Peruvian housing minister used government advertising contracts to purchase favorable coverage of his ministry and himself in three national newspapers—and President Alan García refused to condemn the minister's wrongdoing. This report describes numerous similar cases in which local governments in Peru and Chile used advertising payments to purchase favorable coverage.

Abuses of government advertising to influence content occur across the region. In the words of Honduran journalist Rodolfo Montalván, “the government tries to give you an advertising contract so that you shut your mouth. The criterion the government

uses is the journalist's or media's silence. Here they don't purchase the ad; they buy your conscience, your vision as a journalist."

- ▶ **Direct advertising payments to journalists.** In several of the countries covered by this report, we documented abuses of advertisement payments to individual journalists—for real or fictitious ad services—that are used to purchase favorable coverage or editorial silence on difficult issues. In Honduras, for example, payments to journalists are an institutionalized practice. Government officials even require journalists to sign contracts mandating favorable coverage of government activities. If the expected coverage is not provided, officials often simply stop making payments. This and similar systems in the region succeed in part because many journalists lack jobs that provide adequate income, and some depend on advertising income to survive.

In several regions in Colombia, we found that the practice of soliciting advertising contracts from government officials is very widespread. Journalists' salaries are often minimal or nonexistent—this is especially true for radio journalists—and the bulk of their income derives from advertising space they personally sell to the government. As a radio journalist in the city of Barranquilla told us, "I call the official in the morning to ask for information, and in the afternoon I call him to sell [advertising]."

In Argentina, the national government often makes generous advertising payments to journalists who write in influential national print media but have radio or cable television programs with low ratings.

- ▶ **Discriminatory allocation of advertising to media favorites and political allies.** Even where there is no immediate quid pro quo, allocation of government advertising is often abused, opaque, and/or politically motivated. Our research detected numerous cases across the countries surveyed, and also confirmed that a number of the Argentine cases documented in *Buying the News* have persisted over several years. For example, measurements from 2005, 2006, and 2007 showed that Colombian president Uribe's government made consistent and suspiciously high allocations to the economic newspaper *La República*, which is generally supportive of government policies and not a top-circulation publication. In 2007, the municipal government of Barranquilla granted some 34 percent of its advertising budget for the first quarter of 2007 to two radio journalists, despite their tiny audience shares.

Recent research shows that the unjustified allocation of advertising to the Argentine national daily *Página/12* during 2004 and 2005, which we documented in *Buying the News*, persisted over the next two years. In 2006 and 2007, the national government again gave *Página/12* a highly disproportionate share of government advertising that cannot be justified by the paper's circulation or any other competitive advantages.

Since former president Nestor Kirchner took office in May 2003, *Página/12* has taken a generally pro-government line, apparently the product of its ideological compatibility with that administration. Kirchner's government also made overly generous allocations to a variety of media in the province of Santa Cruz owned by Rudy Ulloa, Kirchner's former chauffeur (Kirchner was the governor of Santa Cruz between 1991 and 2003).

- ▶ ***Use of advertising for propaganda purposes.*** Public sector advertising has also been used to promote the image of government officials or candidates for office. In addition to being a misuse of public resources, advertising payments for such purposes lend themselves to abusive allocations and, ultimately, affect media freedom.

Laws in Argentina, Chile, Colombia, and Peru place restrictions on advertising spending during electoral campaigns. In addition, Colombia, Chile, and Peru have general restrictions regarding the use of advertising for propaganda purposes. For example, Peru's 2006 advertising law expressly prohibits government officials from appearing in materials bought with government advertising funds, as well as all advertising that benefits any political party or candidate for office. Nonetheless, it is common for local officials in Argentina, Colombia, and Peru to use government funds to publish advertisements in national newspapers—often with photos of themselves—that showcase their administration's supposed accomplishments. This report also detected multiple spikes in government advertising spending during campaign seasons. The most dramatic example occurred in Honduras, where the government advertising budget for the president's office was over 30 times higher in 2005, a presidential election year, than in 2006. The propaganda uses are symptomatic of excessive levels of government discretion in allocating advertisements, the gross abuses that surround such allocations, and their deleterious impact on media freedom.

Other Forms of Soft Censorship

Government advertising is not the only tool of soft censorship used by governments in the countries surveyed and elsewhere in the region. This report documents how other financial and regulatory powers are abused to muzzle the media. Some of these abuses, such as selective denial of access to government information or broadcast licenses, are subtle or otherwise disguised under a veil of supposed legality. Others, such as "telephone censorship," can be very direct and heavy-handed.

Pressure on Journalists and Media Owners to Change Content. Earlier research in Argentina revealed that high-level executive officials routinely seek to interfere with media content by

pressuring media directors or editors and, at times, contacting journalists directly. Our follow-up investigations at the regional level revealed that such pressures are widespread in other countries as well. For example, the president of Colombia and his press secretary have made phone calls to media directors to interfere with media coverage. Although editorial pressures in Uruguay have diminished under the current administration, senior Uruguayan officials have called media directors to influence the content of what they publish, especially directors of media that are relatively less critical of the current administration. Government officials make pre-emptive calls to journalists regarding the content of stories in Costa Rica as well.

Direct pressures by senior officials can be even more intense at the local level, as illustrated by the 2006 firing of television journalist Wendy Guerra in the city of Santa Rosa de Copán, in western Honduras, in response to pressure from several city council members who were upset with one of her stories.

Retaliatory denial of access to government institutions and information. Another form of soft censorship is governments' denial of access to official information to particular media in retaliation for critical coverage. For example, an editor at one of the most important newspapers in Honduras, where this practice is particularly widespread, told us that his reporters were often denied access and treated differently from other media. Similarly, Radio América, one of the country's leading radio stations, was blacklisted by government advertisers in retaliation for its decision to delay announcing the November 2005 victory of President Manuel Zelaya Rosales. The Honduran government also uses invitations for travel with the president to reward or punish reporters.

Unfair allocation of broadcast licenses. Freedom of expression is greatly compromised when broadcast licensing processes are abused to benefit political allies or silence independent voices. In some cases, government officials take advantage of broad discretion built into the state licensing process. In other cases, the existing legal framework creates structural barriers to fair licensing, such as high financial investment requirements, which end up benefiting larger media and suppressing a wide range of voices and actors. Community broadcasters, in particular, and other nonprofit operators are often subjected to unfair and systematic denials of access to the airwaves—usually as a result of a combination of political bias, systematic marginalization, and commercial pressures.

In most of the countries surveyed, the regulatory frameworks for radio and television broadcasting are inadequate, and below the basic standards established by Inter-American human rights instruments. In Uruguay, for example, until very recently, the law lacked safeguards to prevent the executive branch from granting broadcasting licenses in ways that are arbitrary and discriminatory. Similar shortcomings affect licensing processes in Argentina, Colombia, and Peru. Despite legal provisions that favor nonprofit radio stations, few community radio stations have been granted access to frequencies in the countries studied.

Other forms of financial censorship. Other examples of interference covered in this report include the suspension of telephone service to a radio station in Honduras and the shuttering of a printing press in Argentina, both in retaliation for critical reporting. These incidents reveal that soft censorship comes in many forms, all aimed at preventing the media and others from speaking their minds.

The Pernicious Effects of Soft Censorship

The financial abuses and other interferences with editorial autonomy described in this report have grave and pervasive effects on media freedom and democratic debate in general. 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—in extreme cases by taking them off the air or firing them altogether.

Referring to government payments to journalists for trips abroad with the president, a Honduran radio journalist told us, “I know journalists who change their editorial position for the [per diem] payments they receive. One colleague from a news program was strongly opposed to the government but changed after a presidential trip to Europe. ‘One must rethink one’s positions,’ he told me.”

Radio journalist Carlos Hurtado from Cartagena, Colombia, described the ties attached to government advertising: “The government agencies that advertise are few, and journalists who seek advertising compete for them. Therefore, the journalist who wants to say that the agencies are doing something wrong abstains from publishing. One tends to soften the criticism.”

Reforming Government Advertising Laws

While advertising abuses and other forms of soft censorship remain pervasive in Latin America, there are encouraging signs of greater public attention and criticism directed at these practices. We have devoted a separate chapter to the regional movement toward legal reform that is gaining momentum in the region. Peru passed a government advertising law in 2006 that, while imperfect, represents a step in the right direction. In Chile, a 2007 congressional investigation into advertising practices documented various problems and called for a significant push for legal reform in that country.

In Uruguay, senior officials in the Tabaré Vázquez administration have publicly expressed their commitment to reforming advertising contracting rules, and in early 2008, the Ministry of Industry set in motion a process of consultations with relevant stakeholders to develop a reform bill. Meanwhile, several agencies have taken steps to reduce the politically-

motivated use of advertising. Some local governments in Colombia have adopted so-called “transparency agreements” that include commitments to reform procedures for contracting government advertising. And in Argentina, a multifaceted campaign for legal reform has raised the visibility of the issue and resulted in the presentation of several legislative proposals at the national and local levels. The campaign has also resulted in the adoption of a decree establishing objective criteria for the allocation of advertising in the province of Tierra del Fuego, where the ADC and the Justice Initiative have been pressing for legal reform since the 2005 publication of *Buying the News*.

Access to Information and Transparency Issues

In the course of our investigation, we also documented barriers to obtaining public information on what governments do with advertising funds and how they make media policy. In each of the countries covered, we encountered, with few exceptions, persistent official resistance against our efforts to shed light on government advertising practices and other issues covered in this report—including in countries that have formal access to information regimes, such as Chile and Peru. In numerous cases, our requests for information were simply ignored, and in others the information received was tardy, partial, or difficult to process. The cases of failure to respond adequately—or at all—to formal requests for information suggest a lack of sufficient political will to address the transparency deficit within the government bodies involved. They suggest, as well, that soft censorship thrives in an atmosphere of relative secrecy.

Country Conclusions

Argentina

The national government regularly abuses its advertising powers, including through excessive allocations to political favorites and denial of advertising in retaliation for critical coverage. Such abuses are even more marked at the local level, where media are, as a rule, more dependent on provincial and municipal advertising. Several Argentine cases of media punishment and discrimination documented in *Buying the News* have persisted since the book’s publication. Despite certain legal restrictions on public advertising during electoral campaigns, former president Nestor Kirchner’s administration increased overall spending in 2007 and dedicated massive funds to campaigns promoting his image in an election year in which his wife ran (successfully) for president. In addition, direct advertising payments to journalists by the national and local governments are sometimes used to facilitate favorable coverage. There are signs, however, that the tide is starting to turn. In September 2007, Argentina’s Supreme Court ruled, in a groundbreaking case, that the government of the Neuquén province violated

the free speech rights of the *Río Negro* newspaper by withdrawing advertising in retaliation for critical coverage. A civil society campaign has raised the visibility of the advertising issue and resulted in the presentation of several legislative proposals, and in February 2008 the province of Tierra del Fuego issued a decree establishing objective criteria for the allocation of advertising contracts.

Other incidents of soft censorship included the closing of a provincial newspaper's printing press in retaliation for critical coverage of the local administration in 2007. Although a recent reform made nonprofit organizations eligible to receive broadcasting licenses, civil society groups have called repeatedly for a new broadcasting law to revamp the current framework, a remnant of the most recent dictatorship. The broadcast licensing process has been unduly restricted in certain areas.

Chile

The bulk of government advertising in Chile goes to a handful of national print and broadcast media. Allocations are fraught with arbitrary practices despite implementation of an Internet-based system designed to bring greater transparency and fairness to the overall procurement process. Provincial governors, mayors, and state companies routinely use advertising contracts to purchase favorable coverage, often telling media or journalists what they can and cannot publish. National and local government advertising spending has increased suspiciously in recent years, especially during election periods. A special congressional investigation, set up in response to concerns about lack of media pluralism, called in late 2007 for a comprehensive reform of advertising laws and policies. The government is expected to introduce a reform bill in the second half of 2008.

Colombia

Our research uncovered one case of irregular distribution of government advertising among printed media at the national level and numerous misallocations at the local level. These include direct advertising payments to journalists and other content-producers made with the goal of undermining their independence. Several mayors and governors have signed transparency agreements that include specific commitments to establish processes for fair and transparent government advertising allocations—but their impact remains limited so far. Press directors for senior Colombian officials call journalists, editors, and media owners to influence headlines or the content of a story, or to request that certain information not be published. Even the president and his press secretary have interfered with media coverage in this fashion. In March 2008, 10 years after the adoption of new broadcasting legislation, and following multiple interventions by community radio stations and other civil society organizations, the government finally opened a licensing process for community broadcasters in departmental capitals.

Costa Rica

In Costa Rica, the majority of government advertising is contracted by autonomous agencies such as state universities, state-owned commercial banks, and utility companies. Some of these entities appear to use content-neutral criteria for allocations. However, the central government is not immune to serious abuses. In 2004, for example, then president Abel Pacheco ordered his administration to stop advertising in *La Nación*, the country's leading daily, in retaliation for its critical coverage. Under his administration, which ended in 2006, government advertising was often handed out to "friends of the government," especially in the case of regional media or individual radio journalists. Politically motivated allocations appear to persist under the current administration, though to a lesser degree. Costa Rica's vice president resigned in 2007 after a scandal in which he and another top official proposed using advertising contracts to secure favorable media coverage during a protracted political battle over a free trade agreement with the United States.

Honduras

Government advertising decisions in Honduras are generally centralized in the office of the president's private secretary, and are routinely used to purchase favorable coverage or silence critical voices. Direct government payments to journalists for suspect communication services are an institutionalized practice. This system is facilitated by the fact that local officials forego competitive bidding procedures and contract directly with the media of their choice. Abuses are rampant at the provincial level. For example, in the northern city of El Progreso, the municipal government makes discriminatory advertising allocations, pays journalists to provide favorable coverage, and denies access to official information in retaliation for media criticism. In an egregious example of official vindictiveness, the national telecommunications company cut off telephone service to a national radio station following critical coverage of a company official.

Peru

Peru passed a government advertising law in 2006. However, its provisions lack the clarity and specificity needed to make it effective. In 2006 and 2007, the housing minister used government advertising contracts to secure favorable coverage of his ministry and himself in three national newspapers. Advertising practices at the local level continue to be informal and fraught with abuses. Local government officials make direct payments to individual journalists and media to purchase positive coverage rather than genuine advertising, and advertising allocations are sometimes discriminatory. As a result of a combination of factors, including high financial investment requirements and excessive government discretion in licensing, only a handful of community radio stations in the country have obtained broadcasting licenses.

Uruguay

Government advertising abuses were widespread in previous administrations and some public officials were prosecuted for such practices. Our research shows that there is currently no government pattern of abusing allocations of official advertising. Senior officials have supported the development of a new law reforming advertising contracting regulations, to be presented by the end of 2008, and several agencies have taken steps to implement new processes designed to reduce the politically-motivated use of advertising. In the meantime, the lack of a clear legal framework allows for the use of criteria which result in arbitrary and questionable advertising allocations. While independent and opposition media reported an absence of editorial pressures from the government, senior government officials have called certain media directors to improperly influence the content of what they publish. The overall regulatory framework for broadcasting is inadequate; as a result, community groups have been systematically denied access to radio frequencies. In December 2007, however, congress passed a comprehensive community broadcasting bill that for the first time recognizes community radio and television stations and requires the state to promote their viability.

Summary of Recommendations

To all Governments—and in particular, the Governments of Argentina, Chile, Colombia, Costa Rica, Honduras, Peru, and Uruguay:

1. Make a public and enforceable commitment at all levels of government to refrain from using advertising and other financial or indirect pressures to interfere with media freedom and independence. Demonstrate such a commitment by investigating credible allegations of such interference.
2. Adopt and implement clear and specific laws that establish fair, competitive, and transparent contracting procedures for all branches of government. Such laws should ensure unbiased allocation of all advertising-related spending in a manner that fully respects and ensures media independence and pluralism.
3. Ensure that decisions for allocation of government advertising are not concentrated in the hands of political appointees, but instead are left to individuals with appropriate technical capacity.
4. Refrain from using government advertising—directly or indirectly—for electoral, partisan, or personal promotional purposes. Appropriate mechanisms should be adopted to prevent, investigate, and sanction such abuses, especially during election periods.

5. Increase the transparency of state advertising by publishing timely information pertaining to advertising-related procurement in print and online versions of official journals, or similar publications, at all stages of the process.
6. 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. These reports should be easily understandable by the general public and uniform across agencies.
7. Post online the annual advertising budgets and spending reports of all government agencies. These should be clear and easily understandable by the general public and include no more than three or four line items for advertising spending.
8. Empower and encourage investigative and auditing agencies to diligently investigate unlawful practices in the procurement of government advertising, particularly allegations of political or personal bias in making allocation decisions.
9. Require audit agencies to conduct and publish an annual audit of government advertising spending and practices.
10. Ensure that any government subsidies to the media are allocated by independent bodies in accordance with pre-established, fair, and transparent criteria and procedures.
11. Cease all improper interference with the editorial content and autonomy of the media—including denial of access to information as reprisal for critical coverage, attempts to prevent publication of stories critical of the government, and other forms of harassment and intimidation.
12. In particular, the governments of Argentina, Chile, and Uruguay should give priority consideration to existing proposals to reform government advertising regimes.
13. All countries should adopt and implement comprehensive legislation on licensing of community broadcasting and related issues, in keeping with basic standards regarding freedom of expression and media pluralism established by Inter-American human rights instruments.
14. The government of Colombia should take measures to ensure that its community broadcasting laws are fairly and properly implemented.

To the Government of Peru:

15. Adopt clear, specific, and comprehensive regulations for implementation of the 2006 government advertising law. Also, empower an appropriate body to investigate unlawful practices in the procurement of government advertising and apply statutory sanctions.

To the Governments of Argentina, Colombia, Costa Rica, and Uruguay:

16. Pass a comprehensive law on access to information held by public bodies, based on presumptions of openness and maximum disclosure to the public.

To the Governments of Chile, Honduras, and Peru:

17. Ensure full compliance with existing laws regarding access to information held by public bodies.

To the Special Rapporteurs for Freedom of Expression of the United Nations and the Organization of American States:

18. Regularly monitor and report on abuses related to government advertising, broadcast licensing, and other financial or indirect pressures.
19. Regularly document both specific cases and systemic abuses in these areas and call on governments to address them appropriately.
20. Formulate specific guidelines or recommendations and promote the adoption of relevant legal reforms to prevent and sanction various forms of soft censorship.

To National, Regional, and Local Civil Society Organizations:

21. 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:

22. Actively support reform of government advertising laws and practices, and denounce all related abuses and financial pressures.
23. Develop and adhere to a code of ethics that includes commitments to a fair and transparent government advertising regime and editorial independence for media and journalists. In particular, journalists and other content producers should not participate in the negotiation of advertising, which should be handled by managers or marketing representatives.
24. Reach a comprehensive agreement on the formal and lawful employment of journalists and other media professionals that guarantees their basic labor rights.

II. Introduction

The Peruvian housing minister uses advertising funds to purchase favorable news stories about himself and his ministry. Governors and mayors in Chile, Honduras, and Peru do the same with advertising payments they make directly to journalists. The government of Argentina denies government advertising to a prominent newspaper and magazine in retaliation for their critical coverage. The Honduran Telecommunications Company responds to critical coverage of a senior company official by cutting off telephone service to a national radio broadcaster. With rare exceptions, community organizations in Peru are denied access to radio frequencies despite legal reforms designed to ensure them permits. Government officials ranging from presidents to mayors and their press officers make phone calls pressuring media owners and journalists to change editorial content.

In recent years, an increasing number of governments around the world have resorted to these kinds of indirect or “soft” censorship. They use behind-the-scenes methods, often involving financial and regulatory pressures, to shape media coverage or silence the media altogether. These techniques are particularly prevalent in countries experiencing political transitions, where governments can no longer suppress media independence outright but are not yet ready to recognize the right of the media and the public to hold state actors accountable. And these techniques have grown more effective as traditional forms of censorship—physical intimidation, unlawful imprisonment, and judicial harassment—have attracted greater international scrutiny and condemnation. Even long-standing democracies are not immune

to secret government manipulation of the media and public opinion: In the United States, the Bush administration has been accused of paying reporters to plant covert propaganda pieces, both in the U.S. and Iraqi media.

More often than not, soft censorship combines a semblance of legality with clearly unlawful methods and goals of improperly influencing media content and other forms of political expression. These methods of soft censorship are by their nature difficult to catalogue, but they tend to fall into three broad categories:

- ▶ *Abuse of public funds and monopolies.* These forms of soft censorship range from abusive allocation of government advertising or subsidies, to arbitrary denial of access to state printing facilities, to direct cash payments to reporters for dubious or undeclared services. These practices are doubly pernicious, as taxpayer money and public wealth is used and abused to promote partisan or personal interests.
- ▶ *Abuse of regulatory and inspection powers.* These types of interference operate under the cover of law or market rules: broadcast licensing processes are manipulated to benefit economic or political allies or silence independent voices; critical media find themselves subjected to a barrage of selective and draining fiscal, labor, or other regulatory inspections; sometimes, they are taken over by government cronies as legitimate owners are pressured into handing over control. Media owners who also own nonmedia businesses are often made to understand that their other businesses can prosper only if their media outlets are friendly to the government of the day.
- ▶ *Extra-legal pressures.* At the most delinquent end of the spectrum, powerful officials and politicians use raw power and clearly illegal means to buy influence or silence dissent: they pressure private businesses to advertise or not advertise in certain media, interfere directly with editorial decision-making (so-called “telephone censorship”), or seek to bribe reporters and editors outright.²

At a meeting convened in May 2006 by the Open Society Justice Initiative and the Buenos Aires-based Asociación por los Derechos Civiles (Association for Civil Rights, hereafter “ADC”), rights activists from 12 Latin American countries concluded that all of the above-noted forms of interference are present, in varying degrees, in the countries of the region and are more severe in the provinces, where media and journalists are more vulnerable to financial and political pressures. Financial and editorial pressures by private actors such as large companies are also prevalent and worrisome. However, states have the primary responsibility to both respect and guarantee freedom of expression. Until recently, many activists have been more concerned with traditional methods of government interference with the media and to date, there has been limited systematic monitoring of soft censorship.

In 2003, the special rapporteur for freedom of expression in the Americas undertook a comprehensive study of one aspect of financial censorship in the region: the discriminatory allocation of public sector advertising. The special rapporteur found generally poor regulatory regimes, which grant too much discretion to officials in charge of advertising and require too little transparency or accountability. Not surprisingly, inadequate oversight results in widespread violations of advertising regulations throughout the region, as evidenced by the numerous allegations of abuse detailed in the special rapporteur's report.³

In December 2005, the ADC and the Justice Initiative published *Buying the News: A Report on Financial and Indirect Censorship in Argentina*. This report exposed the many subtle yet powerful ways in which government officials wield influence over Argentina's media, from the misuse of government advertising to the exertion of private pressure on reporters and editors. The report raised the visibility of soft censorship in the national and local press in Argentina, and in the international press, as well. The report has also been used by activists and media experts pushing for legal reform or improved practices in countries such as Chile, Colombia, and Uruguay.

The Price of Silence follows up and expands on *Buying the News* by examining soft censorship practices in seven Latin American countries: Argentina, Chile, Colombia, Costa Rica, Honduras, Peru, and Uruguay.⁴ A major focus of the report is the illicit financial influence that national and local government bodies can exert through the use and abuse of their powers to allocate public sector advertising.⁵ 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 bidding for government contracts. However, when the state's allocation of these advertising resources is manipulated for political and personal purposes, it poses a threat to editorial independence.

The Price of Silence examines patterns of abuse that include government advertising payments to media in exchange for favorable coverage of government activities or to otherwise exert control over editorial positions, and also chronicles important advances in combating these trends. It also analyzes how governments in several countries make advertising payments to individual journalists in exchange for control over what they publish. The report examines the ways in which governments engage in financial favoritism toward certain media outlets, showering lucrative advertising contracts on political and personal allies. *The Price of Silence* looks at numerous cases in which government advertising spending spikes during election years and is used for electoral or partisan purposes, despite laws in several countries that place specific restrictions on advertising spending and content during electoral campaigns.

For reasons related to the structure of the media industry and other factors, media outlets in many countries (and especially at the provincial level) are economically fragile and particularly vulnerable to the indirect pressures described in this report. State advertising

accounts for a disproportionately large share of the total advertising income of many media outlets in the region—especially local and regional media.⁶ Although fewer national media outlets depend on government advertising for their survival, the percentage of advertising revenue that mainstream media receive from governments can still be significant. For example, in one of the main national dailies in Argentina, government advertising makes up close to one-third of all advertising.⁷

Financial abuses not only deny badly needed income to some media outlets but also undermine 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. Legal frameworks in the region are full of loopholes allowing government officials to use advertising budgets to interfere with freedom of expression without necessarily violating the law. In most countries, those advertising budgets have grown significantly—sometimes dramatically—in recent years, and the potential for abuse has grown with them.⁸

In addition to the abuse of public advertising power, *The Price of Silence* documents related forms of interference that improperly influence media coverage, including content-based pressures on reporters, editors, and media owners, and even overt attempts to prevent printing of certain media. The methods can be as simple yet powerful as a phone call from a top official to an editor, complaining about a story already, or about to be, published. In many countries, freedom of expression and pluralism are compromised when broadcast licensing processes that give government officials broad discretion are used to benefit political allies or silence independent voices. This report examines how several of the existing legal frameworks institutionalize structural barriers to a fair process of broadcast licensing, which ends up benefiting certain, usually larger, media and other economic conglomerates while suppressing a wide range of voices and actors. It also describes examples of other types of financial and regulatory interference, such as the closing of a printing press in retaliation for the critical content of a newspaper it printed.

Cases of advertising abuses have been denounced throughout the region, including in countries not covered by this report. For example, in September 2007, the Mexican magazine *Proceso* denounced the government of Felipe Calderón for discriminating against the magazine by making major cuts in the advertising it receives and “using public money to punish and pressure, or to reward and favor media outlets according to their editorial line.”⁹ In July 2007, the office of the Organization of American States Special Rapporteur for Freedom of Expression expressed concern about the decision of the government of Guyana to withdraw its official advertising from the daily newspaper *Stabroek News* as of November 2006, apparently in retaliation for the newspaper’s editorial position critical of the government.¹⁰ In September 2007, the Paraguayan newspaper *ABC* denounced the Paraguayan government for using generous advertising contracts to pre-empt critical press coverage.¹¹

Cases involving other types of financial pressures have been denounced in other countries. For example, in October 2007, the Miami-based Inter-American Press Association

(IAPA) expressed its concern to Nicaraguan President Daniel Ortega that the government was limiting newspapers' access to newsprint in a discriminatory fashion, in addition to making abusive allocations of government advertising to media favorites.¹² In December 2007, IAPA raised concerns that the Bolivian government's plan to audit media tax contributions could be politically motivated given the media's coverage of the tense political situation in the country.¹³

Journalists and media experts across the region stress that indirect pressures—myriad forms of soft censorship—are particularly effective given the precarious working conditions most journalists experience: job opportunities are scarce, very few journalists have contracts that guarantee stability and decent working conditions, and pay tends to be low. Furthermore, many journalists have contracts with local governments at the same time that they cover local events, compromising their independence significantly.

Soft censorship is not new to Latin America, yet *The Price of Silence* is perhaps the first comprehensive effort to research and report on it in depth. The challenges of exposing soft censorship are significant, because the pressure is usually subtle and well disguised. Investigations often require specialized expertise involving, for example, detailed knowledge of procurement law or of telecommunications standards. In each of the countries covered in this report, we encountered numerous obstacles when seeking public information on government advertising and related issues. Media managers and editors are often reluctant to speak up about their sensitive dealings with vindictive government officials, and journalists are discouraged from reporting on such “internal” issues. And some media owners are, unfortunately, all too happy at times to play the government's game of financial sticks and carrots.

This report presents our analysis of trends and information about soft censorship based on cases that are both representative and can be clearly documented. For more information and details, readers are encouraged to consult national level reports available from several of the organizations that participated in the research for this project.¹⁴

In addition to describing soft censorship practices, *The Price of Silence* looks at the movement toward legal reform that is gaining momentum in the region. Peru passed a government advertising law in 2006 that, while imperfect, represents an important step in the right direction. A congressional investigation in Chile in 2007, in addition to documenting the phenomenon of soft censorship, concluded with a significant push for legal reform. Uruguayan officials have expressed publicly their commitment to reforming advertising contracting rules and regulations, and several agencies have taken steps to implement new procedures designed to reduce the discretion of government agencies and prevent the politically-motivated use of advertising as a reward or punishment for the media. Some local officials in Colombia have adopted “transparency pacts” that include commitments to reform procedures for contracting government advertising. And in Argentina, a multifaceted campaign for legal reform has raised the visibility of the issue of soft censorship and yielded tangible results. Several legislative proposals have been introduced at the national and local levels—and a groundbreaking

executive decree in the province of Tierra del Fuego has established objective criteria for the allocation of executive branch advertising contracts.

The Price of Silence is based on research that was carried out, for the most part, between January and October 2007, and was updated as it went to press with important changes and developments.

The report is structured as follows: Chapter III examines regional and international legal standards for freedom of expression and how soft censorship violates these standards. Chapter IV describes advertising abuses, such as the use of advertising payments to influence content, inappropriate direct payments to journalists, discriminatory allocations of advertising to political favorites, and the use of advertising as propaganda, and contains brief background information on each country under study. Chapter V addresses other forms of soft censorship, such as content-based pressures on journalists and unfair allocation of broadcast licenses, while Chapter VI documents the pernicious effects of all types of soft censorship. Chapter VII deals with efforts at advertising law reform, and Chapter VIII discusses access to information issues. Three appendices provide background information on the countries studied, look in detail at their advertising laws and practices, and provide examples of transparency failures.

III. Regional and 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. Article 13 of the American Convention on Human Rights (“American Convention”), the regional bill of rights for the Americas, addresses the issue directly, providing:

The 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.¹⁵

The Inter-American Commission on Human Rights has 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.¹⁶

In some cases, the media have appealed to the courts for redress against governmental abuse of financial power. In a groundbreaking September 2007 case, Argentina's Supreme Court ruled that the government of the province of Neuquén violated the free speech rights of the *Río Negro* newspaper by withdrawing advertising in retaliation for critical coverage in what amounted to indirect censorship. In reaching its ruling, the Argentine court relied in part on Article 13 of the American Convention. The court ordered the Neuquén government to desist from allocating future advertising funds in a discriminatory fashion and to submit, within 30 days, an advertising distribution plan that complies with the principles set forth in the judgment. (For more information on this case, see Section IV below.¹⁷)

The Inter-American Commission on Human Rights 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 Paraguayan authorities had violated Article 13 of the American Convention by subjecting the radio station and its director to various forms of harassment, which included pressures on private businesses not to advertise with the station. The commission recommended that the government compensate the station for its financial losses.¹⁸

Other Regional and National Standards

The 2002 Declaration of Principles on Freedom of Expression in Africa echoes its Inter-American counterpart by 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.”¹⁹

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 recommendation to 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.”²⁰

Supporting jurisprudence can also be found in Asia. In the Indian case *Ushodaya Publications*, a newspaper brought a constitutional challenge against a regional government's withdrawal of advertising in retaliation for the paper's critical editorial policies. The Indian 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.²¹

While international human rights law prohibits all abuse of government finances as a means of interfering with media freedom, democratic countries use varying regimes for allocating public advertising. Some countries have opted to adopt competitive bidding for selecting providers of advertising services—not only because it limits the possibility of abuse by officials, but also because it guarantees the most efficient use of public resources and effective delivery of the government’s message.²² 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.

IV. Government Advertising-Related Abuses

Our investigation uncovered four main types of soft censorship: the abuse of government advertising to directly influence content, direct payments to journalists, discriminatory allocation of advertising to political allies, and the use of advertising for propaganda purposes.

Government officials across the region routinely use government advertising contracts to reward or punish the media, often seeking to control what is published or broadcast. For example, in Argentina, the publisher of the weekly newspaper *Perfil* and magazine *Noticias* has sued the Kirchner administration for consistently excluding them from advertising allocations due to their critical coverage. In 2006 and 2007 the Peruvian housing minister used government advertising contracts to purchase favorable coverage of his ministry—and himself—in three national newspapers.

Similar abuses occur at the local level, as well. For example, regional and municipal governments in Chile and Colombia use advertising contracts to purchase favorable coverage, sometimes telling media or journalists what they can and cannot publish. This report describes cases in Honduras and Peru in which various local governments do exactly the same. In some countries, governments make payments directly to journalists in exchange for control over what they cover or publish.

In several countries, government officials use advertising contracts to pressure or require journalists to provide preferred coverage, such as interviews, to select government

officials. Fernando Carvajal Díaz, a journalist in the Colombian department of Cauca, said, “It’s a way to assure advertising: interviewing the government official or running news about him. There are officials who like that you name them and based on that they give you advertising.”²³ Marketing directors in a national and a regional radio station in Colombia said that government officials seek interviews in exchange for advertising, and our research revealed that officials sometimes include a clause to this effect in the advertising contract.²⁴

In other cases, national government officials shower their personal media favorites or political allies with unjustified advertising contracts. This practice occurs frequently at the regional and municipal levels, as well, often grossly distorting the local media market. Our research demonstrates that government advertising at all levels, far from communicating necessary information to the public, is often used as personal or partisan propaganda—sometimes in spite of specific prohibitions to the contrary. This often occurs during electoral campaigns, when advertising spending spikes.

In Costa Rica, the majority of government advertising is contracted by autonomous agencies such as state universities, state-owned commercial banks, or electricity and telecommunications companies. Most of these entities appear to use marketing criteria, based on target audience and circulation or rating information provided by ad agencies. However, journalists and a former government aide assert that under former president Abel Pacheco, government advertising was often politically motivated and given to “friends of the government,” especially in the case of regional media in the interior or individual journalists with radio programs. According to journalists and a former presidential aide, such abuses persist today, albeit to a lesser degree. Mishelle Mitchell, currently the president’s press director, did not reply to our detailed written request for comment on these practices.

According to Elberth Durán, journalist and spokesperson for the state electricity company (ICE), under the Pacheco administration advertising allocations were made on the basis of “very personal decisions by the official in charge.”²⁵ Costa Rican presidential press director Mitchell told us that those abuses occurred in the past, but were discontinued by the current government. “It was the policy to make everybody happy, giving a little to everyone. It was very convenient, but improper from a communications point of view. You didn’t know if you were reaching the audience that you wanted to reach,” she said.²⁶

However, speaking off the record, a leading journalist affirmed that such abuses, common under the previous government, continue today. This journalist was an aide to former president Pacheco, and told us that generally the press chiefs for the various ministries are civil service employees who are formally in charge of assigning government advertising. Although there is a planning process, high level political appointees generally make the decisions regarding the media in which to advertise, and government officials sometimes “give more to their friends than to those who are not [friends],” said the journalist. “I was in meetings with [a senior political appointee] in which they told the press chiefs of the other ministries and autonomous institutions to give advertising to this or that journalist and radio program. This

still happens today.” The journalist noted that this practice occurred mostly with regional media or individual journalists who have radio programs.²⁷

It is essential to note that government officials who commit such abuses rarely violate the law, which generally allows for nearly complete discretion in allocating advertising contracts. Indeed, legal frameworks governing the purchase of advertising in each of the countries under study are insufficient and inadequate: they lack the rules and criteria that would make advertising allocations transparent and fair, and fail to establish effective checks and balances. The lack of transparency built into the contracting of government advertising, combined with the centralization of decision making in political appointees, lends itself to politically and personally motivated abuses of government advertising, and ensures little or no control by citizens and civil society.

Across the region, while millions of dollars are spent each year on advertising contracts, open and competitive processes are the rare exception. In Argentina, Chile, Colombia, Costa Rica, Honduras, and Uruguay, government advertising contracting is subject to the same contracting regimen as the rest of government procurement, with no regulations addressing the criteria or process to be used. Only Peru has a law specifically addressing government advertising contracting, but its provisions are so vague and general as to make it ineffective—as seen in the abuses by Peruvian officials documented in this report.

In five of the seven countries covered by this report—Chile, Colombia, Costa Rica, Uruguay, and Peru—decision making on national government advertising is highly decentralized to the various ministries and secretariats, or autonomous state institutions. In Chile, even individual government programs administer their own advertising budget and practices, independent of the government office in which they are housed. In contrast, advertising decisions are generally centralized in the cases of Argentina (in the office of the media secretary, which reports directly to the president’s chief of staff), and in Honduras (in the office of Raúl Valladares, the president’s private secretary).²⁸

According to a Honduran journalist and former executive branch press secretary who preferred to remain anonymous:

By centralizing government advertising, greater control is exerted over...the different media that receive advertising and the journalists with “independent programs.” It is a modality for asking that they don’t address certain issues or address more directly issues of interest to the government. Before each institution had more options for contracting their advertising, but this impeded the presidency from maintaining control over the informational agenda. To concentrate [advertising] has been the tendency of the last three governments and I believe it is an irreversible trend.²⁹

While centralization of decision making in one office or even one official can create room for abuse, we found that decentralized contracting makes it very difficult to determine

how advertising contracting occurs and how much of a government's funds are spent for this purpose. Though centralized and decentralized decision making each pose difficulties, the main problems arise when the decision-making responsibility is assigned to political appointees, rather than technical experts applying content-neutral criteria.

In local governments, decision making is usually concentrated in one office or government official (generally a political appointee), and the process is particularly informal. The hosts of 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 means that ads are used essentially as subsidies.

In several regions in Colombia, the practice of soliciting advertising contracts from government officials is entirely institutionalized: the salaries journalists are paid by their media are often minimal or nonexistent—especially for radio journalists—and in those cases the bulk of their income comes from advertising they personally sell to the government. Popayán journalist Horacio Bedoya told us, “Sometimes one has to go to government officials, be it the mayor, governor, or managers of the decentralized agencies, to beg them to give you a bit of advertising, because the situation is very difficult.”³⁰ A radio journalist in the city of Barranquilla told us, “I call the official in the morning to ask for information, and in the afternoon I call him to sell [advertising].”³¹ In this context, government officials often use government advertising as a carrot or a stick, rewarding those journalists who provide favorable coverage and punishing those who dare publish critical information.

The practice of soliciting advertising can also occur at the national level. In Uruguay, Minister of Transportation Víctor Rossi admitted to allocating advertising to media outlets that have approached him proposing to produce special editions or supplements highlighting his ministry's work. For example, the director of the magazine *Caras y Caretas* (*Faces and Masks*) solicited an ad for its March 16, 2007, edition that showcased the ministry's work on the occasion of its 100th anniversary.³² The communications director for the Uruguayan state water company also admitted to publishing ads for the World Water Day and similar special days, “at the request of the media.”³³ A communications director for the Public Health Ministry told us that the minister's only government advertising policy directive (beyond those designed by the communications director) is to publish ads for the anniversaries of the most important national media.³⁴ These practices highlight the problems inherent in systems lacking clear rules and objectivity. Governments should not be making allocation decisions based on requests by individual persons or media outlets.

Similar abuses also occur in Chile, despite the 2003 introduction of Chilecompra (roughly “Chile purchases”), a web-based contracting system designed to assure fairness, agility, and transparency in the government contracting process.³⁵ More information on this system is contained in Appendix B, which describes the legal framework and practices in Chile.

Government agencies in Chile with the largest advertising budgets and campaigns—especially those that provide services such as housing, health, or credit—often contract with

advertising agencies to design and implement their campaigns.³⁶ However, most government offices have relatively small ad budgets and use their limited funds to advertise in media that reach the highest number of people, such as television. They do not generally choose media according to a specific audience they wish to reach.³⁷

A high level Chilean ministry official explained to us that given the government's concern about the disappearance of various media in the 1990s, several government offices have used advertising contracts to favor smaller, more precarious media. Speaking off the record, one government official formerly responsible for a public office's advertising contracting confirmed this practice: "Under my management, the priority was—or I tried for it to be—technical decisions. But still, we tried to benefit independent or smaller media. I can confirm that we tried to benefit *Diario Siete (Newspaper Seven)*. But the political allocation of advertising was more common in smaller campaigns."³⁸

Seven current or former communications directors for national level government agencies agreed that such efforts to supposedly promote pluralism are not new.³⁹ A journalist that worked for the civil registry in the 1990s told us that this agency published an annual supplement in the newspaper *La Época (The Time)*, "But as a political decision. It was not related to a business decision."⁴⁰

Abuse of Government Advertising to Directly Influence Content

Several local and national governments in Latin America use government advertising to shape what is published in the media—even in cases in which government advertising is a relatively small portion of a media outlet's income.⁴¹

A recent scandal in Costa Rica involved proposals by two top officials to use government advertising contracts to secure favorable coverage considered important for winning a referendum on a free trade agreement with the United States. On September 6, 2007, a memo proposing such actions and dated July 29, 2007, came to light signed by Vice President Kevin Casas and legislator Fernando Sánchez and sent to President Oscar Arias and Minister of the Presidency Rodrigo Arias recommending that,

It is very important to strengthen the presence on the radio (both national and local) and in the rural print media, where we have big problems. We have to engage all the opinion programs and increase the government advertising in a series of radio programs hosted by people who are predisposed to help the government (for example, Javier Rojas, Jaime Peña, etc.) If the presence of the YES [pro-treaty position] in the radio does not improve drastically, this will continue manifesting itself in rural areas.⁴²

President Arias claimed that the recommendations included in the memo were never implemented. As a result of the leaking of this memo, Vice President Casas resigned on September 22, 2007. According to Armando González, managing editor of *La Nación*, this case shows that the mechanism for using government advertising to condition content exists, and nothing has changed since President Pacheco ordered his government to withdraw advertising from *La Nación* in 2004 in retaliation for critical coverage (see below). “That they are not doing so today with *La Nación* is good, but what is worrisome is the principle. Today *La Nación* was a circumstantial ally of the government on the free trade agreement, but what is going to happen when the first corruption scandal erupts, that logically we are going to cover? No one knows,” González said. “This mechanism of pressure exists and is available to government officials. It is a constant threat.”⁴³ Mishelle Mitchell, press director for the president’s office, did not reply to our request for comment on this case.

Jary Gomez, deputy general director of the *La Extra* group in Costa Rica told us that during the public debate regarding the free trade agreement, the state energy and telecommunications company (ICE) increased its advertising in the group’s media. “ICE was opposed to the signing of the free trade agreement, and as we gave the issue and that position a large amount of coverage, ICE increased its advertising,” she said. Gómez denied receiving editorial pressure on this issue, but attributed the increase in advertising to favorable coverage of the issue.⁴⁴ Elberth Durán of the ICE press office did not reply to our written request for comment on this case.

Abuses of government advertising to influence content occur across the region. Rodolfo Montalván, a journalist with Radio Cadena Voces in Tegucigalpa, Honduras, told us:

Here the government tries to give you an advertising contract so that you shut your mouth. The criterion the government uses is the journalist’s or media’s silence. Here they don’t purchase the ad, they buy your conscience, your vision as a journalist, and that is the biggest problem right now...Just one person, who is not the press secretary but the [president’s] personal secretary, is the one that manages all of the advertising, the one who knows to whom to give it to or not, and how much.⁴⁵

Similarly, a high level government official from the previous Honduran administration told us:

In this government they’ve done the same [as before], they have centralized advertising, in this case in the private secretary. He is the one who decides who gets advertising. He identifies which media tend to follow the government’s agenda and he makes allocations on that basis.⁴⁶

In Colombia, Ana María Varón is in charge of government advertising for the Bogotá-based Grupo Latino de Publicidad (Latino Advertising Group), which sells advertising space in the leading national media like the daily, *El Tiempo*, and Caracol Radio. According to Varón:

Editorial content matters, sometimes against, sometimes for. If the media is critical or gives an opinion,...that can determine if agencies are happy or upset...Government officials say that they are not going to give you advertising because ‘the paper just published information that is not very solid.’ They ask you to wait for a while and ‘lower’ the information and only then do they begin to give you advertising.⁴⁷

Irma Villalobos and Judith Osorio, executives in the marketing department of the Bogotá-based weekly magazine *El Espectador*, confirmed that national government agencies have withheld advertising in response to published information that was not to their liking.⁴⁸

Similarly, Argentine television, radio, and print journalist Jorge Lanata stated, “I have been a journalist since I was 14. I’m 46 and I have never before seen this level of government pressure on the media using advertising.”⁴⁹ Referring to the use of government advertising, Joaquín Morales Solá, columnist for the daily *La Nación*, confirmed, “The national government has a policy of rewarding its friends in the media and punishing those who are not.”⁵⁰

At the local level, government officials use advertising payments to an even greater extent to purchase control over content. In the city of El Progreso in northern Honduras, one journalist told us:

Here for example, governments are always looking for favors in exchange for a payment for hiding things to be said, that is, information. That has been and will continue to be the criterion for government advertising. Advertising is given to get a favor from the communicator and to silence consciences.”⁵¹

Likewise, a journalist in the city of Huaraz, Peru, confirmed: “Advertising allocations are made directly and verbally, without contracts or competition. [The government official] goes to the offices of newspapers and other media to offer contracts in exchange for content favorable to his administration.”⁵²

Similarly, Néstor Busso, director of Radio Encuentro (Encounter Radio) of Viedma, capital of the Argentine province of Río Negro, told us, “[Government advertising] is defined solely by contacts with [provincial media secretary Claudio] Mozzoni, never by fixed parameters. And when it seems to me that what I’m receiving is little in relation to audience or changes in fees, I go and address it personally.”⁵³

Angel Ruiz, owner of the Viedma newspaper *El Este Rionegrino* (*The Rio Negro East*), added:

To get government advertising, I had to sit down with Mozzoni and let him scold me for a while. I had to arrange a system in which if I published something that compromised the image of the governor, he should know about it first, and in any event I had to wait a week to publish it, that is if the government could respond in that amount of time. That was the arrangement, though I only complied once, and then I couldn't anymore. In spite of everything, I am still getting advertising and I am afraid that it will end, because shortly after, that would be the end of the publication of our paper.⁵⁴

Media secretary Claudio Mozzoni did not reply to our written request for comment on these practices.

The following examples demonstrate how governments in the countries examined by this study abuse advertising to influence content.

Argentina: Supreme Court Finds Provincial Government Guilty of Indirect Censorship

In September 2007, Argentina's Supreme Court ruled that the government of the province of Neuquén violated the free speech rights of the *Río Negro* newspaper by withdrawing advertising in retaliation for critical coverage, in what amounted to indirect censorship. The court ordered the Neuquén government to desist from allocating future advertising funds in a discriminatory fashion and to submit, within 30 days, an advertising distribution plan that complies with the principles set forth in the judgment.⁵⁵

This is the first time that a Latin American supreme court, using the standards established by the Inter-American system, found unequivocally that the media has legal protection against arbitrary allocation of public advertising. The *Río Negro* case began in December 2002 when the paper covered a bribery scandal that implicated then-governor of Neuquén Jorge Sobisch, and the province withdrew nearly all advertising from the paper.⁵⁶ That month, *Río Negro* published a series of articles on this scandal. According to *Río Negro's* constitutional petition (*amparo*), the government began a drastic reduction of its advertising in the *Río Negro* that same month.⁵⁷ After *Río Negro* filed the *amparo* with the supreme court, the province partially reinstated advertising.⁵⁸

In its legal defense, the government of Neuquén alleged that the decline in advertising contracts was due to its policy of only advertising in Neuquén-based media. 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.⁵⁹ Furthermore, the supreme court discounted the government's argument, noting that the province established this policy in the year 2000 yet advertised in the *Río Negro* for two years, and only stopped doing so after the paper published the story in question.

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*) quadrupled during the same period, from 338,000 pesos (approximately \$100,000) in 2002 to 1.34 million pesos in 2003 (about \$420,000).⁶⁰ Neuquén government advertising in national newspapers—such as the Buenos Aires-based *Ambito Financiero*—also increased. Indeed, overall spending on advertising by the provincial government more than doubled in 2003, after having more than quadrupled between 2001 and 2002. In this context, the supreme court found that the slightly lower cost of advertising in *La Mañana del Sur* did not justify the exclusion of the *Río Negro*.

In ruling for the paper, the supreme court held that, while there is no right to receive advertising as such, the state cannot allocate advertising resources in an arbitrary fashion, and it cannot take into account media viewpoints in making allocation decisions. The court recognized that freedom of expression can be violated not only by direct government interference, but also by measures, such as abusive advertising practices, that can indirectly affect editorial freedom and independence.

In sum, the court found that the Neuquén government's withdrawal of advertising could not be reasonably justified, and that its retaliation amounted to a violation of freedom of expression, without proof of economic damage to the paper being required. It is ultimately the duty of the judicial branch, said the court, to protect media freedom and a robust democratic debate. In October 2007, the province submitted an advertising distribution plan as requested by the court, but it was vague and incomplete. The plan did not specify mechanisms, procedures, or clear criteria for allocating advertising. Also, the plan is limited to the print media and does not include broadcast media, a distinction that the court did not make in its ruling. As of June 2008, the court had not issued a reaction to this plan.

In September 2006, Argentina's attorney general filed an opinion in this case in which he recognized that the arbitrary and discriminatory allocation of government advertising constitutes a freedom of expression violation, and is prohibited by the American Convention on Human Rights. Although he did not support the *amparo* (arguing that the lack of a clear legal framework made judicial intervention impossible), he cited the 2005 ADC and Justice Initiative report *Buying the News: A Report on Financial and Indirect Censorship in Argentina* when he called for filling the legislative gap by passing "clear rules" with "objective parameters" for government advertising allocations.⁶¹

A similar situation in another province took place in 2006. *Entre Líneas* (*Between the Lines*) is a monthly magazine with a circulation of 800–900 copies published and distributed in the city of Santa Fe, in the province of the same name.⁶² In April 2006, this magazine published an article alleging irregularities in the provincial government's purchase of machinery for road construction.⁶³ Just days after the April 2006 edition was published, *Entre Líneas* owner and director Maximiliano Ahumada received a phone call from the then-director of the provincial advertising office advising him that the government was suspending the full-page ad it had published in his magazine since April 2005.⁶⁴

According to Ahumada, the 3,094 pesos (just under \$1,000) per month he had received for the full-page ad represented about one third of the magazine's advertising income. "If the percentage had been higher, the withdrawal of the ad would have impeded our continuing with the magazine," he said. Gabriel Rossini, a journalist and former under-secretary of public information, stated, "Since there is no rule that says how allocations have to be, the [decision is political]...We tried to distribute [advertising] as equitably as possible...The big media made arrangements with the governor and ministers. They simply told me how much corresponded to each per month. I arranged with the rest. Normally the journalists came to me to ask [for advertising]," he added.⁶⁵

A journalist from the daily newspaper *El Litoral* published in the city of Santa Fe told us that, "In the last year and a half the level of pressure has increased with the issue of government advertising. I have no doubt this is related to the increase in the [amount of government advertising]."⁶⁶ Frutero, Ahumada, radio journalist Claudio De Lucca, and freelance journalist Pablo Bosch agree that provincial government advertising was allocated as a reward or punishment based on editorial content. Frutero affirmed that the past provincial administration used government advertising to silence the media, and Bosch told us that "the general feeling is that receiving government advertising from the provincial government implies having a determined editorial line in exchange."⁶⁷ Then-governor Jorge Obeid (now a member of the national Congress) did not reply to our request for comment on this case.

Peru: Housing Minister Purchases Favorable Coverage

Between December 2006 and February 2007, three newspapers in Peru ran favorable coverage of the Ministry of Housing and Construction and its minister, Hernán Garrido Lecca, in exchange for contracts paid with advertising funds worth 19,000 new soles per month, for a total of 57,000 new soles (approximately \$18,000). The contract between the ministry and Montecristo Editores, S.A.C., the company that owns newspapers *La Razón* (*Reason*), *El Men* (*The Man*), and *El Chino* (*The Chinaman*), specified that the payments were in return for "promotion and dissemination of the sector's activities and programs."⁶⁸

Indeed, a review of these newspapers during those months revealed dozens of articles highlighting and praising the housing ministry's programs. Several front pages were dedicated exclusively to showcasing Garrido Lecca violating the 2006 government advertising law's express prohibition against government officials appearing in the materials run with government advertising funds—designed specifically to prevent ministers and others from benefiting personally from advertising contracts.⁶⁹

The ministry also paid a company that owns a radio station and two television stations in Cusco 16,000 new soles (approximately \$5,000) to advertise a government housing program and to provide journalistic coverage of the ministry's activities—including, as specified by the contract, the minister's visit to Cusco and surrounding sites. The ministry signed a similar contract for the same amount with yet another television station in Cusco.⁷⁰

To our knowledge, no one was sanctioned or even investigated for these acts, despite the 2006 advertising law's provisions for administrative and penal sanctions for such violations.⁷¹ Peruvian President Alan García publicly supported Garrido Lecca and excused his wrongdoing.⁷² Garrido Lecca did not reply to our written request for comment on this case.

Costa Rica: National Government Withdraws Advertising from *La Nación*

In 2004, the government of President Abel Pacheco made a political decision to withdraw advertising from the media belonging to the *La Nación* group (which includes the newspaper *La Nación*, two other daily papers, and 12 magazines) in retaliation for generally critical coverage and editorials. According to Raúl Silesky, former president of the Journalists' Association of Costa Rica (Colegio de Periodistas de Costa Rica), Pacheco was in conflict with the *La Nación* group and the decision to withdraw government advertising was not based on any particular story.⁷³

According to Elberth Durán, journalist and spokesperson for the state electricity company (ICE), the decision was based on "criticism, editorials, and some investigations [by *La Nación*] that made the government uncomfortable, and the president in particular."⁷⁴ However, according to Armando González, managing editor of *La Nación*, the president's reaction was the result of specific coverage: "Everything began after *La Nación* revealed a financing scandal involving Abel Pacheco's presidential campaign, in which we demonstrated that he illegally financed his campaign."⁷⁵

According to Ricardo Toledo, Pacheco's minister of the presidency, "There was resentment on the part of the president and some officials with the newspaper *La Nación*." However, he denied that there was a directive from the president to withdraw advertising. "Many ministers, for fear that the president would be angry if they published in *La Nación*, suspended their ads. Others took advantage of the fact that the president did not like a periodical to not publish [there], since the paper had also hit them."⁷⁶

Although no written order to suspend advertising in *La Nación* has surfaced, several well-placed sources told us that the order was clear. A journalist who acted as an aide to Pacheco told us that a presidential directive existed. "Those orders were never put in writing, but I remember having heard it from high level government officials. I was advising on communications in a ministry and remember that the order to stop publishing in *La Nación* had been transmitted."⁷⁷ Gabriela López, director of marketing for the Costa Rican Social Security Fund, also affirmed that there were pressures in this regard.⁷⁸ A journalist who preferred to speak off the record explained that the decision to withdraw government advertising was not implemented by all government agencies. In particular, "Many directors of autonomous agencies preferred not to confront *La Nación*," he said.

According to González, *La Nación*'s editor, there was a high level of adherence to the presidential order by government agencies, except those that serve the public as clients. "The

banks complied less strictly with the order, but other entities such as the ICE and National Insurance Institute complied. Toward the end they let up a bit,” said González.⁷⁹

According to Jorge Robert, director of corporate management for the *La Nación* group, the decision was implicit, and was never communicated in a written document. “The officials of autonomous institutions and banks told us so: we are not in agreement, but we have instructions not to publish in your newspaper,” he said. “Some that did not suspend all advertising reduced [what they published],” he said. According to a study commissioned by *La Nación*, central government agencies (including state-owned banks but excluding some major autonomous agencies such as the ICE and the Costa Rican Social Security Fund (Caja Costarricense de Seguridad Social) reduced overall advertising spending in 2003 by 12 percent, but decreased its advertising in *La Nación* by 25 percent. Similarly, in 2004, the overall decrease was 10 percent while the decrease in *La Nación* was 21 percent. The journalist and former presidential aide cited above clarified that the decrease was not greater because, for many agencies, politically it was more important to avoid a confrontation with the *La Nación* group than to abide by the presidential order.⁸⁰

Former president Pacheco did not reply to our written request for comment on this case. Although the government abandoned its discrimination against *La Nación* (or other media) under Pacheco’s successor, Oscar Arias Sánchez, there has been no change in the laws regarding government advertising contracting that would prevent another administration from abusing advertising for political or personal motives.

Peru: Ad Funds Buy Favorable Coverage for Local Governments

Accounts from multiple journalists in Peru consistently indicate that local government officials use advertising contracts to influence media content. According to a well-placed journalist in the northern city of Iquitos in the region of Loreto who spoke to us on condition of anonymity, the regional government of Loreto and the provincial municipality of Maynas use payments to journalists and to media to purchase favorable coverage for government institutions rather than advertisements. Journalists and media representatives approach government agencies with written or verbal proposals for providing coverage of the agencies’ activities, approval is given verbally, the coverage is provided, and at the end of the month, journalists or media representatives ask the agencies for what services they should bill the government. If there is any critical commentary or the government considers the coverage to be inadequate, it either delays or fails to make payment. Some media such as the newspaper *Crónicas* (*Chronicles*), which receives monthly payments of 5,000 new soles⁸¹ (approximately \$1,700) publish information provided by the government in the form of press releases which are transcribed into articles and passed off as journalistic coverage.⁸² Neither Iván Vázquez, regional president of Loreto, nor Salomón Abensur Díaz, mayor of Maynas, replied to our written requests for comment on these practices.

Until September 2007, television journalist Carolina Arredondo was head of the press team and host of *Hablemos Claro* (*Let's Talk Frankly*) on Channel Two in the city of Iquitos. She told us that Channel Two removed her as leader of the press team and from *Hablemos Claro* and assigned her to work as a beat reporter in response to financial and political pressure exercised by the mayor of Maynas—including the cancellation of monthly government advertising payments worth 5,000 new soles—in retaliation for her critical coverage of his government's management of a city garbage dump. She decided to leave Channel Two as a result.⁸³ Neither Salomón Abensur Díaz, mayor of Mayna, nor Channel Two director Carlos Chávez replied to our requests for comment on this case.

A journalist who used to work for the weekly newspaper *Nueva Visión* (*New Vision*) published in the northern coastal city of Chiclayo in the region of Lambayeque told us:

At *Nueva Visión* we get almost no government advertising because of the conditions that the government officials tend to impose: that we publish what interests them, even if it goes against the media's editorial line. The opposite occurs with those media outlets that are servile: each month they get advertising and they get good prices, even though they...have no impact on public opinion.⁸⁴

According to this journalist, *Nueva Visión* was forced to close as the result of libel cases brought against it by government officials. Another journalist in Chiclayo told us:

Government advertising contracts favor those who accept the advertiser's conditions. They are managed according to the support [the advertiser] receives. It doesn't matter if the [media outlet] is mediocre or bad. If the journalist or media makes its editorial line available, they will get a contract. For those who do not play this game, it can be difficult and even impossible. Government advertising is always given to the same ones in return for their servility...An impartial media will...never enter into the advertising budget. Although the newspaper *El Ciclón* [*the Cyclone*] is not my favorite, I can see that because it denounced irregularities, both the municipality of Chiclayo and other institutions left it without advertising from one day to the next. They also took the weekly *Nueva Visión* out of circulation not just with lawsuits, but also by denying it government advertising.⁸⁵

In response to our written request for comment from Chiclayo mayor Roberto Torres, a public relations aide told us that the Torres administration does not use government advertising as a reward or punishment. He admitted that other governments elsewhere do so, and also acknowledged and denounced the withdrawal of advertising from *El Ciclón*.⁸⁶

A journalist in the city of Huaraz confirmed that government advertising practices there are similar: "Advertising allocations are made directly and verbally, without contracts or

competition. The government official goes to the offices of newspapers and other media to offer contracts in exchange for content favorable to his administration.”⁸⁷ The journalist also described how local government officials up for re-election in 2006 threatened to withdraw government advertising from those media outlets that criticized them.⁸⁸

The president of the Huaraz office of the Federation of Journalists of Peru, Javier Poma Sotelo, confirmed that some government officials in that city believe government advertising contracts allow them to influence editorial content, and that regional authorities negotiate advertising contracts to reward media in exchange for their silence on controversial issues.

Neither César Álvarez Gálvez, president of the regional government of Ancash (where Huaraz is located), nor Gregorio Mezarina Paredes, mayor of the district of Independencia (in the province of Huaraz), replied to our written requests for comment on these allegations. César Bustamante Flores, manager of the provincial government of Huaraz, denied that government officials give advertising contracts in exchange for favorable coverage and stated that advertising contracts are granted with no competitive process, in keeping with the law, since contract amounts are small.⁸⁹ Edgar Caballero Cano, regional director of health stated that no officials related to his ministry use advertising to secure favorable coverage, and that all advertising is subject to annual plans and placed in accordance with the terms of 2006 advertising law.⁹⁰

Chile: Local Governments Use Ads to Buy Favors

Official information and testimonies from journalists and media directors reveal that municipal and regional governments in Chile use advertising contracts to purchase favorable coverage, sometimes telling media what they can and cannot publish.

For example, according to a government report, the advertising budget of the regional government of Coquimbo⁹¹ included about 49 million pesos (\$97,000) over two years for “live or taped informative spots, to be broadcast on radio stations in the region, which disseminate government actions, campaigns or interviews.” Funds are also designated for “contracting [with] local television for interviews of authorities, greetings, [and] dissemination of government campaigns.” In one case, the regional government spent about \$2,000 on a contract for “weekly air time on the television program *Agenda Diaria* [*Daily Journal*] on Thema TV; a weekly interview of 30 minutes each for a total of 15 weekly programs broadcast between October 2004 and January 31, 2005.”⁹²

Speaking off the record, a radio station director in the city of Arica in Chile’s northernmost region of Tarapacá spoke of pressures from the Arica municipal government:

The municipality buys space for a monthly amount for several months. I had some contracts with the municipality, but they demand that you don’t speak badly of the management of the mayor and his partners. When one says something against the mayor,

they call you, they scold you, they protest that you are speaking out against the mayor. This happened to me.⁹³

Juan Vargas, former general editor of the only newspaper in Arica, *La Estrella de Arica* (*The Arica Star*), described the exchange of content in return for both government and private advertising:

It's part of business with the newspaper. You pay for an ad and they put you on the social pages for free. You pay for an ad and you have the right to a page in the supplements with 'journalistic' coverage. If you are an advertiser, you will be mentioned in the news. If you are not an advertiser, they ignore you. The head of marketing gives the head of information or the director a list of the advertisers who can be mentioned in the news or used as sources.⁹⁴

Arica's mayor, Carlos Valcarce, did not reply to our written request for comment on these practices.

Roberto Silva is the director of the newspaper *El Observador* (*The Observer*) in Quillota in the region of Valparaíso. In his experience, "The municipalities expect to exercise some degree of government advertising pressure. They always expect to get something."⁹⁵

The editor of a regional weekly magazine in Coquimbo told us that advertising payments can be used to purchase space for news generated by the government. "The relationship that each media outlet has with the municipality is 'heavy.' In fact, my media sells pages to the municipalities of the region and they pass as news, but it's news the municipalities send us."⁹⁶ Luis Segundo Lemus Aracena, mayor of Illapel, Marta Lobos Inzunza, mayor of Ovalle, Gerardo Rojas Escudero, mayor of Salamanca, and Raúl Saldívar, mayor of La Serena (all in the Coquimbo region), failed to reply to our requests for comment.

Referring to payments from public and private entities, a former regional television editor said, "Stories were sold. It's not that they paid you for the story, but they placed advertising and in exchange for that, you published a story on [them]. It was understood."⁹⁷ Seven journalists, one media director and three editors from Arica, Antofagasta, La Serena y Coquimbo, Quillota y Los Andes, and Aysén all said that such exchanges occur throughout Chile.⁹⁸

This assessment was confirmed by a senior government official in the region of Tarapacá, who agreed to speak with us off the record. The official explained that the regional government's monthly advertising payments were meant to insure coverage of the government's activities. "The radio stations gave us inserts or stories or covered our news during the year because they knew that they were paid once a month, [between \$200 and \$800]. The radio stations were paid to cover the activities of the regional government and the municipality. If those media have economic problems, if you don't give them [money] they won't pay attention

to you, unless you are really assertive.”⁹⁹ Antonella Sciaraffia Estrada, president of the regional government of Tarapacá, did not reply to our request for comment.

According to two people in charge of selling advertising to the government for two regional outlets, government officials in the Valparaíso region usually negotiate advertising contracts directly with the media in question, and then later open up a bidding process using Chile’s electronic contracting system—but the results have already been fixed.¹⁰⁰ According to one marketing executive in the Valparaíso region, “[I negotiate] directly with [two senior municipal officials]. We negotiate the ad and then they post it on [the] Chilecompra [website].” This person affirmed that the same practice happens in other regional and local agencies, not just the municipality.¹⁰¹ Iván de la Maza Maillet, president of the regional government of Valparaíso, did not reply to our request for comment.

Argentina: Government Denies Advertising to Critical Media

With a circulation of nearly 50,000, *Noticias (News)* is Argentina’s best-selling weekly general interest and politics magazine.¹⁰² Its closest competitor is *Veintitrés (Twenty-three)*, with less than half the circulation (22,800, on average).¹⁰³ *Poder (Power)* and *Debate (Debate)* are weekly magazines with similar content and focus, but far less circulation (neither are measured by the Institute for Circulation Verification, or IVC).¹⁰⁴

According to information provided by the government, in 2006, *Debate* received 362,250 pesos (just over \$110,000) in national government advertising, while *Poder* received 575,500 (approximately \$180,000) and *Veintitrés* received 34,000 pesos (less than \$11,000)¹⁰⁵—although the owner of *Veintitrés* clarified that some of the payments listed for *La U (The U)*, a free newspaper distributed at various universities) were actually for advertising in *Veintitrés*.¹⁰⁶ Although its profile is similar and its circulation is far higher than all three competitors, *Noticias* received no government advertising whatsoever in 2006.

The situation persisted in 2007: during the first six months of the year, *Noticias* received nothing from the national government, while *Debate* received 378,625 pesos (approximately \$120,000).¹⁰⁷ (*Poder* stopped publishing in late 2006 and, according to the owner of *Veintitrés*, the advertising payments to *Veintitrés* were bundled with those of *La U*, making it impossible to know exactly how much national government advertising income it received).

Commenting on this case, Argentine journalist Jorge Lanata stated:

Go to a magazine kiosk and you will be able to see how arbitrary this distribution is. Media whose circulation is not even certified, by which we can presume it is low, have dozens of pages of advertising from the government or businesses that participate in contract bidding processes that the government decides.¹⁰⁸

The weekly newspaper *Perfil*, published on Sundays since September 2005, had average sales of around 60,000. *Perfil* and *Noticias* are published by the same company, Editorial

Perfil. Like *Noticias*, *Perfil* received no government advertising in 2006 or 2007, even though in the first six months of 2007 alone, the government placed ads worth millions of pesos in the Sunday editions of three national newspapers (*Perfil's* direct competitors), *Clarín*, *La Nación*, and *Página/12*.¹⁰⁹ *Perfil's* circulation is estimated to be higher than that of the Sunday edition of *Página/12*.¹¹⁰

Both *Noticias* and *Perfil* are generally critical of the Kirchner administration. In a July 2005 press conference in which he announced he was withdrawing a libel case against *Noticias*, national media secretary Enrique Albistur admitted that the magazine does not receive government advertising as the result of “a political decision.”¹¹¹ He later argued that the government does not give advertising to these publications because “they belong to a type of sensational journalism ... with extortionist aspects. [*Noticias*] is a publication that has committed journalistic errors that it has not recognized.”¹¹²

Sergio Basich, marketing manager for *Perfil*, told us that an official in a decentralized national government agency sent him an advertising purchase order, then called to explain that he had sent it by mistake, and to request that *Perfil* not run the ad. According to Basich, “The day after I received [the purchase order], the official called me. He was desperate and said, ‘My job is in your hands. I know you can run the ad because the purchase order was issued, but if you publish it, they’ll fire me.’”¹¹³

In May 2006, Editorial *Perfil* sued the national government in a federal court for discrimination in government advertising allocation. On November 19, 2007, the ADC presented a friend of the court brief in this case, arguing that the denial of government advertising to *Perfil* and *Noticias* constitutes a case of indirect censorship, pointing out the pressing need for legal reform on government advertising, and asking the government to cease its discrimination against these publications.¹¹⁴

Journalist Horacio Verbitsky, *Página/12* columnist and president of the Center for Legal and Social Studies (Centro de Estudios Legales y Sociales), stated that, “There is no justification whatsoever for the total exclusion of a publishing company or a media outlet because the government does not like its coverage. The magazines of the *Perfil* publishing company merit the protection of the justice system against this discrimination.”¹¹⁵ Sergio Szpolski, owner of *Veintitrés*, noted that the exclusion of *Noticias* generates an “absolute distortion” in the distribution of national government advertising.¹¹⁶

According to Jorge Fontevecchia, the owner of *Perfil*, “After we sued the government for discrimination with government advertising, our income from private advertisements fell over time.” He stated that private ads fell to half of their original volume, at the same time that *Perfil's* circulation steadily grew.¹¹⁷

In addition, journalists from *Noticias* and *Perfil* are systematically denied access to high-level government officials, and, as a result, are relegated to checking information on government activities with lower-ranking employees.¹¹⁸ According to former executive editor of

Noticias Darío Gallo, “When they (lower level government employees) talk to us, they do so in a place where the visit will not be noticed, and not seen by other officials.”¹¹⁹

National media secretary Enrique Albistur did not reply to our request for comment on the allegations made by *Noticias* and *Perfil*.

Direct Advertising Payments to Journalists

In several of the countries covered by this report, we found governments paying individual journalists for either favorable coverage or editorial silence on difficult issues. Laws do not ban such payments, and it is common for journalists to solicit advertising from government officials. In Honduras, for example, government officials even require journalists to sign contracts that include a clause stipulating that the journalist will provide favorable coverage of government activities. This system is also possible because local officials forego competitive bidding procedures and contract directly with the journalists of their choice. If the favorable coverage expected is not provided, officials often simply stop making payments to the journalist in question.

This system operates in a context in which many journalism jobs do not provide adequate income, and some journalists depend on advertising income to survive. Many journalists rent air time on radio or television stations, and finance their costs with advertising contracts that they seek and obtain personally. In Colombia, as described below, many regional level television stations, radio stations, and newspapers contract with journalists using a “quota” system in which they pay minimal salaries (or none at all) and remunerate journalists with minutes of broadcast time or space in their newspaper which journalists then personally sell to advertisers, the vast majority of which are government agencies. In countries including Argentina, Honduras, and Peru, journalists who have steady jobs or freelance in media outlets receive government payments for advertising. For journalists employed by media outlets, advertising income complements—and sometimes exceeds—their salaries. Sometimes advertisements are run, and in some cases, although the payment is supposedly for advertising, no ads are run at all. In Uruguayan cities outside the capital, it is common for municipalities to advertise on the radio programs of well-known journalists, and in many cases those ads are crucial to the program’s existence.

The informality of advertising contracts in the Argentine province of Neuquén is typical. The mechanism “is not to go and say ‘I have the most listened-to program on the radio and it has great impact.’ Things function by way of personal relationships. If you know the official, you ask for advertising and you leave a little folder only as a formality,” said television journalist Guido Sangiácomo.¹²⁰ “The allocation is based on friendship,” said Neuquén radio journalist Mauricio Rojas.¹²¹

The Argentine national government grants large amounts of advertising to certain journalists even if it is not sure that these payments will exert influence over content. As described below, payments to journalists in the guise of advertising fees are an established feature of journalism in Honduras and Colombia.

Honduras: Payments to Journalists—“An Institutionalized Practice”

Rossana Guevara is a Honduran journalist and director of Channel Five’s *TN5*, one of the most important news programs in the country. “Although the government negotiates advertising with the marketing area, I know that there are payments to journalists. Here one doubts just about everyone.” When she began working at Channel Five she wrote an ethics manual stating that journalists who accept payments from the government will be fired. “One journalist was fired for this,” said Guevara. She added that she has to have proof—which is hard to come by—before enforcing the rule.¹²²

A high level government official who works with the Honduran president’s office said that “Payments to journalists are an institutionalized practice. For the journalist, the profit is in government advertising, while for the media, the profit is in private advertising.”¹²³

Our researchers gained access to a November 2005 list of advertising payments to approximately 20 journalists made by the Supreme Electoral Tribunal (Tribunal Supremo Electoral). Payments ranged from 10,000 to 30,000 lempiras (approximately \$500 to \$1,500), depending on the size of the outlet with which the journalist worked and whether the recipient was a reporter, editor, or media owner. A high level government official told us that former minister of [public] security Alvaro Romero had a list of payments to journalists made by the ministry during the previous administration, totaling three million lempiras (approximately \$158,000) per month.¹²⁴

From interviews with seven journalists and two former government officials in May 2007, we learned that the process for journalists to receive advertising payments has been formalized into a series of steps that includes, for example, joining the Association of Honduran Journalists (Colegio de Periodistas), registering with the National Tax Registry, and presenting a photocopy of one’s national identity card; journalists who rent air time must provide written confirmation from the media outlet in question.¹²⁵

Journalists must also sign a contract that may stipulate that in addition to running advertising, the journalist will read official government bulletins on the air or disseminate information related to the agency in question. Two radio journalists affirmed that signing government advertising contracts obligates journalists to give favorable coverage of the government.¹²⁶ This information was confirmed by a journalist who rents air time for a program on a local radio station, who preferred to remain anonymous:

There are no criteria for government advertising. What they ask you for is a proposal... [and] the president’s private secretary decides who gets some and who does not. I have

ads with private businesses. The difference with the government is that they put a clause [in your contract] that you have to go cover the events and sources of the institution and publish that information, while with private businesses, they just give you the advertisements and you get paid at the end of the month.¹²⁷

Presidential private secretary Raúl Valladares denied that journalists who receive advertising must sign a contract that obligates them to provide coverage favorable to the government.¹²⁸

Speaking off the record, one radio journalist in Tegucigalpa confirmed that journalists currently receive advertising payments from the national congress in return for making the content of their reporting more favorable to the government, and another radio journalist confirmed the same for executive branch agencies.¹²⁹ A journalist at Radio RCN which transmits in Tegucigalpa confirmed that advertising contracts with journalists often contain clauses requiring coverage of an agency's activities or officials—and described why he feels obligated to accept such conditions:

We're not offered the contracts that they give to the journalists of the country's bigger radio chains, so we have to go to the public relations officials, who end up sending us to the agency chiefs or the ministers. There they tell us that we have to present a proposal in which we include that in addition to running advertising on our programs, we will give them coverage of the institution's activities or of the government officials that approve our contracts. Why do we do it? Because if we don't insert this, it's harder for them to approve an advertising contract.

Referring to the contract amounts, he said, "They are small, from 3,000 to 5,000 lempiras (\$157 to \$263). I am required to sell advertising because the salary they give me at the radio station is 1,800 lempiras (less than \$100), which only covers transportation, and I have to report for the station's news programs."¹³⁰

In the city of El Progreso, journalists are often given nothing more than a tape recorder and are expected to cover their own salary with advertising contracts. According to one radio journalist there, "That opens up a range of opportunities for the journalist to cede to blackmail." Journalists' salaries in El Progreso are as low as 3,000 or 5,000 lempiras (\$157–\$263). Journalists that work for larger media are not necessarily better off. One radio journalist told us:

The big radio chains [referring to Radio América and HRN] don't pay their correspondents either, so it's much easier for them to be bribed by some authority. They don't even give them money to pay for their batteries. We have discovered that there are correspondents that receive a salary not just from the municipality of El Progreso, but also from neighboring municipalities, from Santa Rita, El Negrito, Morazán...¹³¹

Roberto Micheletti Bain, president of the Honduran legislature, Federico Duarte, public relations director for the national congress, and presidential spokespersons Guillermo Paz Manueles and Oscar Triminio failed to reply to our written requests for information and comment on government payments to journalists.

Colombia: Ads Sales Help Governments Buy Content

In Colombia, television stations, radio stations, and newspapers use a “quota” system in which they pay minimal salaries (or none at all) and remunerate journalists with minutes of broadcast time or space in their newspaper which they then personally sell to advertisers.¹³² (Some broadcast journalists rent air time from radio or television stations, which they also finance by selling advertisements to government agencies and private businesses.)

Mabel Morales is a graduate of the Autonomous University of the Caribbean and has been the news director of RCN Radio in Barranquilla for the last 21 years. “Today my salary... is enough to buy some chewing gum. The other part they make up with advertising quotas that I have to sell. It’s always been that way, since I started at the station.”¹³³

Four government officials in the Atlantic Coast region assured us that one of the first criteria they take into account in allocating advertising contracts is audience ratings, which they obtain from local media.¹³⁴ However, twelve journalists in the Atlantic Coast region and six in the department of Cauca affirmed that government advertising contracts are given more often to those who provide favorable coverage to the government, over those who exercise editorial independence.¹³⁵

A journalist and former government official from the department of Bolívar in the Caribbean region told us that, “If you publish information that some secretary doesn’t like, they take away the advertising from your program.”¹³⁶ For example, radio and television journalist Jairo Baena told us that the semi-public water agency in Cartagena withdrew government advertising in retaliation for his critical coverage.¹³⁷ “For three years I have been excluded by Aguas de Cartagena, because I published the salaries of their high level executives.” After publishing that information, he visited the water company and was told by the communications official that they would not make the advertising payments they owed him.¹³⁸

Edinson Lucio Torres is director of the news program *Vox Populi* on Radio Vigía, a local radio station in Cartagena, which has a call-in segment when citizens express their concerns and opinions. He told us that Aguas de Cartagena withdrew and never resumed advertising on his program in mid-2005 in response to reports broadcast on the loss of residents’ homes when a local aqueduct was constructed.¹³⁹ Aguas de Cartagena refused to provide the information we requested regarding its advertising spending, arguing that it is a private group not subject to freedom of information laws.¹⁴⁰

Marco Aurelio Gaviria, press chief of the city of Popayán, explained that the mayor allocated advertising based on content. “The mayor says directly, ‘Let’s help so-and-so. How

is this program, how does it treat the news?’ or ‘This person always publishes our news.’ But generally we try to give everyone the same amount.”¹⁴¹ When asked to comment, Mayor Víctor Ramírez Fajardo stated that scarce municipal advertising funds are allocated based on fair and objective criteria dealing with factors such as coverage, readership, frequency of publication, and area of influence.¹⁴² However, the mayor did not deny the statement of his press chief.

Because of minimal private sector advertising in many localities, journalists depend on government advertising for as much as 50 or 60 percent of advertising quotas.¹⁴³ “I can’t possibly sell all of my quotas to the private sector because I have a news program and the private sector prefers music stations. Also, I don’t have time to go out selling to businesses. I have a news program to run,” said the news director of one radio chain in Cartagena.¹⁴⁴ Furthermore, public agencies pay higher rates than private businesses. According to journalist Fernando Carvajal Díaz from Radio 1040 in Popayán:

The vast majority of news programs survive on government advertising. First they offer advertising space to the mayor and the government, and to government agencies, because they pay the most. Advertising from businesses is very cheap.¹⁴⁵

According to radio journalist Carlos Ardila, who also works as a public policy consultant:

If I didn’t have other income [beyond private sector ads], of course I would have to close my program. [In Cartagena...] the majority of advertising is from the government. If someone takes the trouble to exclude a journalist when assigning advertising funds, without a doubt it could mean the closure of that space.¹⁴⁶

Journalists in these areas generally approach the press officer or communications director of the municipal or departmental government, and according to government officials, decisions are sometimes made by the governor or mayor.¹⁴⁷ Journalist Noel Campos Muñoz from Radio 1040 in Popayán explains how informal the contracting process can be:

We [negotiate] directly with government officials. They call us and say, ‘We want to advertise on your program and we’re waiting for you to come by.’ We go immediately, we negotiate the advertising and *ipso facto* it’s on the air. Initially we make a verbal contract; later it’s formalized in writing to guarantee that we provide the service, and they pay us.¹⁴⁸

To avoid direct negotiations with government officials, journalists in Cartagena and Barranquilla formed two cooperatives that represent their members in negotiations with the public sector. These groups—which involve several journalists who wish to sell advertising

space—present proposals to government agencies. Once the contract is signed, the cooperative distributes the advertising to be run and the corresponding revenue. These arrangements involve, however, only a small percentage of the total amount of government advertising allocated in those regions. While they avoid direct negotiations between journalists and government officials, they don't prevent discretionary allocations.

As much as 90 percent of Cartagena's government advertising contracts in 2005 and 2006 were made directly with journalists; the figure was 83 percent for the city of Barranquilla, 71 percent for the department of Bolívar, and 44 percent for the department of Atlántico. Journalist Alexandra de la Hoz, for example, signs her articles in Barranquilla's *La Libertad* newspaper as the correspondent for government affairs. In 2006, she personally received 17 million pesos (approximately \$6,700)¹⁴⁹ for government advertising from the government of the Atlántico department, as well as another 40 million pesos (approximately \$20,000) paid to a business registered to her.¹⁵⁰

This system of government advertising is made possible in part because local officials forego competitive bidding processes and contract directly with the journalists of their choice,¹⁵¹ which is legal if the advertising contracts are small enough.¹⁵² These contracts are exempted from the legal requirement that they be posted on the Internet, making access to information and citizen control very difficult.¹⁵³

Argentina: Advertising Payments and the Rise of the “Journalist-Businessperson”

Like other governments in the region, the Argentine national government spends much of its budget for advertising space on payments not to media, but to individual journalists or content production companies. This system functions in part because many owners of radio and cable television stations sell blocks of air time to journalists or production companies, who then seek advertising contracts to both cover the costs of production and air time and generate income for themselves.¹⁵⁴ In other arrangements, journalists are contracted by production companies that pay them a fixed rate for their services, or the journalists are paid a percentage of advertising income that is obtained by the production company—but journalists are often not entirely disconnected from the process of obtaining advertising.

According to official data, in 2006, only 36 percent of national government payments for cable television advertisements were made to cable stations; the remaining 64 percent went to journalists, production companies, specific programs, or ad agencies.¹⁵⁵ Similarly, only 50 percent of payments for radio advertisements were made to media outlets. In 2006 alone, the government spent 32 million pesos (approximately \$10 million) on such direct payments to content producers and other intermediaries.¹⁵⁶

Carlos de Elía, news manager for Channel 13 and the cable station Todo Noticias (All News), has stated that the phenomena of the so-called “journalist-businessperson” originated with the cable TV boom in Argentina.

At first, they found on cable a place to express their ideas freely, without any type of pressure—all very ideal. Now, what happened? Along came those who discovered that with a small program on television, radio, or cable, they could have large incomes—simply without saying what had to be said.¹⁵⁷

Indeed, according to several journalists we interviewed, the government often makes generous advertising payments to journalists who have radio or cable television programs with low ratings, but write in influential national print media. “In those cases, do [government officials] place those advertisements because of the cable or radio program or because the journalist is from a large media outlet?” reflected media analyst Dardo Fernández, director of *Diario sobre Diarios (Newspaper about Newspapers)*.¹⁵⁸

According to a journalist at an important national newspaper who also has a radio program, government officials’ motivations for making radio and television advertising payments in these cases is clear: “[Their motivation is] ‘favors to friends’ [*amiguismo*] or for the possible influence that they can have on the journalist. There is no other way to explain that programs on marginal radio stations or on cable are full of advertisers, both public and private. Who listens to my program? My mother and my aunt,” he said.¹⁵⁹

He said that government influence over content is often achieved, “because, at the very minimum, before publishing something about the company or the government agency that sponsors me, I’m going to give a heads up to the spokesperson [to alert them that the story is about to be published].” His radio program provides him additional income equal to approximately 10 to 20 percent of his salary at the newspaper. “If a journalist from a big media outlet has many such relationships of this type, it can make a much bigger difference.”¹⁶⁰ The same journalist confirmed that advertising payments are often made in response to requests from journalists who approach government officials—often both their sources and the very officials they cover—seeking advertising payments to finance their programs. Describing one of his government advertising contracts, he told us:

[I received it from] the spokesperson, with whom I frequently discuss political questions related to that agency. It’s known that his agency gives advertising and I went and asked for it. I talked to the spokesperson. I called him and he told me to have the production company call him and that’s how I received the advertising.¹⁶¹

Alejandro Rebossio, editor of the economy section at the national daily *La Nación*, shared an experience that demonstrates the discretionary and arbitrary nature of some national level advertising:

On one occasion, a high level government official told me that he had certain budget items for advertising, and that if I had a radio or cable program that I should tell him. I don’t believe he said it in a tone that could be interpreted as asking for some-

thing in exchange. Still, I think it's wrong that the issue is run like this. I imagine that when they give you advertising they do so with good manners, and they take it away with bad ones.¹⁶²

A journalist at an important national daily told us that a fellow journalist at the paper receives advertising payments for a radio program from a government agency, but no advertisements are ever run. "The agency prefers that no advertisements run because if they do, all of the journalists will go 'beg' them for advertising," he explained.¹⁶³ Another newspaper journalist told us that a government official offered government advertising to a colleague at another newspaper who also has a radio show on the condition that the advertising not be run, for the same reason.¹⁶⁴

Sometimes agencies make payments for advertisements that "sponsor" specific programs, principally on cable television (at some point in the program, the government agency is mentioned as a sponsor, but no other content-specific advertisement is run). According to journalist María O'Donnell, author of a 2007 book entitled *Propaganda K [for Kirchner]: A Promotion Machine with the State's Money*, three national government spokespersons told her that they had approximately 20 percent of their advertising budget earmarked for sponsorships. They told her that these ads are used for "public relations" with journalists and that in some cases are "effective" for influencing content.¹⁶⁵ She affirmed: "Even when [officials] know that in many cases the impact of [the ads on editorial content] will be neutral...they feel compelled to place sponsorships in a large number of programs, 'just in case.'"¹⁶⁶

According to Mabel Moralejo, former executive director of the Forum of Argentine Journalism (Foro del Periodismo Argentino, FOPEA), many journalists who receive advertising payments from the government are put into a situation of "weakness" regarding possible government pressure, although like other journalists we spoke to, she emphasized that each situation must be evaluated individually. "Some professionals have found that [these arrangements] are a possible job option," given the low salaries and lack of formal employment for journalists.¹⁶⁷ FOPEA's code of ethics, which is mandatory for its members, states specifically that journalists (including those who own publications or radio or television air time) should not participate in the negotiation of advertising contracts. Such negotiations should instead be conducted by marketing representatives.¹⁶⁸

Honduras: A Gamut of Abuses in the City of El Progreso

El Progreso is a major city of 250,000 inhabitants on the northern Honduran coast. It has three radio stations and two television stations. El Progreso is known for its ties to the Liberal Party, which has governed the city almost continuously in recent history. The municipal government has engaged in a range of abusive practices including discriminatory advertising allocations, payments to journalists to purchase coverage, improper use of government funds

to monitor media content, discriminatory denial of access to government officials in retaliation for critical coverage, and other attempts to influence content.

The same government contracting regulations apply at the local and national levels; no provision in the law exempts government advertising from the regular contracting regime, which means that by law, government officials must use competitive processes to contract advertising. (See Appendix B for further information on the legal framework in Honduras.)

The city's head of public relations, Osman Hernández, told us that, "Government advertising allocations are managed with a budget assigned to the Office of Public Relations and the mayor decides the mechanisms for giving the advertising. That is a discretionary decision of the mayor."¹⁶⁹ According to an administrative employee who spoke on condition of anonymity:

Government advertising is allocated at the discretion of the mayor and on the basis of political affinity. There are media with which the city does not advertise because they are very critical and others that have asked for too much, as is the case with Channel 13. Even though the owner is [from the Liberal party] and he helped a lot in the mayor's campaign, there was a problem, and so the advertising on that station is almost null.¹⁷⁰

Advertising payments to journalists used to purchase coverage. According to government data obtained informally, the municipality of El Progreso makes payments directly to journalists in exchange for coverage of the government presented as independent journalism. We gained access to a municipal accounting and budget department report on payments for "Advertising and Propaganda" that lists the amounts, the recipients (individual journalists), check numbers, and services provided related to 51 payments to journalists in the first eight months of 2006. According to local journalists, advertisements are sometimes run in return for these payments, and in all cases the payments are made in exchange for positive coverage of municipal events and officials.¹⁷¹

One municipal official we interviewed referred to such payments to journalists as "personal advertising assistance" (*ayudas publicitarias personales*).¹⁷² A high level administrative official told us that, "The municipality gives monthly 'advertising assistance' to correspondents of the larger media, and that has helped us get 'good acceptance' for the mayor." He explained that they advertise directly with journalists because contracts with the media themselves are too costly. He also suggested that while they advertise according to audience ratings, they also try to give "everyone a little bit...the way we pay them is that at the end of the month they call to find out if their money, their check, is ready. That is frequent at each end of the month."¹⁷³ Payments are also used to silence critical coverage, according to the official:

For example, we had to give monthly ‘advertising assistance’ to one of the correspondents of the large chains because he began to attack us in a program he has on another radio station, including denunciations, without even coming to El Progreso. No way. We had to speak with him and now he no longer attacks us. He treats us well...[Another correspondent from a big chain] began to attack us and we had to help him [too].¹⁷⁴

According to local journalists, monthly payments to local reporters range from 2,000 to 4,000 lempiras (approximately \$100 to \$210), while correspondents from the larger media receive anywhere from 4,000 to 10,000 lempiras (\$210 to \$525). Journalists’ monthly salaries in El Progreso run as low as 3,000 to 5,000 lempiras (\$157–\$263).¹⁷⁵

Speaking off the record, a journalist in El Progreso told us, “The payments to these journalists obviously influence content so that they don’t criticize the municipality or the mayor, because otherwise, they tell the journalists, ‘We’re going to take away your sustenance.’”¹⁷⁶ Several journalists interviewed for this report agreed that payments to journalists are widespread in Honduras, but especially common in El Progreso. According to the mayor, he spends much less on these and other government advertising payments than other municipalities. He said, “I don’t call it an expenditure. It’s an investment.” He added, “I would like to have more money to invest in advertising. One has to publicize the good developments.”¹⁷⁷

Favoritism in allocation of advertising between two radio stations. Radio Progreso has 5,000 kilowatts of power, and its AM and FM versions reach 12 of Honduras’ 18 departments. Radio Perla is a local AM station with five kilowatts of power and limited local coverage. Nonetheless, the municipality of El Progreso regularly advertises on Radio Perla, and never on Radio Progreso. Radio Perla is owned by the president of the National Congress, Roberto Micheletti Bain, who, like the mayor of El Progreso, belongs to the Liberal Party.¹⁷⁸ Radio Progreso is owned and run by Jesuit priests who are involved in promoting the interests of the poor.

According to Radio Progreso newsroom coordinator and journalist Karla Rivas, “[The municipality] does not advertise with us. They tried to once but we didn’t accept conditions on our messages, for example, citing the president of the congress or the mayor every 20 seconds.”¹⁷⁹ A municipal official told us, “Radio Perla has the best contract. The people who have been there are [from the ruling party], they are unconditional and they worked hard. They cover us wherever we go. We have a totally open door with them.”¹⁸⁰

These allocations were confirmed by our independent study of advertising trends in El Progreso in May 10-23, 2007, which measured the number of seconds of government advertising run on Radio Progreso and Radio Perla during the 8:00-10:00 a.m. “peak” time slot. Radio Perla received a total of 2,675 seconds of municipal advertising, while Radio Progreso received none. Overall government advertising (including local and national sources) represented 67 percent of all advertising on Radio Perla, and 10 percent on Radio Progreso (from

three national autonomous agencies). Radio Progreso administrator Carlos Alvarado told us that, “Of the three state advertising contracts we have, two came from ad agencies whose marketing studies show that our station has a high audience level. [The third] advertises directly with us.”¹⁸¹

Use of government funds to monitor content. According to Radio Progreso journalists Lesli Roxana Banegas and José Peraza, the municipal government of El Progreso has hired a journalist to monitor coverage of the mayor by various media outlets. This person has often called the media to ask them about the information they have run on the mayor, the municipality, or specific issues, in order to complete his report to the municipal officials. Both Banegas and Peraza suspect that this is a means of verifying whether or not journalists and media outlets stay within the limits on content and editorial line imposed by the municipality.¹⁸²

Denial of access to official information in retaliation for critical coverage. According to a Radio Progreso journalist who preferred to remain anonymous, government staff began shutting out Radio Progreso reporters after the station did a story on an inebriated municipal official:

One time I wanted to interview a high level official who occasionally comes from the capital to El Progreso. He had already said yes to an interview, but when he saw me take out the Radio Progreso microphone, he got upset. He yelled at me and said, ‘I already told you that I don’t give interviews to [that radio station]’. It’s no longer the same for us in the municipality. The other day a [local council person] said, ‘The son-of-a-bitch who talks against Micheletti [the president of the national congress and the owner of Radio Perla] and the mayor is going to have problems.’ Now the mayor runs from interviews, and if you approach him, he becomes evasive.¹⁸³

Another local journalist noted that the government also denies Radio Progreso access to valuable information. “People listen to [La Perla] because it’s the radio station of the president of the national congress. It’s where one can find out about what projects there are for the area, when they are approved. And that is an advantage for [La Perla], because they have the breaking news and exclusive stories.”¹⁸⁴

Selective inspections by the national government. According to Radio Progreso administrator Carlos Alvarado, the station has received “letters from CONATEL [the national television commission], that we consider intimidating. Every month, people from CONATEL come to check our transmitters, something they don’t do with the other media, and we see that as a form of wanting to scare the radio station, since it was closed in the past.”¹⁸⁵ (Radio Progreso was closed by the national government in 1979, during the most recent military dictatorship,

and again in 1989, under a civilian government, for broadcasting “subversive” poems. At that time the then-executive director, a Jesuit priest, was expelled from the country.)

El Progreso Mayor Alexander López did not reply to our written request for comment regarding these events and practices.

Discriminatory Allocation of Advertising to Media Favorites and Political Allies

Government officials at the national and local levels often make abusive, opaque, and politically motivated allocations of advertising—but without necessarily violating the law. Our research found numerous examples across the countries surveyed and confirmed that several of the cases in Argentina documented in *Buying the News* have persisted over several years. For example, the government of Neuquén continues to discriminate in favor of *La Mañana de Neuquén* and against the *Río Negro*, despite the fact that the latter is by far the most widely read newspaper in the province.¹⁸⁶ Similarly, the discrimination against *Hoy Día Córdoba* by the provincial government of Córdoba persists today, as well.¹⁸⁷ In addition, national and local governments at times allocate advertising for propaganda purposes or with no regard for effectively communicating with the public. This distorts the advertising market and punishes independent-minded media.

Colombia: Unjustified Allocation of Advertising to *La República*

La República is a financial and economics daily that appears Monday through Saturday. According to its director, Jorge Emilio Sierra, the paper provides economic news and analysis, but does not cover politics. “We are defenders of the private sector, private enterprise,” he says.¹⁸⁸ However, another high level director who asked to remain anonymous admitted that the paper is viewed by many as “the government’s paper” given its defense of the current government’s economic policies, “which isn’t entirely true, because in the paper we also ‘tug the government’s ear,’ for example, for its elevated public spending.”¹⁸⁹

According to well-accepted measures of readership for four major national newspapers in Colombia, *La República* appeared at the very bottom of the list in 2005, 2006, and 2007 with an estimated 22,000 readers. *Portafolio*, another paper covering economics, had roughly twice as many readers, and both trailed far beyond *El Espectador* and *El Tiempo*, which had many times that number.¹⁹⁰

However, a study we conducted of national government advertising trends in those years showed that *La República* received far more advertising than its three competitors. For example, during eleven random weeks measured in 2005, 2006, and 2007, *La República* received nearly four times the amount of national government advertising placed in *El Tiempo*,

which is published every day (253,689 cm² compared to 65,787 cm² in *El Tiempo*).¹⁹¹ *El Tiempo* covers politics, economics, culture, sports, and stories of general interest.

Our measurements in four separate weeks during February through May 2006 showed that *La República* received nearly five times the government advertising placed in *El Espectador* (691 cm² vs. 141 cm²), though *El Espectador* received slightly more than *La República* in the sample we took in 2007.¹⁹² In contrast to *La República*, *El Espectador*'s editorial line is much more critical of the national government, including ample reporting on controversial issues such as the 2007 scandal involving judicial investigations of members of congress and members of the Uribe administration for alleged contacts with illegal paramilitary groups.

Finally, our figures for February-April 2007 showed that *La República* received over six times the advertising placed in *Portafolio*, a finance and economics newspaper also published Monday through Saturday.¹⁹³

La República director Jorge Emilio Sierra claimed that the Colombian government does not use advertising to attempt to influence editorial content, at least with his paper. He also stated that *La República*'s marketing and editorial departments operate independently of one another. He questioned the methodology of readership measurements, and stated that his newspaper receives a high volume of government ads containing invitations to bid for government contracts because it is a business paper and because government agencies are required to publish their ads in national papers with "ample circulation."¹⁹⁴ However, the main national competitors are also widely read by the business community.

We received a reply from the general secretary of the Ministry of Communications to our written request to the president's office for comment on this case. The general secretary stated that the ministry has no authority to determine the criteria for the distribution of national government advertising in the print media, nor have pertinent regulations been established.¹⁹⁵ The response did not comment on the issue of allocations to *La Republica*.

Colombia: Excessive Payments to Individual Journalists

Alba Luz Reyes is a journalist in Barranquilla, Colombia, who, until March 2007, hosted a general interest program on Radio Minuto (Minute Radio), AM 1520, from 6:00 to 7:00 a.m. and 6:00 to 6:40 p.m.¹⁹⁶ Reyes received 4.1 million pesos (approximately \$2,000) under four advertising contracts from the municipality of Barranquilla in 2005, and no advertising contracts in 2006. In January, 2007, she received a single contract from the mayor's office worth 20 million pesos (about \$10,000)—five times what she had received two years earlier.¹⁹⁷ Five months later, she was designated the local government's secretary of communications. Her appointment coincided with the release from jail of Mayor Guillermo Hoenigsberg, who returned to office after having been detained since September 2006 for presumed corruption linked to his contracting practices.¹⁹⁸

Reyes' advertising contract represented 17 percent of all the funds spent by the city of Barranquilla on advertising and dissemination during the first three months of 2007,¹⁹⁹ despite the fact that Radio Minuto captured just 4.1 percent of audience share in Barranquilla.²⁰⁰ This disproportionate allocation is even more extreme when contrasted with Coopercom, a cooperative representing approximately 40 journalists in Barranquilla, which received the same amount of advertising as Reyes during the same period.

Similarly, journalist Henry Forero, who has two news programs on Radio Mar Caribe (Caribbean Sea Radio), received a contract for 20 million pesos (approximately \$10,000) in the first three months of 2007 for a radio program that in 2006 had a mere 2.4 percent of audience share. Three journalists with programs on the most listened-to radio station, Atlántico, whose audience share is 11 percent, received significantly less: Jorge Cura Amar (15 million pesos), Rafael Sarmiento (9 million pesos) and Myriam Esther Peña (6 million pesos). Both Reyes' and Forero's contracts were for radio advertisements that, apparently, were run. Neither contract contains a justification for the selection of their programs.²⁰¹ Reyes, Forero, and Hoenigsberg failed to respond to our written requests for comment on this case.

Argentina: National Government Enriches Media Favorites and Political Allies

Recent research shows that the unjustified allocation of advertising to the national daily *Página/12* in 2004 and 2005 documented in *Buying the News* has persisted over the last two years. Our study of advertising trends in Argentine national newspapers revealed that national, provincial, and municipal government advertising in the major national dailies, *La Nación* and *Clarín*, represented no more than 5 percent of total advertising.²⁰² In contrast, our June 2007 measurement showed government advertising in *Página/12* amounted to 31 percent of its total advertising—21 percent coming from the national government.²⁰³

According to the national government's figures, during 2006, *Página/12* received 14.2 million pesos (roughly \$4.5 million) in national government advertising, 61 percent more than that received by *La Nación* (8.8 million pesos) and a hefty 74 percent of the total placed in Argentina's most widely read daily, *Clarín* (close to 19 million pesos)—despite having just a fraction of their circulation.²⁰⁴ The situation continued in the first six months of 2007: *Página/12* received 10.3 million pesos (just over \$3 million) in national government advertising, 34 percent more than that received by *La Nación* (7.7 million pesos) and 82 percent of *Clarín* (12.5 million pesos).²⁰⁵

In sum, it seems clear that the national government has given *Página/12* a highly disproportionate share of government advertising. 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 making advertising decisions. Since former president Nestor Kirchner took office in May 2003, *Página/12* has taken a generally pro-government line. This appears to be the product of its ideological compatibility with the two Kirchner admin-

istrations, especially on issues of longstanding importance to *Página/12*, such as past human rights violations.

Página/12 Editor-in-Chief Ernesto Tiffenberg, and Media Secretary Enrique Albistur did not respond to our requests for comment on this case.

In addition to directing advertising funds to particular national papers, former Argentine president Néstor Kirchner's government also gave inordinate amounts of advertising money to local media owned by longtime associates. Kirchner consolidated his political power in the province of Santa Cruz, where he was mayor of Río Gallegos, the provincial capital, from 1987 to 1991 and governor from 1991 to 2003. One of the most important media owners in the province is Rudy Ulloa, who was a messenger for Kirchner's law firm and later his chauffeur. Ulloa and his wife own a free newspaper, *El Periódico Austral* (*The Southern Periodical*), as well as a radio station, two television stations, and two production companies.²⁰⁶ *El Periódico Austral* is widely considered a mouthpiece of the national government in Santa Cruz. Only the April 2005 death of Pope John Paul II could knock President Kirchner off the front page, and the paper was the first media outlet in the entire country to announce the candidacy of current president Cristina Fernández de Kirchner, Néstor Kirchner's wife.²⁰⁷

According to journalist María O'Donnell, in 2006 Ulloa's media group received more than three million pesos (approximately \$960,000) in government advertising income—more than many news outlets with national reach.²⁰⁸ During the first six months of 2007, his media group received some 542,000 pesos (about \$172,000).²⁰⁹ By comparison, all of the media of the nearby province of Chubut (with twice the population of Santa Cruz), received in 2006 a total of 243,000 pesos of national government advertising.²¹⁰

Neither Ulloa, nor Media Secretary Albistur replied to our request for comment on this case.

Use of Government Advertising for Propaganda Purposes

Laws in Argentina, Chile, Colombia, and Peru place specific restrictions on advertising spending during electoral campaigns. The electoral code in Argentina prohibits government advertising during electoral campaigns containing “elements that expressly promote the capturing of the vote for any candidate for national public office.”²¹¹ In Chile, a similar law restricts government advertising spending during “electoral campaign periods” to only what is necessary for government agencies to provide basic information on their services or to “comply with their functions.”²¹² In Colombia, during the four months preceding presidential elections, government officials are prohibited from increasing government advertising spending.²¹³ All direct (i.e. non-competitive) contracting (for advertising and other goods and services)

is also prohibited during the same period, although we discovered apparent violations of this provision.²¹⁴ In Peru, the 2004 Radio and Television Law calls for the suspension of all government advertising in radio and television after the calling of general, regional, and municipal elections.²¹⁵

In addition, Chile, Colombia, and Peru have more general restrictions regarding government advertising content. As mentioned earlier, the 2006 government advertising law in Peru contains an express prohibition against government officials' appearing in materials bought with government advertising funds. Furthermore, the law prohibits advertising that benefits any political party or any candidate for office.²¹⁶ In Colombia, a series of austerity decrees limits government advertising content to that which is required by law (such as publication of government bidding processes).²¹⁷ Authorities must limit the content, length, and size of ads as much as possible.²¹⁸ Ads must not convey "applause, censorship, solidarity...or promote the identity of the entity or its officials."²¹⁹ These decrees are binding for the national government and urge regional governments to take similar measures. In Chile, government officials are limited by law to running only those advertisements necessary to fulfill their functions and to inform citizens of their benefits and programs.²²⁰ By law, then, government officials in Chile and Colombia are prohibited from running advertisements for purposes such as commemorating birthdays or holidays or congratulating media outlets on their anniversaries.

Nonetheless, it is not unusual for local officials in Colombia to use government funds to publish advertisements in national newspapers—often with photos of themselves—that showcase their administration's accomplishments. For example, on April 22, 2007, the department of Huila purchased a full-page ad in the most-read national paper in Colombia, *El Tiempo*, with photographs of Governor Rodrigo Villalba inaugurating schools and receiving an international certification for quality of management and services. One photo caption read, "During the administration of Governor Rodrigo Villalba, 7,800 families have received electricity." On May 13, 2007, the government of the department of Cesar published a full-page ad in *El Tiempo* with photos of Governor Hernando Molina Araujo. In one of the photos, the governor is distributing shoes to children. Four days later, the governor was arrested for alleged connections to illegal armed groups in Colombia.²²¹

In Argentina, the sixth-most expensive national level ad campaign in 2006 was titled "Presidential Visits," and cost more than 10 million pesos (approximately \$3.3 million).²²² These ads describe public works funded by the national government in different localities throughout the country, include the president's name, and phrases such as "We are growing. Argentina first."²²³

The government spent approximately twice as much on these ads promoting President Kirchner's image as it did on other campaigns of clear public interest, such as the Labor Ministry's "Registered Work" effort against unregistered labor (5.2 million pesos, about \$1.6 million), or the Education Ministry's "Return to School" campaign to lower drop-out rates (4.2 million pesos). In the first six months of 2007, a presidential election year, the govern-

ment had already spent 60 percent of the total expended in 2006 on the “Presidential Visits” campaign.²²⁴

Similarly, in May and June 2006 alone, the government spent 6.4 million pesos (over \$2 million) on ads that showcased the national government’s accomplishments on the third anniversary of President Kirchner’s inauguration (this campaign was called “Three Years of Government” (“Tres años de Gestión/Gobierno”). In 2006, the fourth most expensive campaign was referred to by the government as “institutional” advertisements placed by various executive branch agencies for a total cost of 12.5 million pesos (approximately \$4 million). These advertisements promote an institution without specific content linked to an activity or product.²²⁵ During the first six months of 2007, these ads were the 14th most lucrative advertising campaign, worth 4.6 million pesos.²²⁶ National media secretary Enrique Albistur did not respond to our request for comment on these campaigns.

According to the Argentine NGO Citizen Power Foundation, in the first four months of 2007, the government of the city of Buenos Aires spent 44 percent more on advertising compared to the same period the previous year. This spending took place in the months leading up to the June 2007 mayoral election, when incumbent mayor Jorge Telerman was up for re-election. Several organizations denounced the government’s prolific use of the phrase “Gestión Telerman” (roughly “Telerman’s Government”) in numerous advertisements that seemed designed to showcase his administration.²²⁷

We detected multiple spikes in government advertising spending during national and local campaign seasons. The most dramatic example occurred in Honduras, where the advertising budget for the president’s office was over 30 times higher in 2005, a presidential election year, than in 2006, the first year of the new government.²²⁸ In Colombia, national government advertising spending increased more than 100 percent from 2005 to 2006. Congressional and presidential elections were held in 2006 and were the first in which an incumbent president ran for re-election.²²⁹

According to data provided by the Chilean government, spending on national government advertising increased 31.4 percent from 2004 to 2005—with 2005 being a general election year in Chile.²³⁰ For Francisco Vidal, minister general secretary of government at the time of this increase, this jump was “absolutely logical, because a government has to show, sponsor, seduce, [and] convince the citizenry of the things it does.”²³¹

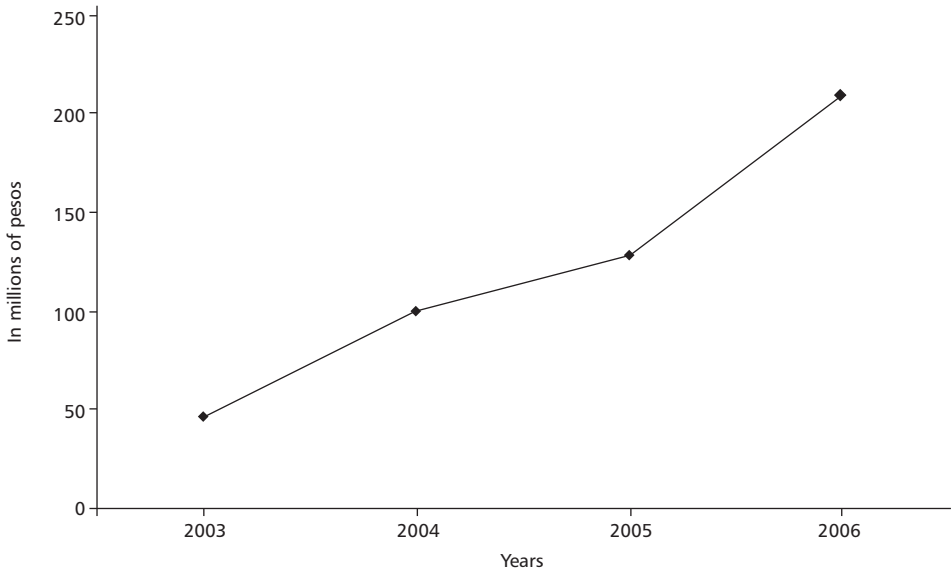
In Argentina, national level government advertising has increased steadily since Kirchner came to power in 2003. In 2006, the national government invested 353 percent over the amount it spent just three years earlier.²³²

According to official government figures, this trend deepened in the first six months of 2007, during which the government spent nearly 80 percent of the total advertising spending in all of 2006.²³³ Media Secretary Enrique Albistur argued that this increase is due both to overall inflation, including higher advertising prices, and to a new campaign called “Marca País” (roughly, “Country Brand”).²³⁴ However, our research shows that private sector advertising

increased at a notably slower pace.²³⁵ Coincidentally, 2007 was a presidential election year in Argentina, and the leading candidate was then-senator and now president Cristina Fernández de Kirchner, former president Kirchner’s wife. In this context, some media experts and NGO activists feared that national government advertising could be used for electoral purposes.²³⁶

In the Argentine provinces of Río Negro and Córdoba, advertising spending also increased considerably in 2006 and 2007—especially during election periods.²³⁷

National Government Advertising Spending in Argentina



Source: Data for 2006 provided to the ADC by the information officer of the president’s chief of staff, February 7, 2007. Data for 2003-2005 was provided by Citizen Power Foundation, based on information received from Media Secretary Enrique Albistur.

V. Other Forms of Soft Censorship

Important as it is, government advertising is not the only soft censorship tool used by governments in the countries surveyed, and elsewhere in the region. Other financial and regulatory powers are abused to muzzle the media. Some of these abuses, such as selective denial of access to government information or broadcast licenses, are subtle or otherwise disguised under a veil of supposed legality. Others, such as “telephone censorship,” can be very direct and heavy-handed. What they have in common, however, is that they remain largely invisible to the general public, or even the rank and file of the media profession, who are the ones who ultimately pay the price of soft censorship.

Pressure on Media Owners and Professionals to Change Content

Our initial research in Argentina revealed that high level government officials routinely seek to interfere with media content by pressuring media directors or editors and, at times, contacting journalists directly. Our follow up research in the countries covered in this report revealed that such pressures are widespread in other countries, as well.

While it is not necessarily inappropriate for government officials to communicate with media professionals on matters of media coverage, attempts to influence content are unacceptable—especially when the stream of phone calls coming out of high level offices is clearly intended to keep the media in line and chill future reporting that may not be to the government’s liking.

As the following country examples show, it is sometimes hard to distinguish what constitutes ordinary communication between government entities and the media and what crosses over into efforts to pressure or intimidate.

Colombia

Darío Fernando Patiño, news director for Colombia’s Caracol TV, one of the country’s major stations, explained that the press directors for high level Colombian officials often call journalists, editors, and media owners to influence the writing of headlines or the content of a story, or to request that certain information not be published. “Yes, there are complaints,” he said, “and the most efficient complaint is to call one’s superior, when they want to make the journalist feel...that he or she should be scared. That is the most common form [of interference].”²³⁸

According to Álvaro Sierra, director of the editorial section of the Colombian newspaper *El Tiempo*, such behavior is “always characteristic of our sources. They do everything they can to get the best possible coverage. Not just the government, but everyone... That is systematic.”²³⁹ According to a 2003 survey of 20 media directors, the national army is the agency that exerts the greatest pressure on the media to publish information in its favor, followed by the police, the General Prosecutor’s Office, and the Administrative Department of Security.²⁴⁰

In mid-2006, then national press secretary, Ricardo Galán, asked Caracol TV News Director Darío Fernando Patiño not to publish video footage of Colombian President Álvaro Uribe Vélez instructing officials to pay a ransom for a Colombian citizen kidnapped in Afghanistan. This action contradicted Uribe’s policy of refusing to pay ransom for citizens kidnapped by guerilla groups within Colombia. Galán argued that the footage revealed a private conversation by the president. According to Patiño, “Galán called the journalists first, and when he saw that the information was going to be run, he called the channel’s directors.” The footage was run anyway, and it became clear that Uribe had held the conversation in an open space, surrounded by journalists and photographers.²⁴¹ César Velázquez, press secretary for the president’s office, did not reply to our written request for comment on this case. When asked for his point of view, Ricardo Galán suggested we contact the president’s press office.²⁴²

Speaking off the record, the director of a national newspaper told us that on one occasion, Uribe contacted him personally to request certain coverage of a news story. “President Uribe called me during a [2006] crisis with the internal debt bonds, when there was speculation going on. He asked me ‘Why don’t you collaborate with me and the government to avoid the panic that was occurring at that time.’” This director believes that Uribe’s request to avoid

sensationalism was valid.²⁴³ However, a 2004 survey conducted by the University of La Sabana in Bogotá revealed that 15 percent of the directors of the media outlets surveyed had experienced attempts by President Uribe to shape the content of their coverage. Fifty percent of those surveyed considered the president's interference in editorial matters to be inappropriate.²⁴⁴

Uruguay

Journalists and media directors in Uruguay are also accustomed to receiving comments and complaints from high level government officials about their coverage, and many consider such interventions to be part of the normal relationship between the media and government sources. Approximately 40 editors and reporters who cover the legislative and executive branches told us that in general, government pressures decreased significantly under the administrations of President Tabaré Vázquez and his immediate predecessor, Jorge Batlle (2000–2005), including phone calls aimed at influencing the content of media coverage, and especially those aimed at removing or intimidating journalists.

However, according to multiple sources, high level officials have made calls to media directors to improperly influence the content of what they publish. Marcelo Pereira of the left-leaning subscription newspaper *La Diaria*, is one of those who has received such calls from government ministers. “Some are more careful, they tell you that under no circumstances do they mean to interfere...The issue is when what they want is not to correct you or to express a contrasting opinion, but rather to stop publication [of information].”²⁴⁵ Such calls are especially targeted to media that are friendly to or relatively less critical of the current administration.

Speaking off the record, another journalist who works for the newspaper *La República*, which is generally favorable to the government, stated that after covering an issue related to the government's foreign relations, he received a call from the president's office asking him to refrain from speaking to a source in the Foreign Ministry, because that source “was obstructing [official] activity.”²⁴⁶ According to Nelson Díaz, coordinator of the magazine *Caras y Caretas* (*Faces and Masks*), “Sometimes a journalist goes to an interview with a government authority and later that person calls the director of the magazine or me, telling us that there are questions that he would prefer not be published.”²⁴⁷

Claudio Paolillo is the general editor of the weekly newspaper *Búsqueda*, which maintains an independent editorial line. He told us that calls “to pressure for more favorable treatment” are made by “the president's office, ministers, ministries, public enterprises, from all over.” In his opinion, “This is not unique to this administration but to all the administrations and the issue is not that they pressure you but that you allow yourself to be pressured—that's the problem.”²⁴⁸

Gustavo Antúnez, deputy director of the presidential press office, told our researchers that his office communicates regularly with media and journalists, “to share [contrasting] points of view, but not to pressure and much less to express discontent with a journalist.”²⁴⁹

Costa Rica

Phone calls from government officials to journalists regarding the content of stories occur in Costa Rica, as well. A journalist for a television news program who preferred to remain anonymous told us, “It is very common to receive phone calls from government officials, even at one’s home, and at any hour. This happens in all the media and at all levels. The greater the media’s influence, the greater the pressure from the politicians.”²⁵⁰

Journalist Mario Ugalde Cordero, deputy editor-in-chief of the San José-based newspaper *Extra*, said that government officials do not wait until stories are published to make contact. “When they feel that they were asked something ‘bad,’ they call and say ‘That’s terrible’ and ‘They took me by surprise’ and ‘I don’t want anything to be published,’” he said.²⁵¹

Honduras

Direct pressures by senior officials can be even more intense at the local level. Wendy Guerra is a television journalist in the city of Santa Rosa de Copán, in western Honduras. According to Guerra, on April 24, 2006, she was fired by Channel 49 in response to pressure from three of ten local councilpersons who were upset that she had reported on their vote against the construction of a sports project for area youth. Guerra stated that the council persons threatened to charge her with libel. She also said that former Liberal Party congressman and owner of Channel 49, Amid Cárdenas, told her that the information she reported on the news caused problems with his friends in the Liberal Party and with the president of the country, and that they would not give him government advertising as a result. Two weeks later, Cárdenas hired her back, apparently arguing that he did not want to be accused of violating freedom of expression, and calling the incident a misunderstanding.²⁵² Cárdenas did not reply to our written request for comment regarding this case.

Retaliatory Denial of Access to Government Institutions and Information

Another pernicious form of soft censorship is the government’s denial of access to official information to particular media in retaliation for critical coverage. For example, an editor at one of the most important newspapers in Honduras, on the condition of anonymity, told us that:

For our reporters it is more difficult to access information than for other media. In the official press conferences, our journalists are the last allowed to ask questions or are excluded totally from asking. Last year [2006] the minister of health denied interviews to [our] reporters and there was no access to him because we printed information about irregularities in the purchase of medicines.²⁵³

The Ministry of Health did not reply to our written request for comment regarding these allegations.

Similarly, a reporter from Radio América, one of the leading radio stations in Honduras, alleged that the station was blacklisted in retaliation for its decision to delay announcing the November 2005 victory of President Manuel Zelaya Rosales until several hours after the polls closed, after the majority of other media had announced that he had won. “The government named a man from our competitor radio station, HRN, as [the president’s] private secretary. At the beginning we went to get information and were denied. Getting information was difficult. Although most of that has been overcome, there are still privileges for other media.”²⁵⁴

In addition, our research revealed that the Honduran government uses discretionary and discriminatory access to international travel with the president as a carrot that may induce favorable coverage or as a stick, in retaliation for critical pieces. Speaking off the record, a radio journalist told us, “Yes, I know cases of journalists who changed their editorial line for the [per diem] payment they receive. One colleague from a news program was strongly opposed to the government but changed after a presidential trip to Europe. ‘One must rethink one’s positions,’ he told me.”²⁵⁵ Another radio journalist explained that invitations to travel with the president are issued to the news coordinator and he selects a pro-government journalist to travel, not necessarily the reporter responsible for covering the president. “All costs of the trips are paid by the government, including the broadcasts from the countries to which they travel. And to make communication possible, they provide cell phones,” he said.²⁵⁶

The director of a radio station who also requested anonymity told us:

Of course these trips influence the media to give information that the president wants to be transmitted. [They do] not allow for an agenda or information that is critical of what happens...The day that someone goes with that attitude on a presidential trip, they will immediately send him back to Honduras.²⁵⁷

Furthermore, an ex-official from the president’s office told us that those who are critical of the president are not considered for another trip.²⁵⁸ Although government officials do not have an obligation to grant interviews or invite reporters on trips abroad, when they do so, they must not use government information and funds in a discriminatory or retaliatory fashion.

Presidential private secretary Raúl Valladares denied that trips with the president are used as prize or punishment for journalists. He did state that the president himself proposes which print, radio, and television journalists should travel with him. On other occasions, the journalists selected are chosen by the media, based on a system of “internal rotation.” He reiterated that they issue “friendly invitations that communicators accept or reject,” and that some media cover the costs of sending their own journalists to travel with the president.²⁵⁹ Neither presidential spokesperson Guillermo Paz Manueles, nor Oscar Triminio of the presidential press office replied to our written request for comment on this issue.

Unfair Allocation of Broadcasting Licenses

In many countries, freedom of expression is greatly compromised when broadcast licensing processes are abused to benefit political allies or silence independent voices. In some cases, government officials take advantage of broad discretion built into the process. In other cases, the existing legal framework creates structural barriers to fair licensing, such as high financial investment requirements. Whether or not intended to favor big business, such barriers end up benefiting larger media and suppressing a wide range of voices and actors. These barriers work to limit media pluralism, the free flow of ideas and information, and democratic debate. Nonprofit operators such as community broadcasters are often particularly subjected to unfair and systematic denials of access to the airwaves.

In most of the countries surveyed, the regulatory frameworks for radio and television broadcasting are both insufficient and inadequate, and below the basic standards established by Inter-American human rights instruments. Under Article 13 of the American Convention on Human Rights, “[t]he right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over...radio broadcasting frequencies...or by any other means tending to impede the communication and circulation of ideas and opinions.” The Inter-American Declaration on free expression principles further elaborates that “the concession of radio and television broadcast frequencies...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.”²⁶⁰

In Uruguay, for example, until very recently (see below), the law lacked safeguards to prevent the executive branch from granting broadcasting licenses in ways that are arbitrary and discriminatory. Similar licensing issues can be found in Argentina, Colombia, and Peru. Despite some legal provisions that favor nonprofit radio stations, to date very few have been granted access to frequencies in Argentina and Peru.

These problems tend to occur in highly concentrated media markets. For example, the 1978 broadcasting law in Uruguay contains provisions designed to prevent the concentration of media ownership. However, there are several problems with the law itself, including its failure to address pre-existing levels of concentration.²⁶¹ Indeed, a history of capricious allocations in the granting of television licenses and concentration of ownership of television companies and frequencies in the hands of very few operators is a major concern for freedom of expression activists in Argentina, Colombia, Peru, and Uruguay.²⁶²

Uruguay: Addressing the Legacy of Political Favoritism

The core of the current legal framework for broadcasting in Uruguay was created during the most recent dictatorship (1973–1985) and ratified, with some changes, by the first

civilian government that followed.²⁶³ Decree 734, passed in 1978, gives the executive branch the power to grant broadcasting licenses.²⁶⁴ Licenses are to be granted exclusively through allocation processes initiated by the government when it perceives that there are vacancies to be granted. Applicants for licenses must demonstrate their “economic capacity in keeping with the category of station” that they plan to install, and must pay a security deposit, which makes it even more difficult for small broadcasters to qualify for licenses.²⁶⁵

Applicants must also demonstrate that they have “moral solvency,” which will be “evaluated by the Executive Branch.”²⁶⁶ These requirements are drafted in such vague terms that the government has near total discretion to deny a license by alleging lack of financial or moral solidity. Similarly, the government has the authority to apply sanctions ranging from warnings to license revocation for radio and television stations that “perturb the public tranquility, violate moral and good customs, compromise the public interest or security, or affect the [country’s] image and prestige.”²⁶⁷

When a licensing process is announced, applicants have 60 days to present their proposals, after which the government issues resolutions granting licenses.²⁶⁸ The procedures used to evaluate and select the proposals are not public and transparent, nor is there any mechanism in the law or in practice to guarantee equality of opportunity for a variety of political, philosophical, cultural, or other perspectives in broadcast programming.

Although applicants are required to present detailed plans regarding their focus and programming, in practice no steps are taken to determine if radio stations abide by these plans. Licenses are granted for an indefinite period, and in practice are often maintained even when station owners have sold or rented their frequencies to other persons, changing station names and program content.²⁶⁹

While there is no legal prohibition against nonprofit groups holding broadcasting licenses, in practice, 30 years after the broadcasting law was passed, barely a single community radio or television station is licensed and functioning.²⁷⁰ In 1995 and 1999, the government closed several community radio stations and seized their broadcasting equipment in well-publicized operations with a significant police presence.

There has been, however, some progress under the administration of President Vázquez. In March 2007, the government granted a license to Colonia Berro (a children’s home operated by the government’s Institute for Children and Adolescents) and another to Colonia Etchepare, a psychiatric home. However, only the latter is functioning at the moment. In July 2006, the first nonprofit license was granted to a university radio station, UNIRadio, a 10-watt radio station run by the Communications School of the University of the Republic. In June 2007, a license was also granted to a public school in the city of San Carlos in the department of Maldonado. Freedom of expression experts also note that the revocation of four radio licenses held by individuals belonging to an economic group convicted of tax fraud (two in Montevideo and two in Punta del Este) was transparent and administratively correct.²⁷¹

Reviews of official information show a history of political favoritism in license allocation between 1984 and 2000—with presidents allocating numerous licenses in the last days of their administrations.²⁷² While running for office, President Batlle stated that he did not agree with the criteria used by previous presidents for allocating licenses, and during his presidency (2000-2005) did not grant any radio or television frequencies.²⁷³

Several people we interviewed said that licenses have, historically, been granted systematically to friends and political allies of the government in power at the time. Hugo Luján is a journalist in the department of Rocha. According to Luján:

The state, arguing that it is complying with the law, has in successive administrations acted with the clear intention of favoring certain persons through the exploitation of frequencies. In Rocha, for example, that has happened with clear partisan or sectoral links between businessmen and different administrations. In the last 15 years this department went from having six radio stations to almost thirty and still, this did not guarantee a proportional increase in the possibility of access to the media for many social, political, and cultural organizations.²⁷⁴

The campaign platform of current president Tabaré Vázquez included explicit references to democratizing the media sector.²⁷⁵ One of the first measures in this direction was the May 2005 decision to move responsibility for telecommunications and broadcasting issues from the Ministry of National Defense to the Ministry of Industry, Energy and Mining.²⁷⁶

On December 11, 2007, the Uruguayan Congress passed a community broadcasting bill supported by the Vázquez administration and several civil society organizations that for the first time recognizes community radio and television stations and requires the state to promote their viability.²⁷⁷ This law, promulgated on December 22, 2007, recognizes community broadcasting as a third sector in the broadcast media, complementary to commercial and state-run stations. It reserves one third of the available frequencies in AM, FM, and television for community-run stations, with the aim of guaranteeing greater diversity in media ownership. Unlike other legislation in the region, it specifies that community media will not be defined by limited geographic reach, but rather by their social and public objectives. Furthermore, it states specifically that these media have the right to seek and obtain economic resources to assure their sustainability, including donations, sponsorships, and advertising.

The legislation also includes provisions for ensuring transparent and non-discretionary procedures for the allocation of licenses, assuring equal opportunity to apply for access via open and public, competitive, bidding processes, and public hearings for the granting and revoking of licenses. To control state implementation of this legislation, the law proposes an advisory body whose members will include representatives of government ministries, community media, public and private universities, and civil society organizations that

work on freedom of expression. The Uruguayan law is the region's leading community media legislation.²⁷⁸

Despite these advances, some freedom of expression activists have pointed out that the current government lacks a clear and articulated set of policies regarding the media, communications, and the democratic use of the broadcast spectrum. The same can be said for problems related to concentration of media.²⁷⁹ According to researcher and former media coordinator for Vázquez's political coalition (Encuentro Progresista-Frente Amplio) Gabriel Kaplún, under the Vázquez administration, "With very few exceptions, there have been no new licenses granted, and it would be prudent to wait a bit until there are clear criteria. What is a bit worrisome is that these criteria are not visible. I know that they are working on them, but two years have passed without their being elaborated."²⁸⁰ The current president of the Communication Services Regulatory Unit, León Lev, announced that the government would soon open the first process to allocate radio licenses with the goal of improving the procedures and criteria used by previous administrations.²⁸¹ Although the process for granting licenses in several localities is currently underway, the discretionary selection and evaluation procedures have not yet been modified.

Peru: Few Licenses for Community Radio Stations

In Peru, as a result of a combination of factors including high financial investment requirements and government discretion in granting licenses, only a handful of community radio stations in the country have obtained broadcasting licenses. The 2004 Radio and Television Law stipulates that the vice minister of communications in the Ministry of Transportation and Communication (MTC) is responsible for issuing and revoking broadcast licenses.²⁸² According to Carlos Rivadeneyra, the Peruvian representative to the World Association of Community Broadcasters, between 1980 and 2000, the Peruvian government granted the majority of licenses to radio and television stations linked to the governing political party. The administration of authoritarian president Alberto Fujimori (1990–2000) closed stations that had been functioning for several years pending a license in order to assign the frequencies to media with ties to the government.²⁸³ According to the MTC, no new licenses have been issued in Lima since November 2004 because no frequencies are available.²⁸⁴

In general, large media groups hold the vast majority of available licenses, leaving very little space for more independent media. The problem exists in part because the government imposes the same technical and financial requirements for a large corporation with multiple transmitters as for a small, local radio station, making it unnecessarily difficult for smaller and independent media to access licenses.²⁸⁵ Although the new broadcasting law stipulates specifically that community media are eligible for licenses, to date this provision is grossly under-implemented.²⁸⁶ Of the 269 licenses requested in all of Peru between June 2005 and June 2007, only six were for community media. Five are being processed and one was denied.²⁸⁷

Jorge Acevedo is the executive director of the National Radio Association (Coordinadora Nacional de Radio, CNR), a Lima-based network of community radio stations and communication centers. He believes the lack of licenses for community radio stations “is a combination of lack of political will and lack of information in order to evaluate the proposal of a community or noncommercial station. Priority is given to commercial operators.” He added:

In practice, the frequencies have become [like] private property. The law says that the licenses should last 10 years and can be renewed if the operators have complied with the norms and their proposals are still better than those of other media. But in practice we have operators that have been in radio and television for 40 years and renewal is automatic. It’s a question of negotiation, of lobbying...and it’s very difficult for a community media outlet to sustain a process of lobbying with the state...those who win are those who [lobby] best.²⁸⁸

In May 2007, the CNR sent a letter to the MTC asking if they could obtain a license for a community radio station in Lima, to which the vice minister replied that according to a November 8, 2004, plan for allocating licenses, the 28 permits available in Lima were already allocated. Acevedo pointed out that by November 8, 2004, the new radio and television law had already been approved, establishing the eligibility of community media to receive licenses. The CNR is currently taking legal action against the MTC. As Acevedo pointed out, “We can do this because we are an NGO that is somewhat important and with a certain level of power.”²⁸⁹

On May 24, 2006, invoking the 2004 Radio and Television Law, a Catholic organization in Yurimaguas in the Barranquilla district of the province of Lamas requested that the MTC grant a license for La Voz de Cainarachi (The Voice of Cainarachi), a one kilowatt FM radio station. The MTC replied that the request could be considered once it has conducted a technical study on frequencies in the area, but did not specify when the study might be conducted.²⁹⁰ The MTC told us that it has 26 requests that cannot be processed for lack of a technical study, but that it has no date projected for any of the studies to be conducted.²⁹¹ Journalists at La Voz de Cainarachi suspect that the MTC does not want to give them a license for political reasons, because they are the voice of the regional farmers who in mid-2006 protested against the expropriation of land in the region for cultivation by a businessman and banker.²⁹² As a result of our formal request for information on this case, we learned that the technical study has been completed. La Voz de Cainarachi is currently working on the application paperwork.

Argentina: New Radio and TV Law Needed

Civil society groups and freedom of expression advocates have called repeatedly for a new law governing radio and television broadcasting in Argentina to revamp the current statute, created under the most recent dictatorship.²⁹³ President Cristina Fernández de

Kirchner and several members of her cabinet have expressed their willingness to promote a full reform of the current law, but no specific proposal had been made public as this report went to press.²⁹⁴

The law has been modified by several civilian governments (not all the changes have been positive), and currently contains several objectionable provisions.²⁹⁵ For example, it stipulates that the directors of the Federal Broadcasting Committee (Comité Federal de Radiodifusión, COMFER) shall include representatives of the three armed forces, despite the return to civilian rule in 1983.²⁹⁶ The law contains no clear criteria for the allocation of broadcast licenses, and until recently, prohibited nonprofit organizations from holding licenses.

Indeed, the most relevant recent change to this law was the August 2005 modification of article 45, which for the first time made nonprofit organizations eligible to obtain broadcasting licenses. Before this reform was passed, several courts, including the supreme court, had ruled that this restriction against nonprofit organizations was unconstitutional. Paradoxically, the reform took place in the same year that President Kirchner issued a presidential decree that effectively extended all existing broadcasting licenses for an additional 10 years beyond their then-current expiration date.²⁹⁷ 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.

During the second half of the 1980s, there was a significant boom of unlicensed radio stations after then president Raúl Alfonsín put a halt to the allocation of licenses begun under the dictatorship, presumably until a new broadcasting law was passed²⁹⁸—which to date has not happened.²⁹⁹ After the reform of article 45, the government issued a presidential decree that initiated a process under which the COMFER has “recognized” 126 nonprofit radio stations that were operating without a license³⁰⁰—a status that gives them preference in the allocation of licenses that was formally initiated in August 2006.³⁰¹ “This is not a status that exists under the law. It is not a license. It is a ‘recognition’ until the radio spectrum situation is resolved,” said Néstor Busso, president of the Argentine Forum of Community Radio Stations (Foro Argentino de Radios Comunitarias, FARCO).³⁰²

The status and preference given to these radio stations is similar to that of a number of stations granted so-called “precarious, provisional permits” after a state reform law in 1989 gave the government the authority to grant semi-legality to these radio stations until a new broadcasting law is passed.³⁰³ Others function thanks to court injunctions that prevented the closure of certain radio stations given the 1984 suspension of licensing under Alfonsín.

Under the 2006 licensing process, COMFER has granted licenses to several nonprofit radio stations, including a community radio station in the province of Río Negro, a youth association in Jujuy, a public services cooperative in the province of Córdoba, an Adventist School in Entre Ríos, a nonprofit organization in Santa Fe, and a work cooperative in the province of Buenos Aires. So far 3,000 existing radio stations have applied to obtain legal status and a license to operate.³⁰⁴

However, this licensing process is taking place only in “non-conflict” zones—that is, areas where there are still unassigned frequencies or a smaller number of possible providers than the number of available frequencies. The main cities in the country—including the 17 most important urban centers—are excluded from this process.³⁰⁵ According to COMFER advisor Gonzalo Carbajal, “To resolve the situation in [the conflict zones], it is necessary to have a law that establishes an order of preference that makes it possible to determine which radio stations get licenses and which do not...resolving the conflict zones implies leaving some out, and for that you need the force of a law,” he said. The optimization of the radio spectrum “is not technical, it is political,” he added.³⁰⁶

The law that modified article 45 of the broadcasting law contains a controversial provision that prohibits companies providing public services from receiving broadcasting licenses, including those that are organized as cooperatives—except in certain, extremely limited circumstances.³⁰⁷ A group of cooperatives interested in providing cable television services sued the government regarding the manner in which this provision was approved, because the senate approved a version and converted it into law without first sending it back to the lower house, which it was required to do by law. The first instance decision by a judge in the province of Jujuy in favor of the cooperatives has been appealed by the government.³⁰⁸ The main opposition to the participation of cooperatives in the cable market comes from cable companies, which argue that the cooperatives have undue competitive advantages as the result of their territorial monopoly on certain services and other benefits they receive.³⁰⁹

Another controversial broadcasting measure was the suspension in 2000 of all future applications for the provision of cable television service based on an “administrative emergency.”³¹⁰ The initial 120-day suspension was continually renewed, making permanent a solution to a supposedly temporary administrative crisis.³¹¹ A court ruling in the province of Córdoba found in favor of a telephone cooperative that sued for the right to compete to provide cable television services, and in August 2006, the supreme court rejected an application by COMFER to appeal the decision.³¹² The court held that the suspension was unjustified and “rendered illusory” the rights of aspiring broadcasters guaranteed by the Argentine Constitution.³¹³ The practical result of the suspension has been to limit fair competition in the cable television sector.

Although the suspension no longer applies, in June 2006 COMFER issued a resolution calling for a participatory process to generate regulations for access to licenses for complementary broadcasting services, including cable television.³¹⁴ In the opinion of attorney Miguel Rodríguez Villafañe, this resolution was aimed at delaying the cable licensing process.³¹⁵ Speaking off the record, a well-placed source in the government told us that the best process would be a gradual opening of the cable terms of reference, but “until now there has been no political will to do this.”³¹⁶

On December 7, 2007, three days before the end of Nestor Kirchner’s presidential mandate, the National Commission for the Protection of Competition (Comisión Nacional de

Defensa de la Competencia, CNDC) approved the merger of cable operators Cablevisión and Multicanal, increasing the tendency toward ownership concentration that the Argentine media sector has experienced in recent years.³¹⁷

Colombia: Government Slow to Foster Media Pluralism

According to the 1991 Colombian Constitution, the government is responsible for “guaranteeing pluralism of information and competition via the management and control of the electromagnetic spectrum.”³¹⁸ The Colombian government passed regulations for radio broadcasting (including the granting of licenses) more than 10 years ago.³¹⁹ However, the Ministry of Communications has yet to open a licensing process for radio stations based in several departmental capitals, including the capital city of Bogotá.

In general, the legal framework for radio broadcasting in Colombia is relatively favorable to community radio stations. A 2003 decree defines community radio stations and regulates their specific functioning, and designates the Ministry of Communications as the entity responsible for adjudicating community radio licenses.³²⁰ It also establishes criteria designed to offer equal opportunity in access to the radio spectrum, stating that:

The Ministry of Communications will [be inclined to provide] those municipalities lacking services, communities located in marginal or border areas, urban or rural, cultural and ethnic groups, and, in general, the weakest or minority sectors of the society [with access to] Community Radio Service, in order to stimulate their development, the expression of their culture and their integration in national life.³²¹

The first legal community radio stations in Colombia appeared in 1996.³²² In November 1995 and August 1997, the Ministry of Communications opened the first processes for granting community radio licenses and granted 564 licenses in different municipalities across the country, excluding provincial capitals. In June 2006, the ministry allocated licenses in another 440 municipalities, but again excluded the provincial capital cities.

Between 1995 and 2004, individual radio stations and associations of community radio stations in Bogotá filed at least nine formal petitions with the Ministry of Communications inquiring about the lack of a licensing process for Bogotá, in some instances requesting that the ministry move forward. One community radio station formally requested a license. In addition, in September 2003, a group of civil society organizations presented a working document with specific proposals for community radio broadcasting in Bogotá, developed with participation by representatives of the ministry itself. The ministry responded that priority had been given to municipalities and the licenses for capital cities were to be adjudicated at a later date, once technical parameters had been established. The ministry neither revealed the results of its technical analysis nor set a date for the allocation process.³²³

Having determined that all legal actions had been exhausted when unfavorable rulings were made in two administrative courts, in September 2005 representatives of community radio stations asked the Constitutional Court to order the Ministry of Communications to open the licensing process. In June 2006, without addressing the allocation issue per se, the Constitutional Court ruled that the Ministry of Communications had violated the petitioners' right to information by withholding information on the reasons why there had been no allocation process in Bogotá. The ruling ordered the ministry to provide a substantive response to the requests for information as well as the results of the technical studies that had supposedly been carried out in 2000. The ruling also stated that the community groups have a fundamental right to set up a media outlet.³²⁴

In August 2006, claiming to respond to the Constitutional Court's ruling, the ministry simply repeated that it had no plans to open the process in capital cities, which provoked additional legal action by the plaintiffs in October 2006. In January 2007, the ministry then informed the petitioners that it would open the licensing process in departmental capital cities in May 2007 "after studying and overcoming the reasons that have impeded until this moment the opening of a public process for granting concessions for the provision of community radio services in the country's capital cities."³²⁵ However, in June 2007, the ministry announced a licensing process in five capitals, again postponing the process in other, larger capital cities to an undetermined date.³²⁶

When asked to comment on this situation, an advisor to the vice minister of communications told us that licenses were being granted in three consecutive stages, the first in five departmental capitals with populations under 200,000 (which closed on October 26, 2007), the second for 15 capitals with populations between 200,000 and 1,000,000 (open until March 26, 2008), and the third for four capital cities with populations exceeding 1,000,000, including Bogotá. When asked about the technical studies undertaken to open the licensing process, she told us that a study was requested from the National University and described part of it, but gave no details regarding the results that might have determined the delay for capital cities.³²⁷

Further research uncovered that the first steps in the licensing process for Bogotá and three other capital cities were formally initiated on November 30, 2007. As of February 2008, draft terms of reference were available for comment by civil society organizations. The Colombian Network of Community Radio Stations sent forward their objections to two new provisions added to the selection criteria and not included in previous licensing processes for municipalities. The first new provision requires applicants to submit a sworn statement that they have not been involved in clandestine radio transmissions, although the purpose of this process is ostensibly to legalize the status of many community radio stations. The second provision requires applicants to certify their experience with community projects—which is considered excessive and difficult to demonstrate.³²⁸ The licensing process finally opened on March 31, 2008.

Other Forms of Financial Censorship

Our research uncovered additional examples of “soft” government interference with media freedom, including suspension of telephone service to a radio station in Honduras and the closure of a printing press in Argentina, both in retaliation for critical reporting. These incidents reveal that soft censorship comes in many creative forms, all aimed at limiting or preventing expression and the dissemination of information.

Honduras: Radio Station Loses Phone Service Because of Critical Reporting

On May 21, 2007, the Honduran Telecommunications Company (Hondutel) cut off telephone service during *Noticias Radio Globo (Radio Globo News)*, a national level news program broadcast from 5:00 to 8:00 a.m. The day before, a *Noticias Radio Globo* correspondent in the city of La Ceiba had reported that Marcelo Chimirri, then-deputy manager of Hondutel had flown to La Ceiba in a Honduran Air Force helicopter to watch a soccer game. *Noticias Radio Globo* director Sandra Maribel Sánchez told us that, in an interview with one of the news program’s reporters, Chimirri threatened to sue the program for airing the report. On a program hosted by Eduardo Maldonado later in the day, Maldonado denied the accusation against the government official and called the correspondent from La Ceiba “a gossip monger.” Sánchez told us:

The next morning all six of the radio station’s phone lines were not working, including the reporters’ cellular phones. The station’s technicians looked at the lines and found no problem. Immediately, I publicly denounced this abuse. The phones were mute all morning, and when the time came for Eduardo Maldonado’s program at 1:30 p.m., the phone lines worked again, as if by magic.³²⁹

Hondutel did not reply to our request for comment regarding this case.

Argentina: Local Government Closes Printing Press after Paper Reports on Corruption

El Observador (the Observer) is a free newspaper published and distributed six days a week in the “industrial belt” on the outskirts of the city of Rosario in the province of Santa Fe. It is the only newspaper distributed in the city of San Lorenzo, located 30 km from Rosario. According to the paper’s owner, Andrés Sharretta, on July 26, 2007, the San Lorenzo municipal government closed the printing press belonging to Sharretta that printed *El Observador* in retaliation for the paper’s editorial line. The paper is “critical of the local government,” said Sharretta, and according to the New York-based Committee for the Protection of Journalists (CPJ), has aggressively reported on alleged cases of corruption involving the municipality.³³⁰

According to Sharretta's attorney, Alfredo Olivera, municipal officials accompanied by police officers shut down the press even though they had no written order and provided no explanation for their actions.³³¹ According to municipal documents made available after the incident, a government official found that the worker in charge of the printing press at that time did not have a municipal license to operate the press, so the official "temporarily closed the establishment."³³² On July 28, 2007, the municipal government published a paid ad signed by San Lorenzo mayor Mónica de la Quintana in a local newspaper in which she justified the closing due to the licensing infraction and asserted that *El Observador* was trying to make the event appear politically motivated.³³³

In reality, the printing press closing was preceded by some highly charged city council politics. On July 18, 2007, three council members sent a letter to the council president and then mayoral candidate Leonardo Raimundo, requesting his resignation. The letter accused Raimundo, other council members, and *El Observador* of participating in a plot to "destabilize" the local government. The letter called *El Observador* a "pseudo-media outlet" and its members "pseudo-journalists," and went on to accuse it of defaming municipal officials and city council members, and promoting a "scheme of misinformation in violation of the law." The letter's authors also stated that they planned to request an investigation of *El Observador's* "doubtful financial mechanisms used for said operations" and suggested that the newspaper operated "without a permit and surely in violation of labor and tax laws."³³⁴ On July 24, when the city council debated the issue, one city council member suggested that Sharretta should begin "dismantling the machinery."³³⁵

According to Sharretta, the printing press had been operating for more than five years. At the end of 2006 he purchased new machines and for that reason, on July 15, 2007, requested a renewal of his operating permit. In the meantime, he operated with a temporary permit issued by the local public works secretary.³³⁶ Olivera told us that such temporary permits are so common that sometimes the government foregoes a formal license. He opined that the decision to close down this printing press and no other establishment with a similar temporary permit suggests that this measure was politically motivated.³³⁷

After the closure, Sharretta sued the municipal government, seeking an injunction to reopen the printing press, but has not yet received a ruling. Meanwhile, the printing press continues to be closed, although *El Observador* is printed at another location. Various organizations including the local journalists' association (Sindicato de Prensa de Rosario), the Forum of Argentine Journalism (Foro de Periodismo Argentino, FOPEA), and the CPJ denounced the closure.³³⁸ According to the provincial constitution, "The press may not be subjected to authorizations [to function] or censorship, nor to indirect measures that restrict its freedom...Printing presses may not be closed, nor their contents confiscated..."³³⁹

Neither Mayor de la Quintana, nor the city council replied to our request for comment on this case.

VI. The Pernicious Effects of Soft Censorship

Government misuse of financial, regulatory, and other extra-legal pressures for the purpose of interfering with freedom of expression has powerful inhibiting 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.

Costa Rican journalist Mario Ugalde Cordero opined that phone calls from government officials to influence content are:

[a] very serious problem....I know that the director of the Extra group is also a journalist; that he understands the game; that he has never called me and is not likely to call me and tell me to publish or not publish something. But what happens if one is a journalist with a family to maintain and knows that the owner of the company has interests elsewhere, and that if someone calls he might be left without a job? What happens then? One ends up censoring oneself.³⁴⁰

Eduardo Ulibarri, former editor-in-chief of *La Nación* said that during his tenure at the newspaper (1982–2003), calls by government officials intended to affect content were scarce, and that the newspaper had a consistent attitude of dismissing them. He said he understands that policy persists at *La Nación*.

Speaking of the chilling effects connected to abusive government advertising, a journalist in the city of Huaraz in Peru told us that several media owners in that city require their journalists to avoid “bothering” municipal officials because they could decide to withdraw advertising as retaliation for critical coverage.³⁴¹ This journalist told us that to avoid being fired, several journalists have left the media organizations where they worked. His account was verified by another journalist in Huaraz who told us that he left his job due to editorial pressures from media owners.³⁴²

A national print journalist in Uruguay described how government can use advertising contracts and other forms of influence to pressure journalists or media owners:

Sometimes a journalist goes to an interview with a government authority and later that person calls the director of the publication or me, telling us that there are questions that he would prefer not be published. Additionally there are the ads from the different government offices. My position is very clear: I don’t accept pressures, but at times [the decision] doesn’t depend on me but rather on the owner—and the owners are not journalists and don’t always preserve [journalistic independence]. It makes me feel impotent and angry.³⁴³

Oscar Girón, veteran journalist and director of Radio Perla (The Pearl) in El Progreso, Honduras, also spoke of the self-censorship that can result from government advertising. “I direct the news programs and I can say that our advertising is not dependent on our content, but there are things, obviously, that they don’t have to tell you, yet should be understood when you provide information. There are things that can’t be said.”³⁴⁴

Government carrots are equally, if not more, effective than sticks in promoting self-censorship. A journalist who works for the Schroeder group that owns *La Mañana de Neuquén* in Argentina, the paper that receives a disproportionate allocation of government advertising relative to *Río Negro*, spoke of internal pressures and controls regarding the publication of information critical of the government. He said that while experienced journalists are nimble at publishing certain information that the government may not like, “later we are scolded. We also know how far we can go,” he said.³⁴⁵

Radio journalist Carlos Hurtado from Cartagena, Colombia, told us:

What has happened many times is self-censorship. The government agencies that advertise are few, and journalists that seek advertising compete for them. Therefore, the journalist who aspires to say that the agencies are doing something wrong abstains from publishing the information. They say, ‘We’ll be mild. We’re not going all out, because I’m between a rock and a hard place.’ One tends to soften the criticism...Other times, when one feels more liberty with a person because they have no commitment to them, one criticizes [them].³⁴⁶

Journalists who are lured into personal advertising contracts or other relationships with government agencies they cover are obviously in a very precarious position. Speaking off the record, a Colombian journalist from Puerto Tejada in the department of Cauca told us:

When a journalist is [contracted by a government agency], obviously there are things that he or she will not be able to say...from that point of view there is self-censorship. One cannot deny that there are times when one has simply to remain silent, because [speaking out] can cause problems. However, to censorship and self-censorship, I would add something more: personal convenience. You are not going to publish information against the person that gives you advertising. You are not going to bite the hand that feeds you.³⁴⁷

Chile: The Copper Giant's Long Shadow Across the Media

Many local media outlets in Chile are loathe to publish information critical of the state copper corporation, CODELCO, the country's largest public company, for fear of retaliation. In some localities, CODELCO is the principal source of local news. A journalist from TVN in Calama, the site of CODELCO's northern division headquarters, told us: "Speaking of headlines, four out of seven days they are about CODELCO."³⁴⁸ *El Mercurio de Calama* has a journalist dedicated exclusively to covering CODELCO's activities. In addition to advertising in national media, each regional division of CODELCO decides in which local media to place advertisements. Between 2004 and 2005, CODELCO's advertising spending doubled in national and local newspapers.³⁴⁹ Several journalists we interviewed affirmed that CODELCO maintains at least two-year-long contracts with radio stations in apparently all of the localities where it has operations, and many local radio stations depend largely on CODELCO advertising for their survival.³⁵⁰ For journalists who cover its mining activities, CODELCO provides transportation (including plane tickets if necessary), food, and lodging.³⁵¹

In this context, a journalist in the province of Los Andes in the Valparaíso region affirmed that, "It is very difficult for media in which CODELCO advertises to publish something related to contamination problems, for example."³⁵² A second journalist and a media marketing executive in Los Andes told us that all issues involving CODELCO are treated with extreme care, and that it is common to forego publishing information on issues that could generate conflicts with the copper company.³⁵³ "CODELCO is treated with kid gloves. They are very powerful. Newspapers may publish on controversial issues but then there is surely a telephone call from Santiago requesting that they tone it down, or that they look into it more. There is always [extreme care] with respect to CODELCO."³⁵⁴ A representative of the communications office of the CODELCO Andean Division recognized that media sometimes are inhibited about criticizing the company.³⁵⁵

VII. Reforming Government Advertising Laws and Practices

In various countries throughout the region, activists and government officials have begun pushing for reform of government advertising contracting regulations to ensure both fairness and transparency. To date, only Peru has implemented a law specifically addressing this need. However, this 2006 statute has serious limitations, has not been spelled out through implementing regulations, and has generally not changed the way government advertising is distributed.

A congressional investigation in Chile gathered important information and analysis of government advertising spending and practices, and concluded with a call for comprehensive legal reform. In Uruguay, the minister of Industry, Energy and Mining and some progovernment legislators have expressed interest in developing a new legal framework for government advertising. In early 2008, the ministry put its backing behind a process to develop draft legislation, and in March 2008 cosponsored an initial event to debate the contents of a bill which is expected to be presented in the second half of 2008. In the meantime, some officials have taken the initiative to implement practices aimed at eliminating arbitrary and politically motivated advertising allocations.

In Argentina, civil society organizations have put the issue of government advertising reform on the public agenda, and several reform bills have been introduced in congress, though none have advanced beyond the committee stages. Finally, in Colombia, some municipal authorities have included provisions addressing government advertising spending through “transparency pacts,” which are formal public commitments to transparency and fairness in administration.

The following examples provide more detail on what various countries from this study are doing to address the policies and practices that facilitate soft censorship.

Peru: Legal Reform in 2006

Government payments to purchase editorial control became the subject of significant public debate in Peru after the publication of videotapes showing Vladimiro Montesinos, former head of intelligence under President Alberto Fujimori (1990–2000), making large payments to media owners in exchange for changes in their editorial positions.³⁵⁶ To its credit, the government of Alejandro Toledo (2001–2006) presided over the prosecution of several of the actors involved. His successor, Alan García, made campaign promises about reducing excessive and unnecessary government spending. As one of his austerity measures, his government put forward a law regulating government advertising procedures at the national and local levels, which was approved by the Peruvian Congress on August 14, 2006, with no significant debate and minimal coverage by the Peruvian press.³⁵⁷ This law defines government advertising as (and restricts advertising spending to) that which promotes social behaviors such as conservation of energy or the environment, payment of taxes, and citizen participation, and disseminates information on the implementation of government programs.³⁵⁸ The stated objectives of this law are to establish the general criteria for government spending on advertising and increase transparency in government advertising contracting.³⁵⁹

Several of the law’s provisions are a step in the right direction. For example, the law contains an express prohibition against government officials appearing in materials run with government advertising funds and prohibits advertising that benefits any political party or any candidate for office.³⁶⁰ The requirements for authorization of advertising spending include an advertising strategy plan for each campaign with objectives and priorities, a description and justification of institutional campaigns, and the corresponding budget. Agencies must also provide a technical justification for the selection of media outlets according to target audience, coverage, campaign duration, and communicational impact, explaining why they selected some media over others, “in order to avoid situations that unjustifiably privilege particular media outlets.”³⁶¹

However, the law lacks precision. Most importantly, it does not specify any quantitative or other objective allocation criteria, nor how factors such as target audience, circulation, and price should be weighed. Furthermore, it states that government agencies shall not privilege

just one media outlet unless doing so is justified by rates or by “prestige...or efficiency of the service providers.”³⁶² These are subjective criteria which allow for significant discretion. Agencies may only give preference to state media unless they justify doing so in terms of price, coverage, and quality of service.³⁶³

The law requires government agencies to publish all advertising contracts on their respective websites, as well as quarterly reports on the criteria used and the media selected for their campaigns. They must also submit an evaluation of the results of their advertising campaigns to the National Audit System, though the indicators to be used are not specified.³⁶⁴ Finally, the law states that government officials who fail to correctly implement this law will be subject to penalties recommended by the bodies of the National Audit System, but neither the penalties, the process, nor those responsible for implementing them are specified.³⁶⁵

One of the main problems is that the law contains no deadline for the adoption of the required implementing regulations—which could resolve the statute’s lack of precision—nor, to our knowledge, is there any initiative on the table to develop such implementing regulation. Furthermore, the law is not particularly well-known, nor, generally, is it being put into practice. For example, two of the four professionals we spoke to who work in the marketing departments of major national media told us that they were not aware of the law, while the other two had heard of the law but were not aware of its contents. All four affirmed that government advertising practices have not changed as a result of the law.³⁶⁶

Chile: Congressional Investigations into Abusive Practices

In Chile, public debate about government advertising abuses emerged largely as the result of the closure of several media outlets after the 1990 return to civilian rule, presumably for lack of advertising income, and complaints that arbitrary and discriminatory allocations of government advertising had resulted in a lack of pluralism in the Chilean media. This debate was spurred in part by a first-ever study of government advertising spending in 2004 and 2005 published by the media monitor FUCATEL, an independent research center that examines the role of media in Chilean society. Among other things, this study estimated that 51 percent of government advertising in the print media by centralized agencies was allocated to the national daily *El Mercurio* and two other national dailies owned by the same company *La Segunda* (*The Second*) and *Las Ultimas Noticias* (*The Latest News*). Similarly, 48 percent of government advertising in print media by public companies went to the same three papers.³⁶⁷

In this context, on August 8, 2006, the Chamber of Deputies of the Chilean Congress convened a Special Investigative Commission on Government Advertising, with the support of 54 deputies from across the political spectrum. According to Marco Enríquez-Ominami, president of the Investigative Commission, the commission’s goals were to:

- ▶ clarify information regarding government spending on advertising;

- ▶ verify if advertising contracting respected the Chilecompra regulations, the national public contracting system;³⁶⁸
- ▶ understand what criteria are used to select the media outlets that receive government advertising; and
- ▶ determine if government agencies exercised political favoritism when contracting advertising.³⁶⁹

The commission solicited information from the central government, public works agencies, regional and municipal governments, and several public enterprises. Over the course of 29 sessions, the commission received testimony from representatives of 27 agencies and public enterprises, 22 media outlets or press related unions, and several advertising professionals. It also heard the opinions of civil society organizations from Argentina, Chile, and Peru, including the ADC, as well as of the former special rapporteur for freedom of expression from the Organization of American States. In December 2006, the Chilean NGO Pro Acceso and the Justice Initiative facilitated a committee hearing with a delegation of foreign experts who discussed best practices in regulation of government advertising. In July 2007, the commission unanimously adopted a final report that was approved by congress in October 2007 and forwarded to the executive branch with a series of recommendations.³⁷⁰ The report called for prompt consideration and passage of new legislation for advertising contracting, with clear procedures and criteria for advertising-related decision making. The government is expected to introduce a reform bill in 2008. The report's conclusions and recommendations can be summarized as follows:

Lack of an adequate contracting system for government advertising: The current contracting laws and regulations are inappropriate for the size and complexity of government spending on advertising, which favors discretionary decision making, minimal transparency, and a lack of pluralism—and opens the door to the use of government advertising to apply indirect pressure on the media and interfere with freedom of expression.

Recommendation: The Chilean Congress should pass legislation with specific rules for advertising contracting.

Lack of clarity regarding the definition and purpose of government advertising: There is a lack of clarity regarding the definition of government advertising and its purpose—for example, some agencies mistakenly used advertising money to pay for the design of logos that identify the current government.

Recommendation: New legislation should clearly indicate what is included in and excluded from the definition of government advertising and specify that advertising

only be used to communicate laws and policies, with no political or electoral purposes. Furthermore, government agencies should be required to produce advertising plans that specify the scope and objectives of advertising campaigns.

Lack of objective criteria for advertising contracting: The lack of clear, objective and auditable criteria for the selection of media to receive advertising contracts gives government officials undue discretion in the contracting process.

Recommendation: New legislation should specify the criteria for the selection of media (to be used by all entities that contract government advertising, including advertising agencies subcontracted for this purpose). Criteria should include, for example, target audience in relation to specific ad campaigns, and objective and verifiable circulation or audience ratings (the commission recommends that the government underwrite the costs of verifying circulation for smaller media to avoid their exclusion from government advertising contracts).

Lack of transparency in the contracting process: There is little information that is easily understood by and accessible to the public regarding advertising spending.

Recommendation: Government agencies should publish clearly summarized information on the advertising campaigns, contracting and spending, that is easily accessible to all citizens.

Lack of agencies that monitor and evaluate government advertising: No agencies currently monitor or evaluate government advertising spending and practices.

Recommendation: New legislation should establish an independent body (or delegate this responsibility to an existing agency) to contract circulation and audience rating information, approve or reject annual advertising plans, assure that media selected reach the specified target audiences, verify that spending has been effective, and measure the impact of advertising campaigns.

The main point of contention among commission members involved the possible use of government advertising as a tool for supporting media pluralism. In the end, committee members agreed that government advertising should not be used to subsidize the media, though they believe a new law in line with their recommendations would result in an increase in advertising funds for smaller media, and hence increase pluralism. Furthermore, the commission's final report calls upon the government to increase funding for existing subsidy programs, especially for media outside of Santiago.

Meanwhile, the commission secured the incorporation of a provision in the 2007 budget law requiring that all agencies post a detailed plan for their advertising activities and spending on the Chilecompra website, and provide information on their government advertising

activities and outlays as part of their overall annual spending reports to the budget office of the national treasury. Our attempts to inspect such plans revealed that very few were posted, and what information appears is far from clear or complete.³⁷¹

Uruguay: New Efforts to Change an Old System

In the wake of the 2005 change of government in Uruguay, several officials in the Vázquez administration expressed interest in reforming government advertising policies and practices. Jorge Lepra, minister of industry, energy and mining at the time, was one of the main proponents of advertising reform. His ministry oversees the most important public companies such as the telephone company (ANTEL), the state oil company (ANCAP), and the electricity company (UTE), which are among the major state advertisers in Uruguay.

In June 2006, two local NGOs organized in Montevideo a “Colloquium on Government Advertising and Freedom of Expression: New Criteria for Assigning [Government Advertising].” This event, which was attended by several high level government officials—including some directors of agencies undergoing change in their contracting practices—as well as civil society representatives, discussed Uruguay’s history of abusive government ads and the need for reforms. For example, Gerardo Rey, a member of the UTE board of directors, pointed out that when the new board took office on March 1, 2005, it discovered several advertising payments that did not reflect any technical or marketing criteria, such as larger payments to local radio stations in one department than to stations with national coverage. He pointed out that to change this situation, UTE had contracted an advertising agency based on technical criteria and is working together with the national association of advertising agencies.³⁷²

Minister Lepra noted that, “Of course...we have a long way to go. This is a cultural issue dating back many years in Uruguay. We must [make change] together with the state, the political system, the communications media, the advertising agencies, and society in general. This government is initiating this path to reform with the law that addresses government [advertising] allocations.”³⁷³

In early 2008, the government took action to address the need for a law regulating government advertising contracts. Minister of Industry, Energy and Mining Daniel Martínez expressed his intention to sponsor a series of events involving relevant actors including government officials, representatives of state-owned businesses, legislators, media owners, journalists, universities, and other members of civil society to debate the contents of a bill. Together with the Grupo Medios y Sociedad (Media and Society Group), a local NGO, and with support from the British Embassy, he convened an initial workshop in early March 2008.

Several national government agencies now contract advertising agencies to design advertising campaigns that eliminate favoritism. In July 2007, in the wake of criticisms for the lack of transparency in the contracting of advertising agencies, the government approved a detailed competitive bidding procedure which it developed with input from the Uruguayan Association of Advertising Agencies (Asociación Uruguaya de Agencias de Publicidad, AUDAP). However,

at the time of writing, there has been no significant progress on drafting or debating a bill on government advertising contracting.

Also under the current administration, several state agencies have made changes aimed at eliminating inappropriate and illegal advertising practices. For example, at least four agencies have eliminated the use of a special discretionary advertising fund at the disposal of the agency's directors. Then-ANCAP president Daniel Martínez told us that "When we came in, the president had some \$7,000 annually to spend on advertising *a piacere* [Italian for "at his whim"] and the directors had \$4,000. We eliminated that."³⁷⁴ The same occurred at the Mortgage Bank of Uruguay, where the political directors had slush funds of as much as \$50,000 each, per year, to spend on advertising.³⁷⁵

Similarly, the directors of State Insurance Bank have taken measures to reverse past practices involving \$6.7 million spent on advertising from 2001-2003 with no justifiable criteria.³⁷⁶ The current authorities informed us that the bank now allocates advertising based on the media plan presented by an advertising agency hired for each specific advertising campaign.³⁷⁷ Peter Coates, public relations director of the state water company, told us that his agency also uses criteria based on audience measures and eliminated "discretionary allocations."³⁷⁸

Several agencies have attempted to use new, more objective criteria for allocating advertising in an effort to avoid using contracts to reward or punish media, or to eliminate acts of favoritism and corruption. Such criteria include:

Equal allocations. This criterion consists of giving a number of media outlets an equal share of an agency's advertising budget for a given ad campaign or over a given period of time. For example, on November 23, 2005, the board of directors of the state water company, OSE, resolved that official advertisements in national publications would be allocated "applying a balanced and reasonable criterion among the same."³⁷⁹ According to official data provided by OSE, during 2006 and the first three months of 2007, this criterion was, indeed, applied: the four national level newspapers (*El País*, *El Observador*, *La República*, and *Ultimas Noticias*) each received between 18 and 19 percent of government advertising in the print media. The president of UTE confirmed that this agency has applied this method of allocation on several occasions, as well.³⁸⁰

While this criterion is useful for eliminating the use of advertising as rewards or punishments to specific media, it intrinsically favors media with smaller circulation or low ratings by giving both the largest and the smallest media the same levels of advertising income.

Sequential allocations. In this case, government officials give one ad each to different media outlets in sequential fashion, and when all media in question have received advertising, the cycle begins again. Minister of Transportation and Public Works Victor Rossi told us that his agency chose this method explicitly to avoid discrimination

in advertising allocations. In fact, he respected this method despite his belief that on some occasions the media in question did not deserve to receive his agency's ads. For example, he pointed out that his ministry advertised in the weekly newspaper *Brecha*, despite his disagreement with a cover story on the sale of the state airline, PLUNA, which was critical of his ministry.³⁸¹

As is true with equal allocations described above, while this method may go some way toward eliminating the use of advertising contracts as reward or punishment for editorial content, the allocations in question are not necessarily in line with prevailing international practice. According to data provided by the ministry, in 2006, the ministry gave 30 percent of its overall advertising spending to the *Official Registry*, 20 percent to *El Observador*, 19 percent to *El País*, 12 percent to *Ultimas Noticias*, and 11 percent to *La República*. *El Observador* received larger advertising payments than *El País*, despite the fact that the former has an estimated 40,500 weekly readers, a mere 16 percent of the 257,000 weekly readers estimated for *El País*.³⁸²

Allocations to promote pluralism. Some agencies expressed their agreement with using advertising allocations to strengthen smaller or newer media outlets. For example, UTE's president, Beno Ruchansky, told us that as a public agency, "UTE has to have the task not just of enforcing the status quo but also of giving chances to other actors. If I advertise solely based on [audience], I reproduce reality. The [radio] that today is on everyone's mind didn't start out that way, at some point it had to have a push."³⁸³ Similarly, Daniel Martínez, then-president of ANCAP, told us that his agency believes in "giving possibilities" to various points of view. "From the democratic point of view, it is important to promote all the currents of thought...taking as the principle criterion audience and target segments that interest us."³⁸⁴

While government subsidy programs can be an effective means of promoting pluralism, 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. In addition, it should not be up to individual government officials, however well-intentioned, to decide which media should be subsidized with taxpayer funds. In order to promote greater pluralism in the media, governments may adopt measures to allocate advertising to smaller, local, or other media of specified characteristics, as long as the media selected allow for the effective communication of the government's message and the process is fair and transparent.³⁸⁵

Argentina: A Growing Push for Reform

A multifaceted campaign for advertising law reform in Argentina has gained momentum in the last two years, and in February 2008, Tierra del Fuego Province adopted a groundbreaking decree establishing transparent processes and objective criteria for advertising allocations.

The 2005 publication of the joint Justice Initiative–ADC report *Buying the News: A Report on Financial and Indirect Censorship in Argentina* helped raise the visibility of the issue, as has media coverage of denunciations by NGOs such as the ADC and the Citizen Power Foundation of constant increases in national government advertising spending and other irregularities. In this context, the 2006 publication by the ADC of a series of basic principles for new government advertising regulations also brought greater attention to both the problem and possible solutions, which contributed to the presentation of various legislative proposals at the national, provincial, and municipal levels. A decree issued in Tierra del Fuego and a number of these proposals are briefly described below:

Advertising regulations in Tierra del Fuego. On February 8, 2007, Tierra del Fuego Governor Fabiana Ríos issued a decree that regulates how provincial executive agencies are to distribute government advertising, making this the first province in the country to establish transparent procedures and objective criteria for advertising allocations.³⁸⁶ Since 2004, the ADC has been working with local organizations to monitor the use and abuse of government advertising in the province, and since 2005 has actively pressed for legal reform in Tierra del Fuego and the other provinces covered in *Buying the News*.

The new decree contains a clear definition of government advertising and its purpose. The ordinance requires media to be included in a provincial registry in order to receive advertising. In order to register, media must have no tax arrears, lawfully employ all workers, and present a sworn statement regarding circulation or audience, as well as an established program and rate schedule. The decree establishes a point system which rates media on the basis of factors such as local content production, audience or circulation, number of employees, and coverage of events of local interest. It also establishes quotas of government advertising to be allocated according to media type and location. All advertising contracts must respond to the real needs of each government area or office. Advertising spending reports are to be published on the province's website.

After the decree was issued, the provincial legislature debated five bills on government advertising reform presented by different political parties and the local press workers' union. The ADC participated in an open meeting in the provincial legislature with lawmakers, journalists, and media owners to comment on the proposals.³⁸⁷

The decree represents a significant step in the right direction. However, there have been delays in the implementation of the mechanisms established by the decree, which have also faced some opposition, especially from media owners. Finally, in May 2008, the provincial government issued a new decree that incorporated the ADC's proposals and amended certain aspects of the regulation established by decree 183/08. The government recognized the difficulty in moving from an entirely unregulated distribution scheme to one that uses objective criteria in allocating advertising. In particular, some media owners considered that the requirements for registration in the

newly-created Public Registry of Media Outlets were “excessive.” The May amendments eliminated some of those requirements and extended the registration deadline until the end of 2008.

National level legislative proposals. At the time this report was written, seven government advertising reform bills had been presented to the Argentine Congress, of which one already lost parliamentary status. However, none had been debated, due to a lack of quorum for considering these bills caused by the absence of legislators linked to the ruling party.³⁸⁸ However, the most recent bill was proposed by a member of the same party as the Kirchners, and proposes that competitive bidding be used to contract state advertising.³⁸⁹

Despite the lack of debate, in July 2007 the Freedom of Expression Commission of the Chamber of Deputies decided to initiate a process of consultations with different civil society organizations, media representatives, and associations of ad agencies, regarding three legislative proposals that had been presented by that time. In August 2007, the ADC and the Citizen Power Foundation participated in a session and discussed their recommendations for government advertising reform.³⁹⁰

In our opinion, each of the bills presented requires improvements. However, taken as a whole, and given that they were presented by various political parties, they represent a significant advance relative to the situation in 2005 when *Buying the News* was published, and only one legislative proposal was on the table.

Provincial and municipal legislative proposals. During 2006 and 2007, six bills were presented in the legislature of the city of Buenos Aires. In 2007, the Social Communication Commission discussed them and issued a unified bill to be discussed in the Budget Commission. The following developments occurred in the provinces:

- ▶ In the province of Tierra del Fuego, after the governor issued Decree 183/08, which only regulates executive branch advertising, the provincial legislature debated four bills on provincial advertising reform, though none have been put to a vote as yet.
- ▶ Four advertising reform bills were presented in the province of Río Negro, two shortly after the ADC presented its “Basic Principles” document in November 2006 in a public debate in that province, during which government officials and legislators made a public commitment to promoting reform legislation. To date, none of the bills have advanced. However, as this report went to press, Media Secretary Claudio Mozzoni told the ADC that his office is about to send the provincial legislature a bill to reform advertising spending.

- ▶ A reform bill was introduced in the Province of Chaco in August 2007, but it has not been debated yet. In April 2008, two bills were introduced in the provinces of Buenos Aires and Santa Fé.
- ▶ An advertising reform bill was presented in the Province of Neuquén in May 2008 by a group of legislators. Although the bill is mainly aimed at enhancing public access to information on advertising spending, it also includes regulations on advertising allocations. In a November 2007 meeting with vice governor-elect Ana Pechén to discuss issues of judicial reform, access to information and freedom of expression, the Neuquén Press Union (Sindicato de Prensa de Neuquén) submitted a proposal for the regulation of provincial government advertising.
- ▶ In March 2007, councilpersons from the Municipality of Cañuelas in the province of Buenos Aires presented an ad reform bill in response to a local media report on increases in municipal advertising spending and the practice of making advertising payments to individual journalists. The bill is expected to be debated in 2008.
- ▶ SIPREN also presented a draft ordinance to the city council of Río Grande in December 2006, but it was never debated.³⁹¹ In November 2007, the ADC presented its “Basic Principles” document in Río Grande and distributed it among government officials and city councilpersons, some of whom had agreed to promote the reform.³⁹²

Implementation of reform in the Municipality of Alta Gracia. On December 26, 2006, the council of the municipality of Alta Gracia in the province of Córdoba passed the first regulatory reform of government advertising contracting in Argentina.³⁹³ The ordinance was partially vetoed by the mayor, allegedly due to opposition from local media owners.³⁹⁴ However, the council rejected the veto and upheld the ordinance. This statute was defended by the local journalists’ association, which called it “pioneering legislation in the country, which seeks to avoid advertising discrimination against media with an editorial line that could bother the incumbent government.”³⁹⁵

One of the key points of the ordinance is a prohibition on advertising contracts with journalists. According to the statute’s author, Councilman Osman Alvarez,

Many journalists questioned [the ordinance] because they said it affected their right to work. But...that exploitation of journalists forces them to become seekers of advertising...it is obvious that they are going to receive pressures. With the

ordinance we sought justice but also the editorial and professional independence of the journalists.³⁹⁶

The ordinance requires media to be included in an annual municipal registry in order to receive advertising, “which avoided, for the first time, the sudden appearance of propagandistic projects [during the election season] that, disguised as new media entities, lived exclusively off of government advertising and disappeared after the elections.”³⁹⁷ The statute prohibits all government advertising within 30 days of municipal elections.³⁹⁸ It also establishes a system by which registered media receive equal proportions of advertising allocations.³⁹⁹ According to council president Hugo Pesci, the purpose was to avoid the use of advertising as a carrot or a stick. “Before, it depended on the situation at a given moment, the government, and even the mayor’s mood.”⁴⁰⁰ So far, all registered media have received government advertising.⁴⁰¹ As a result of this experience, other municipalities have begun to show interest in passing similar ordinances.⁴⁰²

The activities that made up the campaign for reform range from the preparation of basic principles for new legislation to technical assistance for legislators to judicial action.

Development of “Basic Principles for the Regulation of Government Advertising.” In 2006, the ADC published “Basic Principles for the Regulation of Government Advertising,” a document to promote a series of guiding principles that any legislative proposal should respect.

After drafting these principles, the ADC held a series of workshops and meetings with selected individuals including lawyers, journalists, and others to discuss the draft and receive feedback at the national level and in the four provinces examined in *Buying the News*. Several of the workshops were covered widely in the local press, which helped raise the visibility of the issue.

The basic principles document was launched with a public debate in Buenos Aires on November 14, 2006, to present the document.⁴⁰³ Members of the audience, including journalists who had traveled from different provinces, expressed their support for the basic principles and shared their experiences with indirect censorship.

Technical assistance to legislators at the national and local levels. The ADC met with several members of congress interested in presenting bills at the national level. At the end of 2006, the nearly inactive Freedom of Expression Commission in the national house of deputies finally met, and in December 2006 invited the ADC to present the “Basic Principles” document. The ADC met with legislators from the city of Buenos Aires interested in regulating government advertising and provided technical assistance regarding

one of the bills submitted to the city legislature. In addition, the ADC assisted officials in the municipality of Cañuelas (province of Buenos Aires) in developing government advertising regulations and discussed proposals with councilpersons. It also provided similar assistance in relation to the elaboration of a reform ordinance in Río Grande, the three draft bills presented in the province of Río Negro, a bill introduced in the province of Chaco, the bills under consideration in Tierra del Fuego, and a bill presented in the Province of Buenos Aires, among others.

Publication of information on government advertising spending. Since 2006, the ADC has made regular public information requests to the national government and published analyses of the information provided. In August and December 2007, using official government data, the ADC published two special reports on national government advertising spending in 2006 and 2007. These documents noted a considerable increase in spending over 2005, described the most significant advertising campaigns, and highlighted the lack of clear criteria for making advertising allocations. Both reports were covered in major newspapers such as *La Nación* and *Clarín*.⁴⁰⁴

Judicial actions. The ADC has used judicial actions to both seek favorable rulings and raise the visibility of the issue among government officials and in the public debate. The ADC's May 8, 2003, friend of the court brief in the case of retaliatory withdrawal of government advertising from the *Río Negro* newspaper marked its first legal action on this issue. In mid-September 2006, the Argentine attorney general issued a long-delayed opinion in this case. Although he did not support *Río Negro's* constitutional petition (*amparo*), arguing that the lack of a clear legal framework made judicial intervention impossible, the attorney general did urge the legislature to issue clear and enforceable laws to regulate the distribution of official advertising, limiting the wide discretion currently enjoyed by government authorities. In his written opinion, he quoted directly from the narrative and recommendations of *Buying the News*. The Supreme Court's finding in this case that retaliatory use of (provincial) government advertising violated freedom of the press further highlighted the need for national-level regulation of the matter.

The issue of government advertising at the national level gained a higher profile in late May 2006, when the publishing company Perfil sued the Kirchner administration for politically motivated discrimination in its denial of government advertising in the weekly newspaper *Perfil* and the weekly magazine *Noticias*. In November 2007, the ADC submitted a friend of the court brief supporting the *amparo*.

The ADC has also undertaken judicial actions in the provinces of Córdoba and Neuquén to obtain access to public information on advertising spending and raise the visibility of the issue in the local and national press. The ADC filed an *amparo* in a pro-

vincial court against the government of the province of Neuquén for lack of response to our access to information request. A first instance court ruling in the ADC's favor was upheld by a provincial appeals court, which gave the provincial government 60 days to provide the information requested.⁴⁰⁵ Similarly, the Córdoba-based GEOS Foundation filed an *amparo* against the provincial government of Córdoba for lack of response to a similar information request filed by GEOS and the ADC. Again, the court ruled that the information must be provided. The government then provided part of the information requested.

Colombia: Transparency Agreements

Transparency pacts (*Pactos por la Transparencia*) are written agreements entered into by mayors or governors with the local citizenry as represented by local organizations. The Presidential Anticorruption Program, which is responsible for government policies and programs to combat corruption, has promoted these agreements and acted as a witness to them. Government officials who sign such agreements make a public commitment to implement specific measures designed to make their governments transparent. These measures aim to strengthen social control over the public sector and, as such, include significant citizen participation in monitoring committees. These committees are comprised of civil society organizations that monitor and evaluate the implementation of the measures included in the Transparency Agreements.

In the context of the problematic practices in which journalists sell advertising quotas to government officials (described in Chapter IV), in 2004 the National Association for Journalists' Social Development (Asociación Nacional para el Desarrollo Social del Periodista, ANPRESS) promoted the inclusion of a provision specifically addressing government advertising in the transparency pacts for the department of Tolima. Indeed, on February 7, 2004, the mayor-elect of the municipality of Ibagué, Tolima, Rubén Darío Rodríguez, signed a transparency pact that included a commitment to "conduct transparent management of the contracting of government advertising according to the agreements to be reached with the media represented in the monitoring committee."⁴⁰⁶ He took the additional step of issuing a specific regulation for government contracting procedures and established a range of fees for radio and television ads for different time slots.⁴⁰⁷ A committee in charge of advertising contracting was also created.

Unfortunately, this body was comprised exclusively of officials from the municipal government.⁴⁰⁸ The lack of representatives from civil society organizations compromised its independence from the current government. The government also agreed to post information on advertising contracts on public bulletin boards and the municipal web page.⁴⁰⁹ According to the executive director of ANPRESS, information on advertising does appear on the municipal website and bulletin board, but appears under various names (including *apoyo a la gestión*,

roughly “support for the government”), making it extremely difficult to detect which contracts correspond to government advertising.⁴¹⁰

In 2007, the Bogotá-based Freedom of Press Foundation (Fundación para la Libertad de Prensa, FLIP), signed an agreement with the Presidential Anticorruption Program to include a clause similar to that used in Ibagué in the transparency pacts to be signed by candidates for office in the context of the October 2007 municipal and departmental elections. FLIP participates in the monitoring committee of a subgroup of those departments in which the transparency pacts include a government advertising clause, and also offers technical assistance to those mayors and governors who ratify the agreements regarding implementation. FLIP will also design a tool to monitor implementation for use by the anticorruption program. When this report was written, the governors in the departments of Atlántico, Bolívar, Nariño, and Tolima and the mayors of their capital cities had already ratified the pacts.⁴¹¹

VIII. Access to Information and Transparency Issues

In each of the countries covered in this report, we encountered numerous obstacles when seeking public information on government advertising and related issues, even in countries such as Chile and Peru that have formal access to information legislation. The cases of failure to respond adequately—or at all—to formal requests for information suggest a lack of sufficient political will to address the transparency deficit within the governments bodies involved, especially on issues of political freedom and financial accountability.⁴¹²

Access to information laws serve and enhance media freedoms and freedom of expression generally. These laws make the work of government, including advertising allocations, more transparent to citizens and journalists. The difficulties we had in obtaining information about government advertising practices suggest that abuses of all kinds flourish where governments do business behind closed doors.

More information on government transparency and our requests for government-held information can be found in Appendix C.

IX. Recommendations

To all Governments—and in particular, the Governments of Argentina, Chile, Colombia, Costa Rica, Honduras, Peru, and Uruguay:

- I. Make a political, public, and enforceable commitment at all levels of government 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. Adopt and implement clear and specific laws that establish fair, competitive, and transparent advertising contracting procedures for all branches of government. Such laws should ensure unbiased allocation of all advertising-related spending, in a manner that fully respects and ensures media independence and pluralism:
 - a. This legislation should include a clear system for evaluating and weighing objective and transparent criteria for the selection of media outlets. The first criteria should be the profile of the media outlet and its target audience, to ensure that the message reaches its target. Other criteria should include factors such as price, circulation or audience measurements (using reliable and independent circulation data), and other relevant considerations. Specifications other than price must be as objective and quantifiable as possible.

- b. Governments may choose to provide for appropriate corrective measures to ensure that small and local media are not unfairly excluded from advertising allocations. Such measures, however, must be viewpoint-neutral, transparent, and nondiscretionary.
- c. Existing legislation and decrees should be modified to clearly establish the positions responsible for each aspect of advertising, and their roles and responsibilities.
- d. In order to prevent abuses and improve effectiveness of advertising, all agencies should be required by law to conduct budget planning for all advertising they anticipate for the year. Advertising should be justified with clear communication objectives.
- e. As a general rule, all advertising should be allocated through competitive, rapid, and flexible processes, and single-source contracting should be reserved for genuine emergency situations. Free advertising should be used to the extent permitted by broadcasting or other laws.
- f. 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.
- g. Intermediaries and other subcontractors, such as advertising agencies, hired by government agencies should be subject to similar conditions of competitive bidding and transparency as the agencies themselves. Such agencies should be contracted by fair, open, and competitive procedures.
- h. The law should require publication of contract-related information and comprehensive data on advertising spending, as outlined below.
- i. 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.

- j. The law 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.
 - k. The law should also give national and local ombudspersons standing to challenge violations of advertising laws.
3. Ensure that decisions for allocation of government advertising are not concentrated in the hands of political appointees, but instead are left to individuals with appropriate technical capacity.
 4. Refrain from using government advertising—directly or indirectly—for electoral, partisan, or personal promotional purposes. All government advertising should be clear, relevant, necessary, and useful. Appropriate mechanisms should be adopted to prevent, investigate, and sanction such abuses related to advertising content, especially during election periods. One option is to suspend all but emergency advertising during campaigns periods.
 5. Increase the transparency of state advertising by publishing timely information pertaining to advertising-related procurement in print and online versions of official journals, or similar publications, at all stages of the process (such as invitation to bid, selection of winning bid, and so on).
 6. 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. These reports should be easily understandable by the general public and uniform across agencies. The terms of the advertising contracts, including direct contracts, should be made public.
 7. Post online the annual advertising budgets and spending reports of all government agencies. These should be clear and easily understandable by the general public and include no more than three or four line items for advertising spending. Even when executive branch budget and spending information is centralized in one agency, access to agency-specific information is justified in this case by the freedom of expression implications of the advertising regime.
 8. Empower and encourage investigative and auditing agencies to diligently investigate unlawful practices in the procurement of government advertising, and in particular, any allegations of political or personal bias in making allocation decisions.

9. Require audit agencies to conduct and publish an annual audit of government advertising spending and practices.
10. Ensure that any government subsidies to the media are allocated by independent bodies, in accordance with pre-established, fair, and transparent criteria and procedures.
11. Cease all practices that seek to improperly interfere with the editorial content and autonomy of the media—including denial of access to information as reprisal for critical coverage, attempts to prevent publication of stories critical of the government, and other forms of harassment and intimidation.
12. In particular, the governments of Argentina, Chile, and Uruguay should give priority to consideration of existing proposals to reform government advertising regimes.
13. All countries should adopt and implement comprehensive legislation regarding the licensing of community broadcasting and related issues, in keeping with basic standards regarding freedom of expression and media pluralism established by Inter-American human rights instruments. Licenses should be granted using criteria that guarantee equal opportunity to access for all parties and never as a form of political or personal favoritism.
14. The government of Colombia should take measures to ensure that its community broadcasting laws are fairly and properly implemented.

To the Government of Peru:

15. Adopt clear, specific, and comprehensive regulations for implementation of the 2006 government advertising law. Also, empower an appropriate body to investigate unlawful practices in the procurement of government advertising and apply statutory sanctions.

To the Governments of Argentina, Colombia, Costa Rica, and Uruguay:

16. Pass a comprehensive law on access to information held by public bodies, based on presumptions of openness and maximum disclosure to the public.

To the Governments of Chile, Honduras, and Peru:

17. Ensure full compliance with existing laws regarding access to information held by public bodies.

To the Special Rapporteurs for Freedom of Expression of the United Nations and the Organization of American States:

18. Incorporate in their monitoring and periodic reports abuses related to government advertising, broadcast licensing, and other financial or indirect pressures.
19. Regularly document both specific cases and systemic abuses in these areas and call on governments to address them appropriately.
20. Formulate specific guidelines or recommendations and promote the adoption of relevant legal reforms to prevent and sanction various forms of soft censorship. Such recommendations should also seek to promote domestic and regional good practice and jurisprudence.

To National, Regional, and Local Civil Society Organizations:

21. 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:

22. Actively support reform of government advertising laws and practices, and denounce all related abuses and financial pressures.
23. Develop and adhere to a code of ethics that contains commitments to a fair and transparent government advertising regime, and editorial independence for media and journalists. In particular, journalists and other content producers should not participate in the negotiation of advertising, which should be handled by managers or marketing representatives.
24. Reach a comprehensive agreement on the formal and lawful employment of journalists and other media professionals that guarantees their basic labor rights.

X. Appendices

Appendix A: Country Background

Argentina

Argentina has nearly 40 million inhabitants and a highly urbanized population. In 1983 the country emerged from its most recent, seven-year-long dictatorship. In December 2001, after four years of severe economic recession, the country plunged into a social, economic, and political crisis that culminated in a major uprising in Buenos Aires and cities throughout the country in which at least 30 people died. Argentina experienced three transitional governments in the course of a tumultuous 10 days, but the transitions were orderly and civilian and constitutional rule were not interrupted.

Since May 2003, under former president Néstor Kirchner, Argentina experienced relative political stability and economic growth, and Kirchner enjoyed high approval ratings. His relationship with journalists was generally distant and tense: he named specific outlets and journalists and accused them of forming part of his political opposition, and journalists complained about the lack of access to members of the government. Kirchner did not hold a single press conference during his entire tenure, and claimed that he prefers photographers to other journalists “because they don’t ask questions.”⁴¹³ He was succeeded in office by his wife, former senator Cristina Fernández de Kirchner, who assumed the presidency on December 10, 2007.

Few national level media outlets depend on government advertising revenues for their survival, and advertising disbursements are not the sole instrument of government pressure at the national level. This is especially true given that many of the larger media are held by groups with economic interests in other industries. Indeed, the relationship between the media and the government is probably best characterized as interdependent, with some media conglomerates perceived as having significant power over public opinion. At the same time, these conglomerates are affected by a nontransparent web of discretionary government powers over issues such as broadcast licensing and tax policy. In contrast, at the provincial level, many media rely on government advertising in order to survive—as in Tierra del Fuego, where print and other media outlets are considered to receive approximately 75 percent of their advertising income from government agencies.⁴¹⁴ Provincial governments, in particular, routinely use their control of advertising resources as financial sticks or carrots, to bankrupt an annoying publication or to inappropriately influence content.

Chile

Chile suffered a military coup in 1973 and returned to civilian rule in 1990. Since then the country has been ruled by the center-left coalition Agreement of Parties for Democracy (Concertación de Partidos por la Democracia). Current president Michelle Bachelet's tenure extends to March 2010. Of Chile's 16 million inhabitants, approximately one third live in the capital, Santiago de Chile.

The Chilean press is dominated by Santiago-based media outlets, some of which provide national coverage. In particular, the print media is dominated by the right-leaning daily *El Mercurio* (*The Mercury*), which owns 21 regional papers, most of which have their own printing presses. According to Roberto Silva, the director of *El Observador*, a newspaper in the Valparaíso region, there are only 15 viable print media in Chile's 12 regions, and of those only five have enough infrastructure and solvency to compete with *El Mercurio's* regional papers.⁴¹⁵ In January 2007, dozens of small and medium-sized media companies met in the city of Valdivia to develop common strategies to strengthen their enterprises. They created a national association of small and medium-sized media called ANEPYME (Asociación Nacional de Empresas Periodísticas PYME [Pequeña y Mediana Empresas]).⁴¹⁶

In 1990, after 17 years of direct censorship and threats against journalists, many Chileans believed that the media outlets that had opposed the dictatorship would thrive under a regime of greater press freedom. However, most of the media that emerged during the dictatorship to question its repressive policies disappeared, due principally to financial insolvency.⁴¹⁷ In this context, much of the debate concerning freedom of expression and media freedom in Chile—including issues related to government advertising practices—is related to lack of pluralism.

Colombia

Of Colombia's 44 million inhabitants, nearly 8 million live in the capital, Bogotá, and its metropolitan area. Colombia has two private television stations (RCN Televisión and Caracol Televisión) as well as a public channel (Canal Uno) and an institutional channel (RTVC), which mainly transmits government activities. RCN and the Prisa Group hold the country's leading AM and FM radio stations. *El Tiempo* is the most read newspaper, with extensive dissemination throughout the country.

Indirect censorship in Colombia takes place in the context of a long-standing armed conflict involving the government's armed forces, left-wing guerrillas, right-wing paramilitary groups, and powerful drug trafficking organizations. Although physical threats and killings of journalists are widespread, many media professionals concur that indirect censorship is a serious and growing threat to press freedom. There is evidence that illegal armed groups have co-opted local governments and helped to further these practices. Still, it is an area in which journalists feel they can make positive change. In this regard, Colombia offers some positive experience at the local level with "transparency pacts," that is, municipal and provincial government commitments to openness that, in at least one case, have included specific commitments to transparency in the contracting of government advertising.

Costa Rica

Costa Rica is a Central American nation of just over four million, with a high concentration of inhabitants in the Central Valley, where San José (the capital) and its metropolitan area, are located. Costa Rica is known for its longstanding and well-established democracy and for having abolished its army in 1948. Autonomous institutions provide an important counterweight to presidential authority. Furthermore, the General Audit Agency (Contraloría General de la República), an autonomous agency that reports to the legislative assembly and is responsible for controlling state finances, acts as a virtual coadministrator of state funds.

Two media groups dominate the print media market. *La Nación* is considered the most influential newspaper, and its parent company owns two other daily newspapers as well. Another group includes the widely-read *La Extra* and another national newspaper. The radio market is highly dispersed. The major radio group is Repretel, which owns several radio stations and the television station with the second highest audience share (Channel 6). The most-watched television station is Channel 7, whose owner is also one of the country's major cable TV providers. The media in the interior is generally financially weak, and in fact many print outlets in the provinces publish irregularly due to funding problems.

Honduras

Honduras has approximately 7.5 million inhabitants, of which roughly 1.2 million live in the capital, Tegucigalpa. Given the country's mountainous terrain, only three of an estimated 691 radio stations have national coverage, and the news programs of six national television channels compete with those of some 200 local stations. Lack of roads and other infrastructure limits distribution of print media. As such, although four newspapers describe themselves as national, two compete within the north and western sections of the country, while another two compete within the central, south, and eastern zones.

Ownership of the 10 major media (four newspapers, four television stations, and two radio stations) is concentrated in the hands of six families, which in turn make up the Honduran Media Association (Asociación de Medios de Comunicación de Honduras).⁴¹⁸ Several of these families, in turn, own large businesses such as pharmaceutical companies, fast food chains, telephone companies, or hotels. At least three major media owners are active members of the Liberal Party, which is currently in power.⁴¹⁹ As of March 2004, numerous politicians located throughout the country were simultaneously media owners.⁴²⁰ Transparency International has rated Honduras as having the second worst index of corruption in Latin America.⁴²¹

Peru

During the 1980s, Peru was marked by spiraling political violence and human rights abuses perpetrated by armed groups such as Shining Path (Sendero Luminoso) and by the Peruvian security forces. Peru experienced a particularly severe political and economic crisis, including extreme hyperinflation, during the first mandate of President Alan García (1985–1990). Alberto Fujimori took office in 1990, and in 1992 dissolved the Peruvian Congress. He was elected to a second term in 1995 and ran again in 2000, although he resigned the presidency in the wake of a scandal involving corruption perpetrated by Vladimiro Montesinos, the director of national intelligence and Fujimori's closest ally. Videos of Montesinos making payments in return for editorial support from major Peruvian media outlets were covered widely in the Peruvian press. Under President Alejandro Toledo (2001–2006), several media owners were jailed for receiving such payments and others became fugitives.⁴²² In July 2006, Alan García assumed the presidency once again, and presided over the passage of new regulations of government advertising that, while imperfect, represent a step in the right direction.

While the media tend to operate with far more independence than was possible under Fujimori, most experience economic problems, and many appear only moderately committed to independent coverage of political events. Still, there is considerable political diversity in

their editorial positions, and several run stories or programs featuring serious investigative journalism.

Uruguay

Uruguay has approximately 3.5 million inhabitants, with roughly 44 percent living in the capital, Montevideo. The country has a dozen Montevideo-based print outlets with national reach and another 80 print outlets associated with the *Organización de la Prensa del Interior* (Organization of the Press of the Interior). Uruguay has approximately 50 AM and 140 FM radio stations, and 50 television stations. A handful of radio and television stations have national coverage or agreements with stations in the interior that rebroadcast their programming.

In 2002, a prosecutor and a judge initiated the first of several criminal investigations into the abuse of government advertising funds, which led to convictions and jail sentences for several government officials. In March 2005, Tabaré Vázquez of the left-leaning Broad Front (Frente Amplio) assumed the presidency. His election marked a major ideological and partisan shift, ending 175 years (with few exceptions) of rule by two traditional, center-right parties. The advertising practices of the Vázquez administration are considered to be more balanced than those of previous administrations and total expenditure has dropped in comparison with previous administrations. Vázquez has a generally distant relationship with the media and his administration has been criticized for giving the press extremely limited opportunities to interview him. Vázquez and several ministers have publicly accused several media outlets of acting as agents for the political opposition, a practice which many media professionals consider inappropriate and even dangerous.

Appendix B: Legal Frameworks and Practices in the Surveyed Countries

Advertising Legal Framework and Practices in Argentina⁴²³

National level. 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.⁴²⁴ The general rule for procurement of services, established through a combination of laws, regulations, and jurisprudence, is fully 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 agency⁴²⁵—yet neither this decree nor subsequent regulations specify what the contracting procedures should be. Télam acts as an intermediary⁴²⁶ and as advertising agency, providing design, production, and placement services to various government agencies.⁴²⁷ Even when advertising agencies are hired, the placement of government advertising is handled exclusively by Télam.⁴²⁸

Indeed, 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.⁴²⁹ However, according to journalist María O’Donnell, “Two directors of [Télam] and two companies that tried to compete told me that...these bidding processes tend to be arbitrary and complained that the results are fixed by the office of the media secretary in favor of a particular company.”⁴³⁰

A 1996 decree provides that all executive agencies must channel all requests for advertising to the press secretary (now called media secretary), who reports directly to the office of the president’s chief of staff.⁴³¹ According to Graciela Misasi, the general director of government advertising (an office of the media secretary), apart from those agencies that advertise independently (discussed below), her office controls and allocates the budget resources for all executive branch advertising campaigns.⁴³²

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. Once a campaign plan has been finalized, Télam issues an advertising purchase order (*orden de publicidad*). After the advertising has been run, the media outlet sends the government a copy of the advertisement together with its bill. Télam negotiates discounts in relation to each media’s base advertising prices based on factors such as volume of advertising placed, a practice which is common for both public and private advertisers.⁴³³

Télam’s legal director and director of finance and administration told us that while they have internal regulations that specify contracting procedures for most of the agency’s spending, there are none that apply to the contracting of advertising space.⁴³⁴ 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.”⁴³⁵ According to media analyst Dardo Fernández, the director of *Diario sobre Diarios* (*Newspaper about Newspapers*), the government lacks both adequate planning and a communications policy.⁴³⁶

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.

No specific legal criteria appear to regulate the selection of media outlets for ad placement. Andrea Caldararo, director of content production for state media in the secretary’s office, told us that the media secretary’s allocation of advertising resources is the result of “planning

that considers the desired target audience, as well as geographic coverage, related to the objectives of the message in question.” She stated that this planning takes into consideration factors such as audience ratings, media type, and the media’s geographic and demographic coverage. However, she did not indicate how much weight is given to these variables as against price or others.⁴³⁷ The application of these criteria in practice is unclear given the cases of discriminatory advertising allocations by the Argentine national government presented in this report.

A number of national agencies manage their own advertising budgets, authorized by specific regulations. They include, among others, the National Bank,⁴³⁸ the National Lottery,⁴³⁹ the Tourism Secretary,⁴⁴⁰ and the National Institute of Wineries.⁴⁴¹ During our investigation, we asked some of these agencies for information on their advertising spending and practices.⁴⁴²

Provincial level. 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 various provinces. The legal frameworks or practices in three of the four provinces under study in *Buying the News*—Córdoba, Neuquén, and Río Negro—were not modified since the publication of that report.⁴⁴³ In February 2008, the province of Tierra del Fuego adopted a decree regulating the contracting of government advertising, as described above.

In general terms, in Córdoba, Neuquén, and Río Negro, the legal frameworks regulating the purchase of government advertising 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 continues to be centralized in the hands of one government official, such as a provincial media secretary or the secretary of the interior.⁴⁴⁴ 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 surveyed 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 media routinely make the rounds of government offices looking for advertising to finance their programs. 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. As mentioned earlier in this report, several cases of provincial government advertising abuses to reward political favorites or attempt to condition content continue to persist over time.

For instance, in *Buying the News* we documented an abrupt decrease in government advertising in *Hoy Día Córdoba* in relation to competing newspapers.⁴⁴⁵ Our measurement of provincial government advertising for October 2006 shows that the situation has not changed substantially:

Newspaper	Circulation	Cm ²
<i>La Voz del Interior</i>	60.000*	5.341,70
<i>Hoy Día Córdoba</i>	15.000**	1.162,50
<i>La Mañana de Córdoba</i>	2.500–3.000***	9.850,00

* Quarterly average from the Institute of Circulation Verification.

** Based on information provided by the newspaper.

*** Based on various sources in the local editorial market.

Legal Framework and Practices of Advertising and State Subsidies in Chile

Government advertising contracting in Chile is entirely decentralized. Each ministry and even individual programs within them manage their own budget and contracting, so the overall advertising budget is comprised of the various amounts spent by different ministries and programs for this purpose. For example, Cecilia Alzamora, the head of communications of the Ministry of National Goods informed us, “The different areas of the ministry (Division of National Goods, Land Registry, Real Estate, Minister’s Cabinet, etc.) that require advertising services are those that make the contracting decision, when they have the budget for that.”⁴⁴⁶

Under the new acquisitions law that took effect in August 2003, government advertising in Chile is subject to the overhauled norms and regulations that require use of the Chilecompra electronic contracting system for all public procurement. This law applies to all agencies at all levels (including regional and municipal governments), with exceptions only for public companies and government contracts deemed secret or confidential.

Under the new law, information on all government contracts is to be posted on the Chilecompra website with minor exceptions for very small contracts or those paid for out of an agency’s cash box. Government contractors either register once annually, providing their legal and commercial data and paying a minimal fee, or may present this information each time they bid. There are four possible forms of contracting:

- a. Fully competitive bidding (known as *licitación pública* or public bidding): for contracts above \$61,000, agencies must conduct a fully open bidding process in which all registered firms may compete.⁴⁴⁷
- b. Limited competitive bidding (known as *licitación privada* or private bidding): for special cases involving highly specialized services or certain emergency situations, at least three firms are invited to bid.⁴⁴⁸

- c. Sole source contracting (known as *contratación directa* or direct contracting): for amounts under \$61,000 or in cases invoking stipulated exceptions, such as emergencies, natural disasters or in the case of a single provider.⁴⁴⁹ The law permits a small margin of discretionality for government officials regarding the cases in which limited competitive bidding and sole source contracting are to be used.⁴⁵⁰
- d. Framework agreements (known as *convenios marcos*): in those cases in which the government purchases large amounts of standardized goods or services (such as office or hospital supplies, computers, vehicles, or other equipment), government officials must generally choose between a set of approved providers that have agreed to offer a stable price for their goods or services eliminating the need to bid repeatedly for such standardized cases.⁴⁵¹

The system includes a framework agreement for government advertising in print and digital media, renewable every six months.⁴⁵² In order to be included in the framework agreement, media must offer a discount over their regular advertising rates, discounts for volume, free drafting of ad text and design services, as well as training and technical assistance on ad placement and days of publication. However, according to a Chilecompra official, discounts and price are the most important factors for inclusion in the agreement.⁴⁵³ The most recent agreement included 33 printed and digital newspapers (6 national level papers, 23 regional papers).

Government agencies seeking to advertise in print or electronic media are obligated to select one of the offers included in the framework agreement, unless they can demonstrate that they can get better conditions outside the framework agreement. However, they can choose whichever media outlet or outlets they prefer from those included in the agreement without justifying their choice. The Special Investigative Commission on Government Advertising concluded that the framework agreement, while an excellent mechanism for more simple purchases such as office supplies, is not useful for complex services like the advertising of government services and policies. Furthermore, as designed in Chile, framework agreements for advertising can lead to inappropriate levels of discretion and arbitrary decision making.⁴⁵⁴

Representatives of several smaller print media have complained that the Chilecompra system excludes them either because they lack information about how it works, or they simply didn't know about it.⁴⁵⁵ Others argue that the requirement that the media be up-to-date on all taxes and payments to the government is prohibitive for most small and medium-sized media.⁴⁵⁶

In practice, the decentralization of government procurement in Chile allows for a variety of criteria and procedures used for advertising contracting as vast as the number of ministries, and their advertising. Using official government data from January 2004 through August,

2007, it suggests that of the total amount of national government advertising purchased, only about one third was purchased without using the Chilecompra system.⁴⁵⁷

All government agencies are required to present an annual procurement plan, and as of 2007, they must also produce an annual advertising plan, with an emphasis on the selection of media in which they will advertise.⁴⁵⁸ Our attempts to view such plans revealed that very few were posted, those that were had varying formats and levels of detail, and what information appears is far from clear or complete.⁴⁵⁹

As mentioned earlier, according to the persons in charge of selling advertising to the government in Valparaíso- and Tarapacá-based media, the government usually negotiates advertising contracts directly with the media in question, and then opens up a bidding process using Chile's electronic contracting system—but results have already been fixed.⁴⁶⁰

Like Uruguay, Chile has a legal provision designed to strengthen media based outside of the country's capital. The 2001 Press Law stipulates that government funds spent on advertising with a clearly regional, provincial or local focus must be allocated "in their majority and preferentially" in corresponding regional, provincial or local media.⁴⁶¹ Ricardo Puga, general director of the newspaper *El Día* published in the city of La Serena in the Coquimbo region and currently vice president of the National Press Association (Asociación Nacional de Prensa), affirmed that this law is not respected in practice.⁴⁶²

The Press Law also created a subsidy program to strengthen regional, provincial, and local media. The budget is assigned by the Ministry of the Government Secretary General and is distributed by the ministry's regional secretaries in each region.

By law, subsidies are handed out by juries with technical expertise in each region that include representatives of the Chilean Radio Broadcasters' Association (Asociación de Radiodifusoras de Chile), the Journalists' Association (Colegio de Periodistas), a regional representative of the National Press Association (Asociación Nacional de la Prensa), the National Television Association (Asociación Nacional de Televisión, Anatel), the Regional Council (a regional governing body) and the regional secretaries of the ministries of education and government.

These funds have been criticized for supporting already well consolidated or ephemeral media, and especially because the regional government has the final word, and has often overridden the jury's recommendations. For these reasons, the Regional Council of the Journalists' Association (Colegio de Periodistas) in the Coquimbo region abstained from participating in the 2006 technical committee.⁴⁶³ In August 2007, the Metropolitan Council of the Journalists' Association sent a letter to the general secretary of the government denouncing that two subsidies had been granted to media that were not even included in the jury's waiting list. This council said that it was evaluating whether or not to participate in the jury in the future.⁴⁶⁴ Speaking off the record, a high level government official told us that the problem consists in political criteria overriding technical ones.⁴⁶⁵

During 2006, the fund distributed 235 million pesos (approximately \$444,000), and more than double that amount in 2007 (535 million pesos, approximately \$1 million).

As a rule the fund spends 60 percent of its budget on broadcast media and 40 percent on other media. Since 2001, the fund has benefited 900 local, provincial, and regional media across Chile.

Advertising Legal Framework and Practices in Colombia

Until recently, the procurement of government advertising in Colombia was subject to a 1993 statute that applied to government contracting generally and at all levels of government. The 1993 law was amended by a new law that took effect in January 2008.⁴⁶⁶ Under the 1993 law, the process for contracting was tied to the size of the contract in relation to the contracting agency's budget (the smaller the budget, the lower the limit under which direct contracting was permitted). In limited cases, direct contracting was permitted, but generally, competitive bidding was required. Under the new law, four types of contracting are allowed.⁴⁶⁷

By law, advertising decisions are decentralized to each national government agency.⁴⁶⁸ In practice, administrative officers, legal counsel, and communications officials are involved in the contracting process. For larger campaigns, some bodies contract with intermediary agencies that make an offer involving space and airtime in several different media outlets. In these cases, government officials sometimes request that particular media be added or removed from the proposal.⁴⁶⁹

The criteria established by law for assigning a contract are quite general (agencies must select the bid "most favorable to the agency"⁴⁷⁰). Agencies are required to take price into consideration, as well as their overall evaluation of the bid.⁴⁷¹ With a minor exception for very small contract amounts, all contracts at all levels of government are supposed to be published online at www.contratos.gov.co, regardless of the amount or process.⁴⁷² In practice, this website is rarely up-to-date. Identifying and locating advertising contracts is complicated since they may appear under one of several different spending categories related to publications, information services, telecommunications, etc.

Six government agencies that replied to our access to information requests reported that during 2005, 2006, and the first three months of 2007, they purchased roughly 86 percent of their advertising space using sole-source contracting. Thirteen percent was contracted using competitive bidding.⁴⁷³

The criteria used for selecting media outlets in which to advertise appear to vary according to whether the ads contain information on the bidding of another government contract (such as request for proposals) or are related to some public interest campaign. We analyzed five government advertising contracts related to publication of invitations to bid and found that for each, media were chosen based exclusively on price, with no weight given to target

audience or other criteria.⁴⁷⁴ We also analyzed five contracts related to public interest campaigns and found that in four of the five cases, the government agencies in question used a point system in which each proposal was given points for “economic factors” such as price and economic solidity, and “technical factors” such as audience ratings and geographic coverage. The media outlet with the highest overall total won the contract.⁴⁷⁵ However, such analysis is not used by all agencies, which appear to use whatever criteria they deem appropriate. The national civil registry justified its contracts with certifications issued by its Press and Communications Office stating that the media selected was capable of implementing the campaign in question and from the Office of Human Talent affirming that the outlet had the necessary human resources. However, the contract did not specify what parameters were used by those offices for issuing those certifications.⁴⁷⁶ In sum, vague legal criteria and overuse of single-source contracting leads to very discretionary allocations.

Advertising Legal Framework and Practices in Costa Rica

In Costa Rica, the distribution of government advertising is highly decentralized and the majority of advertising is contracted by autonomous state agencies such as the Costa Rican Institute of Electricity (ICE), which is also the telecommunications monopoly, and the Costa Rican Social Security Fund (Caja Costarricense de Seguridad Social, CCSS), public universities, and four commercial state banks.

We analyzed the distribution of government advertising in the newspapers *La Nación*, *Al Día*, *La República*, *Diario La Extra*, and *La Prensa Libre* for the randomly selected period of May 14–29, 2007. The four state banks published 41 percent of the total for the period, followed by other autonomous agencies (29 percent), the four public universities (13 percent), the judicial branch (6 percent), the Executive Branch (6 percent), and municipalities (3.5 percent).⁴⁷⁷

The procurement of government advertising in Costa Rica is categorically exempt from regular contracting practices, irrespective of contract amounts or urgency considerations, by virtue of the supposed “inconvenience” of competitive bidding in this and other cases. By law, government agencies may use sole-source contracting for advertising, though they are required to prepare an “annual plan in which they define the general guidelines they will use to select the media in which they will advertise, taking into account target audience, institutional needs, and costs.”⁴⁷⁸ Government officials with whom we spoke agreed with this provision and asserted that competitive processes are not practical for government advertising, including that of autonomous institutions.⁴⁷⁹

In general, government agencies appear to comply with the requirement to generate an annual plan and justify their advertising spending, which is controlled by the General Audit Agency (Contraloría General de la República), which scrutinizes all government finances.

According to Laura Mora, director of marketing for the ICE, campaigns are based on “the content that I want to transmit, the audience to which [the campaign] is directed and which media are those that allow me to reach that audience. The criteria are purely commercial.”⁴⁸⁰ Similarly, Gabriela López, director of marketing for the CCSS, stated that she bases her campaigns on “the target audience...we select the media on the basis of criteria of reach and message impact.”⁴⁸¹

The first step in the planning process is usually a media plan, for which several governmental bodies contract advertising agencies. Legally, the contracting of these agencies is subject to normal contracting rules and procedures, which establish different levels of competition according to the contract amount.⁴⁸² Officials in three national agencies (including two autonomous institutions) told us that they use ad agencies which monitor media and have information on factors such as audience, circulation, and reach, and recommend a media plan.⁴⁸³ However, final decisions about media selection are made by government officials.⁴⁸⁴ Government offices generally use ad agencies to produce ads as well, though a few such as ICE and CCSS have this capacity in-house.⁴⁸⁵

Representatives of smaller media located in the country’s provinces have complained that the use of ad agencies acts as an obstacle to their ability to receive government advertising contracts. Doris Rodríguez of the Puntarenas-based newspaper *El Imparcial* (*The Impartial*) told us that, “These agencies manage the majority of the advertising and discriminate against regional media. We try to market ourselves to these agencies, but it is very tiring. The account representatives change often and contact is lost, and it is difficult to be permanently dealing with that,” she said.⁴⁸⁶

According to Laura Mora, once media have been selected, they receive a purchase order (*orden de servicio*), which is first subject to control by the General Audit Agency, which ensures that the order respects the criteria for media selection established in the media plan. To receive a purchase order, media must be included in the agency’s registry of providers, for which they must fill out a form.⁴⁸⁷ The General Audit Agency also audits government spending by way of monthly advertising spending reports. According to the law, government officials may be obliged to reimburse amounts that were spent in violation of the relevant contracting rules.⁴⁸⁸

Three journalists we spoke to affirm that advertising allocations by autonomous agencies are based on objective criteria related to target audience and message, and that currently these agencies make no arbitrary or abusive allocations. This information was confirmed by two media executives and four marketing officials from two autonomous agencies. However, all of these persons agreed that abuses took place under the previous government of President Pacheco.⁴⁸⁹

According to Doris Rodríguez of *El Imparcial*, in the regional media the role of journalist and media entrepreneur are often mixed, which presents ethical problems for journalists. “When you cover information and also have access to the person that manages an advertis-

ing budget...that is generally the press chief, it is very easy to kill two birds with one stone. You talk about the informational issues and then about the advertising issue,” she said. She also claims that pressures are exerted on content: “Sometimes they ask that you support them with certain coverage, and sometimes they want to control texts [of an interview, for example]. But one has to be prudent in order not to get into a fight and defend one’s point of view,” she said.

The scandal that resulted in the September 2007 resignation of the Costa Rican vice president related to a memo proposing the use of government advertising to secure editorial content favorable to the government’s position on a free trade agreement with the United States shows that government advertising abuses can still be a tool for indirect censorship in Costa Rica.

Advertising Legal Framework and Practices in Honduras

The purchase of government advertising space in Honduras is subject to the (same new) rules and regulations that apply to government contracting generally. The first contracting law in Honduras was approved in 1985 and reformed in 2001.⁴⁹⁰ It contains no references to government advertising, except to specify that advertising, editing, and printing are services that should be purchased with contracts.⁴⁹¹ As such, the procedures to be followed in each case are determined by the monetary amount of the contract in question. The greater the amount in question, the more competitive the process required.⁴⁹²

A variety of laws require that the government publish specific kinds of advertisements in “national level media” or media “of greater circulation.” However, these statutes provide no guidance or criteria for selecting among the media in question.⁴⁹³

In 2005, the government passed a decree establishing an Internet-based system for government procurement, stipulating that all contracting information and contractual procedures must be posted online.⁴⁹⁴ The Normative Office of State Contracts and Acquisitions (Oficina Normativa de Contrataciones y Adquisiciones del Estado, ONCAE) is responsible for implementation of this system and for generating specific contracting regulations. According to ONCAE Secretary General Carlos Espinal, state agencies do not generally adhere to the procurement law when contracting with the media. He told us that although his office is preparing documents that standardize certain acquisitions (such as medicines), advertising is not yet among their priorities. He believes few government officials are knowledgeable of contracting law and told us, “Agencies should have annual planning for their advertising that allows them the best prices and an opening for more media to participate, since an advertising contract is valid for one year.” He believes that there should be a special contracting regimen

for advertising, though he recognized that, “Regulating the relationship with the media is sensitive and delicate.”⁴⁹⁵

Although our research shows that some agencies retain control over some of their advertising, a March 29, 2006, memorandum from the president’s office delegated control and decision making over the advertising budgets of centralized and decentralized agencies to the president’s personal secretary, Raúl Valladares.⁴⁹⁶

Valladares stated that advertising decisions are made in consultation with the individual agencies that advertise. He added that the current administration uses an “equity criterion” in order to assign government advertising, which has resulted in contracts with media that had not been taken into account formerly. However, he did not explain how the “equity” standard is applied or provide any specifics on allocation practices.⁴⁹⁷

According to the presidential legal advisor and current minister of the presidency Enrique Flores Lanza,

Each institution—not all—manages advertising budgets, but there has been an attempt to centralize political decision making on this issue in the [president’s] private secretary ... I understand there are no defined criteria on a general level for contracting....The only criteria used, and in that the law is permissive, is that advertising is not subject to bidding, given the special qualities that the media offer. Even if it is less expensive to publish an ad in a media outlet with smaller audiences, the law permits one to [publish] in those with larger audiences.⁴⁹⁸

Flores did not specify which law exempts government advertising from normal contracting procedures, and our research did not uncover any statute that does so.

According to a high level government official from the previous administration and journalist Manuel Torres, who has researched media groups in Honduras, executive decision making on government advertising spending has been centralized since 1998.⁴⁹⁹ However, we found evidence that some agencies do, at times, contract their own government advertising.⁵⁰⁰ According to Federico Duarte, the public relations director for the national congress, that body’s advertising funds are controlled by the president of the congress, Roberto Micheletti. Duarte told us, “The president manages [the advertising funds] at his discretion...he decides all that.”⁵⁰¹

Advertising Legal Framework and Practices in Peru

As explained in the main report, the Peruvian Congress passed a government advertising law in August 2006. In general terms, there is no exception from regular contracting norms for government advertising, and agencies must justify the selection of media, avoid the use of advertising for personal or political propaganda purposes, and evaluate advertising campaigns.

In addition, the purchase of government advertising is still subject to the laws and regulations that apply to government contracting generally. Under that framework, the process for contracting is related to the monetary amount of the contract in question. In limited cases, direct contracting is permitted, but generally, some level of competitive bidding is required.⁵⁰²

Since 2001, government contracts have been generally posted on the website of the Superior Council of Government Contracts and Acquisitions (Consejo Superior de Contrataciones y Adquisiciones del Estado). Since 2004, government agencies also post their annual acquisitions plans, although these can later be modified.⁵⁰³

In December 2001, the Ministry of Transportation and Communication presented a draft law to modernize and make more transparent the telecommunications sector. This “Radio and Television Law” was debated amply in the Congress and finally approved on July 15, 2004. One of its provisions mandates that government advertising must be placed preferentially in programs whose content “contributes to elevate the educational, cultural, and moral level of the population.”⁵⁰⁴ Previously, some government advertising had been placed on programs whose content was widely considered to be offensive and contradictory to the public advertising messages being transmitted.⁵⁰⁵

In practice, government officials generally follow the formal procedures and monetary limits established by law for government contracting, largely due to fear of legal sanctions for violating established contracting norms.⁵⁰⁶ However, marketing officials in four national media outlets affirmed that government advertising contracts are usually negotiated informally between media representatives and government officials, and when bidding processes are held, the winners are selected beforehand. A marketing executive in one national media outlet told us,

Supposedly [advertising contracting] is by competitive bidding [depending on the amount]. The government finds three bidders, there is a competition and the best proposal wins. However, things are not quite like that. Our work is also to lobby. I look for the advertising manager of some ministry, I talk to him, I buy him a coffee, and I offer him my best program with the highest rating in exchange for a good advertising contract and a price that is not too high. Then, when the amount requires it, we look for three bidders that we know are not going to win, simply in order not to clash with the formality that the law requires. With ads worth smaller amounts, we also negotiate with each entity, but to get a better price than the standard, official one.⁵⁰⁷

This account was confirmed by a marketing executive in another national media outlet.⁵⁰⁸

According to local journalists, government contracting by local governments is based largely on personal contacts. According to journalist José Alberto Ordoñez, correspondent for the Press and Society Institute (Instituto Prensa y Sociedad, IYPS) in Cusco,

There is no government advertising by competitive process, all is by direct allocation. The system for placing government advertising on a radio station is directly about friendship between the journalist and the director of the institution or the head of institutional image...In the case of placing advertising in the print media, it is more difficult to tell what the criteria are when a given entity places an ad. But it is clear that blackmail and pressure are becoming ever more common.⁵⁰⁹

Speaking off the record, a journalist who worked in the public relations office of the Provincial Municipality of Cusco from January to June 2007 told us that many times the mayor would review the newspapers and comment on the need to “shut up” the annoying press with advertising—and that she was particular unhappy with the Cusco newspaper *Diario del Cusco* for the headlines and information it published about her government.⁵¹⁰

Two high level officials in the Ministry of Transportation and Communication that work on media issues and their debts to the government affirmed that media owners sometimes negotiate for the national revenue agency (Superintendencia Nacional de Administración Tributaria) to hold off on collecting their debts in return for promises to moderate their criticisms of the current administration.⁵¹¹ This information was confirmed by several journalists in the interior who work for media with debts to the government.⁵¹²

Legal Framework and Practices of Advertising and Subsidies in Uruguay

The purchase of government advertising in Uruguay is subject to the series of laws and regulations that applies to government contracting generally.⁵¹³ All government contracting requires a fully competitive process, although a less competitive process in which proposals are requested from at least five bidders is permissible for contracts between 4,372 and 87,441 pesos (between \$220 and 4,370). Sole source contracts are allowed for amounts under \$4,372.⁵¹⁴ The law does not specify any particular criteria for allocations of government advertising.

In general, the state public works companies (which are responsible for significant amounts of government advertising in Uruguay) contract advertising agencies using competitive processes to design campaigns. In July 2007, in the wake of criticisms for the lack of transparency in the contracting of such agencies, the government convened a commission which developed a detailed competitive bidding procedure. The commission was comprised of members of the executive branch, representatives of public companies, and members of the Uruguayan Association of Advertising Agencies (Asociación Uruguaya de Agencias de Publicidad, AUDAP). As of September, 2007, ten major government contracts with ad agencies had been competitively bid, and another six were in process.⁵¹⁵ A 1990 budget law meant to

strengthen local employment for advertisers, artists, and others requires that all government advertising and publicity be produced by Uruguayan professionals.⁵¹⁶

At the behest of the media based in the interior of the country, a 1991 law requires that government agencies place ads related to localities in the interior in local (as opposed to national) media.⁵¹⁷ According to Alvaro Riva, a leader in the Organization of the Press of the Interior (Organización de la Prensa del Interior, OPI), this law has had little impact given that most government advertising is still assigned to Montevideo-based, national media.⁵¹⁸

Media in the interior benefit from subsidy program created in 1968, the Fund to Support the Press of the Interior. This fund is administered by a commission comprised of delegates from the Ministry of Education and Culture, the Ministry of Economy and Finances, the Faculty of Economic Sciences of the University of the Republic (Universidad de la República), and the OPI. It is funded by a 0.5 percent tax on the sale of plane tickets. The law established criteria for selecting beneficiaries, such as space dedicated to information, number of journalists and other employees, the media's age, and consumption of paper. Perhaps because the criteria are so clear, the fund has operated without complaints of discrimination or favoritism for nearly 40 years. According to government figures, in 2006 the fund distributed approximately \$639,000 to 85 print media in the country's interior.

Finally, various statutes require that government agencies spend 20 percent of their advertising budgets in the state media administered by the Official Dissemination, Broadcasting and Shows Service (Servicio Oficial de Difusión, Radiotelevisión y Espectáculos, SODRE).⁵¹⁹ In June 2007, Sonia Breccia, director of state television Channel 5, complained to the national congress that while some government agencies comply, respect for this law is entirely uneven.⁵²⁰

Our research revealed that the vast majority of government spending on advertising space in Uruguay involves sole source contracting. Based on our interviews and information requests involving more than a dozen agencies and 10 media outlets, among the agencies surveyed, only the Uruguayan Mortgage Bank used a limited competition process for ads related to property auctions. (This bank has used competitive bidding for the last three years and claims that it has received the best price as a result.) According to Ruben Svirsky, administrator of the weekly *Brecha* (*Gap*), "One can be opposed to some aspects of [this] bidding process. It is limited to two print media, but the mere fact of the bidding process is an unprecedented improvement."⁵²¹

The Executive Audit Agency (Tribunal de Cuentas) is responsible for certifying the legality of all government purchases. According to its president, Guillermo Ramírez, historically his agency has held that "sole source contracting of government advertising by different state agencies is legal, when there is no discrimination in favor of a media outlet or media group in the spending plans." Furthermore, advertising contracts fall within the exceptions to the rule of competitive bidding⁵²² because "each agency knows what target audience it wants to reach." Indeed, some government agencies have specifically justified their use of sole source

advertising contracts by indicating that selected media were chosen to reach specific target audiences, which is in keeping with the exemption from competitive bidding on the basis of “good administration” of state resources.

Ramírez recognized, however, that given its complexity and freedom of expression implications, the government advertising process should be subject to specific regulations, which is not currently the case.⁵²³ In addition, it is perfectly possible to design bidding processes that take into account the required audience parameters.

His agency holds that there should be competitive procedures for all contracting of advertising agencies. “In this case, amounts spent are much higher than the minimums and there is a large number of companies that provide the same service. In no way is sole source contracting justified in the case of [advertising] agencies.”⁵²⁴

In each of the public companies we consulted, the directors make the final decisions regarding the allocation of advertising space. The state insurance bank, the state electric company, and the social security bank take into account the media plan provided by the agencies they contract, and the state oil company relies on advice from its own media unit. However, based on those recommendations, they then contract directly with each media outlet.⁵²⁵

As described in the section “Uruguay: New Efforts to Change an Old System,” under the current administration, several state agencies have made changes aimed at eliminating inappropriate and even illegal advertising practices, eliminating their directors’ slush funds for advertising, or implementing new criteria for advertising allocations designed to eliminate political favoritism. Several agencies have attempted to eliminate discretionary decision making by implementing practices such as sequential allocations, which are described in greater detail in the main report.

Other agencies, including the president’s office and the Ministry of Public Health, described processes that are designed to eliminate favoritism, but use decision-making criteria that change from time to time, and do not seem either clear or stable. For example, a government official responsible for advertising in the president’s office told us that his office had eliminated television advertising due to its cost, but also described a television ad campaign being planned on drug consumption.⁵²⁶ An official at the Ministry of Public Health told us, “I try to consider circulation...it’s an orientation but it is not a criterion. We try to contemplate everyone...[We don’t have] a rigid criterion.”⁵²⁷

Despite the good intentions of numerous government officials to eliminate discriminatory allocations of government advertising, decision making remains somewhat arbitrary. The wide disparity in the types of criteria applied—made possible by an inadequate legal framework—shows that high levels of discretion in the advertising process still persist.

In spite of widespread attempts to improve government contracting practices, as recently as September 2007, a communications advisor at the state telephone company (ANTEL, which is entirely state held), made public statements justifying politically-motivated advertising allocations,

If on a TV program they are talking badly of ANTEL and attacking the company, there cannot be advertising from the company on that show. It wouldn't be logical; it's like throwing money away. The same can happen in a newspaper when an editorial speaks badly of the company and on the next page there is an ad.⁵²⁸

Several media published editorials criticizing these remarks, and ANTEL's board of directors issued a statement clarifying that it "has not resolved and will never resolve to allocate advertising funds according to the media's political opinions, or according to the media's [opinion] regarding our administration."⁵²⁹

Appendix C: Examples of Transparency Failure in Surveyed Countries

Argentina

Argentina does not yet have a national access to information law.⁵³⁰ However, a 2003 decree, which went into effect in April 2004, requires agencies of the executive branch to provide access to nonexempted public information within 10 working days, with the option of a 10-day extension.⁵³¹

At the national level, the ADC filed, between May 2006 and January 2008, a total of 17 information requests about advertising spending and practices. Eleven requests were directed to the media secretary, and received complete and timely answers. In each case, the government invoked the 10-day extension and answered within that time. However, the media secretary failed to respond to our request for comment on any of the cases described in this report. Requests to public media Channel 7 and Radio Nacional (National Radio) were answered on time and completely. Answers to two requests to the secretary of tourism were provided after invoking the 10-day extension, but were incomplete. We also made one request to the state health plan for retired persons (Instituto Nacional de Servicios Sociales para Jubilados y

Pensionados, PAMI) which was answered completely, though late. A request to the national lottery agency was answered only partially after a four month delay.

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.⁵³² In March 2007, we requested information on government advertising spending from the communications secretary of the province of Río Negro, Claudio Mozzoni. The initial answer was incomplete, though additional information was provided in May and June 2007 after several phone calls and a personal interview.

There is no freedom of information law in Neuquén. The ADC together with Neuquén Convocation for Justice and Liberty (Convocatoria Neuquina por la Justicia y la Libertad), Work Cooperative 8300 (la Cooperativa de Trabajo 8300), and the Neuquén Press Union (Sindicato de Prensa de Neuquén) filed a total of 25 access to information requests on government advertising spending to various government agencies including all three branches of the provincial government of Neuquén. Only three were answered. One from the judicial branch provided information requested on government spending in 2006. Two from the general secretary of government indicating that the information should be requested from the secretary of state and press and communication—instead of referring the request directly to that office.

In March 2007, the three local organizations involved in the information requests, with legal support from the ADC, filed an injunction (*amparo*) in a provincial court against the government of the province of Neuquén for lack of response to the requests. A May 2007 first instance court ruling in the ADC's favor was upheld by a provincial appeals court in August, which gave the provincial government 60 days to provide the information requested (see above).

In 1999, the province of Córdoba passed an access to information law⁵³³. The Córdoba-based GEOS Foundation and the ADC made a formal information request to that provincial government on March 23, 2007. In April GEOS filed an *amparo* against the government of Córdoba for lack of response, which resulted in a favorable court ruling. On June 19, 2007, the government provided part of the information requested.

Chile

Article 8 of the Chilean Constitution establishes the right to access public information and a 1999 statute requires public agencies (excluding autonomous or decentralized agencies) to respond to certain information requests within 48 hours.⁵³⁴ In January 2008, the Chilean Congress approved new and comprehensive access to information legislation. This law extends application of the right to request information to decentralized and autonomous agencies. It also creates an autonomous, four-member Transparency Council charged with promoting full

government transparency and guaranteeing the right to access information held by public bodies.

A series of information requests were made for the purposes of this report by the Santiago-based NGO Pro Acceso, which works on issues of access to public information and freedom of expression. At the national level, Pro Acceso made information requests to the Ministries of Education, Health, and Housing, and to the General Audit Agency. All four responded (two by electronic mail, one by letter, and one via an interview with the agency's communications director). Together with the director of the online newspaper www.republicadearica.cl, Pro Acceso made 16 formal information requests to agencies in the city government of Arica and the First Region of Tarapacá (where Arica is located). Only four agencies responded satisfactorily with all of the information requested.

Colombia

Colombia has an imperfect access to information regime, in part because it involves many different provisions regarding access (and exemptions) in different statutes. Various provisions of the 1991 constitution guarantee different elements of the right of access⁵³⁵ and a 1985 law Ordering the Publicity of Official Acts and Documents⁵³⁶ makes it possible to request and often receive government held documents. The Administrative Code establishes the right of every citizen to request information from any national or regional government body, verbally or in writing. Agencies have 10 working days to respond.⁵³⁷

For this report, the Freedom of Press Foundation (Fundación para la Libertad de Prensa, FLIP) filed 18 access to information requests with national level agencies regarding government advertising procedures and spending. Of a total of 15 replies, only 7 were received within the legal 10-day limit. Three agencies refused to answer, alleging that they spend on dissemination or communication but not on advertising—even though the request asked for information on any spending on any type of publicity.⁵³⁸ We found that one office of the national Congress provided incorrect data regarding the legal framework for advertising contracting, mentioning decrees that were no longer valid.⁵³⁹

FLIP also filed 13 requests to local government agencies in the departments of Atlántico, Bolívar, and Cauca. Only one response was received on time, and three were not answered at all. In March 2007, FLIP made an access to information request to the municipal government of Cartagena that was not answered despite follow-up calls on at least three different occasions. However, after FLIP filed an injunction in a municipal court against the government of Cartagena for lack of response, the municipality came forward with 40 pages of information.⁵⁴⁰

Costa Rica

Although Costa Rica has no freedom of information law, article 30 of the constitution guarantees “free access to administrative departments with the purpose of [obtaining] information on issues of public interest.” Courts have determined that this provision applies to every state entity, including central and decentralized agencies (known as non-state public entities); public enterprises organized as private corporations; and private entities that exercise public functions (i.e., those who receive contracts to provide public services).

The Institute of Press and Freedom of Expression (IPLEX) made a series of information requests for the purposes of this report. The president’s press office, the electric company, and two public banks (National Bank of Costa Rica and Banco Popular) all failed to respond to our inquiries. Only the Costa Rican Social Security Fund replied, providing requested information on government spending and practices in a timely fashion.

Honduras

After four years of campaigning by civil society and considerable legislative debate, in November 2006, the Honduran Congress approved a Transparency and Access to Public Information Law, which took full effect in January 2008.⁵⁴¹ President-elect José Manuel Zelaya Rosales had submitted this law to the congress and promised publicly that it would be debated and passed the day of his inauguration. However, on January 26, 2006, one day before he was to take office, members of the Honduran Media Association (Asociación de Medios de Comunicación de Honduras), convinced national congress president Roberto Micheletti to hold up debate of this law.⁵⁴² In April 2006, the Honduran Journalists’ Association (Colegio de Periodistas de Honduras)—also opposed to the law—expressed public opposition to the inclusion of information regarding government advertising contracts under the new law.⁵⁴³

This law has been criticized by multiple civil society organizations. For example, Jaime López of the regional Probity (Probidad) Network said, “Virtually any document can be classified as reserved. Any minister can do this if he or she considers that public access to that information may be prejudicial to humanitarian aid, national security, or economic stability, among other vague criteria.” The law is also in violation of the Inter-American Convention Against Corruption, because the last article stipulates that only public information generated after the law enters into force is subject to its provisions.⁵⁴⁴

In August 2007, the national congress selected three candidates for commissioners to lead the Access to Public Information Institute created under the new law. Transparency International, the Tegucigalpa-based C-Libre and other organizations expressed doubts about the commissioners’ backgrounds and commitment to transparency and criticized the Honduran Congress for allowing partisan politics to influence the commissioner’s selection.⁵⁴⁵

We received no reply to the formal information requests on government advertising spending submitted in May 2007 for this report to Raúl Valladares, private secretary of president José Manuel Zelaya Rosales, Federico Duarte, public relations director for the National Congress, and the mayor of the city of El Progreso. The president's private secretary also refused to answer a request for information regarding the government advertising budget submitted by the Tegucigalpa-based Association for a More Just Society (Asociación por una Sociedad más Justa, ASJ). According to Dina Meza of ASJ, Valladares alleged "security reasons" for not providing the information they requested.⁵⁴⁶ Presidential legal advisor Enrique Flores Lanza told us, "We will make public all [advertising] contracts, thanks to the Transparency Law," though he did not specify when.⁵⁴⁷

In early April 2007, we accessed information on the national congress budget for government advertising on the website of the finance secretary. The following month, after submitting our formal information request to the congress regarding the government advertising budget, the information was removed from the website and was replaced by more general budget line items.

Peru

At the behest of then-president Alejandro Toledo, the Peruvian Law of Transparency and Access to Public Information was passed in August 2002 and went into effect in January 2003. Under the law, every individual has the right to request information from any government body or private entity that offers public services or executes administrative functions without justifying their request. Agencies must respond within seven working days, which can be extended in extraordinary cases for another five days.⁵⁴⁸

In the context of this report, the Lima-based Press and Society Institute (Instituto Prensa y Society, IPYS) made six information requests at the national level, each of which was answered within the legally established timeframe. Each reply provided only part of the information requested regarding government spending and practices, while the answers provided by the Ministry of Communications and Transportation regarding broadcasting licenses were complete. IPYS also made a total of 13 formal information requests at the local level (in Cusco, Loreto, Lambayeque, Huaraz and Piura), of which 9 were answered late and 4 were not answered at all. In general, the answers were partial and quite inadequate. In some cases, IPYS had to jump through several bureaucratic hoops in order to obtain replies at all: for example, the March 30, 2007, response from the regional government of Loreto stated that the IPYS request was invalid because it had been presented to the regional president and not to the head of the transparency office.

Government officials in the municipality of Victoria in Lambayeque thanked IPYS for providing them with copies of the access to information law, of which they apparently

were unaware. Their formal reply was extensive and included some information we had not requested.⁵⁴⁹ Two well-placed employees of the municipality of José Leonardo Ortiz told us off the record that the mayor, Javier Alejandro Castro Cruz, was opposed to providing information on government advertising contracts.⁵⁵⁰ However, in response to a legal appeal filed by IPYS for lack of reply, the municipality then provided the information requested. The regional government of Ancash was the only one to provide ample information broken down by advertising campaign, as required by the 2006 government advertising law. This information included descriptions of the campaigns to be carried out, their objectives, technical justifications for the selection of media, coverage, duration, and a global budget—though those justifications were quite vague.⁵⁵¹

Uruguay

In Uruguay, there is not yet a freedom of information law on the books. While the constitution does not contain an explicit access to information guarantee, the right is recognized implicitly in Article 72 and has been confirmed by the courts.⁵⁵²

For this report, the Uruguayan Press Association (Asociación de la Prensa Uruguaya, APU) submitted information requests to 11 different national level agencies with the most significant advertising budgets.⁵⁵³ Four agencies replied in a timely fashion and provided complete answers. Four replied after lengthy delays, and two failed to reply at all. Although the president's office did not reply in writing, they provided an interview in which they discussed government advertising practices at length. In addition, we solicited information from the municipalities of Montevideo and Colonia, both of which replied after considerable delays. With few exceptions, the information provided was partial and fragmented.

Of all of the agencies under study, only the state energy company (UTE) publishes information online regarding advertising spending. In its online financial statements, government advertising spending is expressed as a distinct figure. Also, although UTE originally failed to reply to our formal information request, it later provided all of the information requested as well as additional information requested later in the research process.

Notes

1 A detailed discussion of advertising laws and practices in each country surveyed is contained in Appendix B.

2 This categorization is taken from an analysis by the Open Society Justice Initiative (hereinafter “Justice Initiative”), *The Growing Threat of Soft Censorship: A Paper on Indirect Restrictions on Freedom of Expression Worldwide*, December 12, 2005, available, in English and Spanish, at: www.justiceinitiative.org/db/resource2/fs/?file_id=103048.

3 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.

4 These countries were selected primarily for their geographical, political, and thematic diversity, and for our ability to carry out this research.

5 Public sector advertising refers here to all advertising, including public service announcements and other communications placed in media outlets by all branches of government at all levels (federal, provincial, and 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.

6 In Colombia's national media, it is estimated that on average, government (as opposed to private) advertising represents 8 percent of all television advertising, 10 percent of advertising in print media, and as much as 50 percent of all radio advertisements. (Sources: Interview with Irma Villalobos and Judith Osorio, executives in the marketing department of the Bogotá-based weekly magazine *El Espectador*, June 7, 2007, Bogotá, Colombia. Interview with Darío Fernando Patiño, news director for Colombia's Caracol TV, March 20, 2007, Bogotá, Colombia. Interview with Alvaro Sierra, chief editor of *El Tiempo*, March 22, 2007, Bogotá, Colombia.) Similarly, in Uruguay, government advertising represents 5 to 8 percent of some broadcast media, and as much as 50 percent of advertising received by some print media. Ricardo Peirano, director of the newspaper *El Observador*, stated that government advertising never exceeds 5 percent of advertising income for his paper, but recognized that the Uruguayan Association of Advertising Agencies (*Asociación Uruguaya de Agencias de Publicidad*) estimates government advertising in the print media to be, on average, 25 percent of total advertising. (Sources: Interview with Peirano, March 23, 2007, Montevideo, Uruguay. Interviews with other owners, directors or marketing managers from the following media elicited these estimates: *El Observador* newspaper, 5 percent; *El País*, 8 percent; *Ultimas Noticias*, between 30 and 55 percent; the weekly *Brecha*, 60 percent; Radio El Espectador [The Spectator] and Radio Sarandí, approximately 8 percent; Channel 12, 5 percent. Interviewees included marketing director of Channel 12, Andrea Curcio, February 2, 2007, Montevideo, Uruguay; marketing director of Radio El Espectador, Eduardo Varela, February 14, 2007; and with Radio Sarandí, Sebastián Ruvira, April 24, 2007, Montevideo, Uruguay.) These estimates are similar to the data obtained by our measurements of government advertising placed from March 1–15, 2007. According to those measurements, the amount of government advertising for the four national level newspapers was, on average, 15 percent.

7 In our measurement of advertising in *Página/12* for the period June 13–27, 2007, in square centimeters, government advertising amounted to 31 percent of total advertising—21 percent corresponding to the national government. Data on file at the *Asociación por los Derechos Civiles* (Association for Civil Rights, hereafter “ADC”).

8 For example, Section IV of *The Price of Silence* contains information on spending increases in Argentina, Chile, and Colombia. Uruguay and Peru, where government spending has decreased in the last two years, are exceptions to this trend.

9 *Proceso* pointed out that in its first six months under Calderón's government, the magazine received approximately \$25,600 in official advertising income, compared to \$131,000 received the previous year under then-president Vicente Fox. *Proceso* alleges that while it is the most important political magazine in the country, from January to June 2005 it ranked lowest of all the weekly magazines in terms of advertising income. See International Freedom of Expression (IFEX) alert dated October 5, 2007. Available in English at <http://www.ifex.org/en/content/view/full/86772/> and in Spanish at <http://www.ifex.org/es/content/view/full/86773>.

10 The July 25, 2007, press release is available in English at: [http://www.cidh.org/Relatoria/showarticle.asp?artID=703&IID=1](http://www.cidh.org/Relatoria/showarticle.asp?artID=703&IID=1;); and in Spanish at: <http://www.cidh.org/Relatoria/showarticle.asp?artID=703&IID=2>.

11 “Independent Press: enemy of authoritarian governments,” <http://www.abc.com.py> (on-line news service), at: <http://www.abc.com.py/articulos.php?fec=2007-09-14&pid=357396&sec=1&jer=1>. Last accessed in July 2008.

12 “Nicaraguan Press Denounces Government’s Hostile Attitude,” *La Nación*, October 11, 2007, http://nacion.com/ln_ee/2007/octubre/11/mundo1271454.html.

13 The December 10, 2007, IAPA press release is available in English at: <http://www.ifex.org/en/content/view/full/88358>; and in Spanish at: <http://www.ifex.org/es/content/view/full/88359>.

14 The NGOs that participated in the research for this report include the Buenos Aires-based Association for Civil Rights (www.adc.org.ar), the Lima-based Press and Society Institute (www.ipys.org), the San José-based Press and Freedom of Expression Institute (www.iplecr.org), the Bogotá-based Freedom of Press Foundation (www.flip.org.co), Santiago-based Pro Acceso (www.proacceso.cl), the Montevideo-based Uruguayan Press Association (www.apu.org.uy), and the Montevideo office of the World Association of Community Broadcasters (www.amarcuguay.org).

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

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

17 Another case may eventually make its way to the Argentine Supreme Court. In May 2006, the publisher of the weekly newspaper *Perfil* and magazine *Noticias* sued the administration of President Néstor Kirchner for consistently excluding them from advertising allocations due to their critical coverage. In February 2008, the first instance court ruled against *Perfil*, which appealed the judgment. More information on this case appears in Section IV. Previously, in a 1997 case, 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*, a notably pro-government local 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. *Emisiones Platenses, S.A. s/acción de amparo*, Decision of June 12, 1997.

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

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

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

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

22 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. In 2005, 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.

23 Interview, May 18, 2007, Popayán, Colombia.

24 Interview with the vice president of the marketing department of a national level radio chain, May 14, 2007, Bogotá, Colombia. Interview with the accounts executive of a radio station in the center of the country, May 4, 2007, Bogotá, Colombia. For example, a 2006 advertising contract between the National Police and the radio chain RCN required that RCN provide “journalistic support for the Highway Police,” Contrato No. 64-7-10032 of the National Police. (The contract date is only specified as 2006; the services were scheduled to begin in December 2006).

25 Interview, November 14, 2007, San José, Costa Rica.

26 Interview, November 14, 2007, San José, Costa Rica.

27 Interview, November 12, 2007, San José, Costa Rica.

28 Some agencies are exempted from this centralization. For more details, see the sections on Legal Framework and Practices in Argentina and Honduras in Appendix B.

29 Interview, March 25, 2007, Tegucigalpa, Honduras.

30 Interview, May 15, 2007, Popayán, Colombia.

31 Interview, April 27, 2007, Barranquilla, Colombia.

32 For example, Transportation Minister Rossi said that he had placed an ad in the March 16, 2007 edition of *Caras y Caretas (Faces and Masks)* at the request of its director, Alberto Grille. That week the majority of the magazine’s coverage was dedicated to showcasing the transportation ministry’s work on the occasion of its 100th anniversary. Interview with Víctor Rossi March 22, 2007, Montevideo, Uruguay. Several government agencies and media outlets told us that the media sometimes ask an agency to place an ad for a special edition or supplement, or request that the agency provide a letter sponsoring the supplement, which is then used to leverage ads from private enterprises that do business with that agency.

33 Interview with Peter Coates, public relations director of the state water company, Obras Sanitarias del Estado (OSE). Coates said that in 2006 his agency placed ads for events such as World Environment Day, World Water Day, and International Water Day, among others. Interview, April 26, 2007, Montevideo, Uruguay.

34 Interview with José Luis Varela, director of technical assistance in communication of the Ministry of Public Health, April 26, 2007, Montevideo, Uruguay. Varela later clarified that the policy of publishing ads for the anniversaries of the major national media was a transitional measure designed to assist in the selection of the media with the most appropriate circulation in which to advertise, and that the ads always contained health prevention and promotion-related messages. He also pointed out that in 2007 the Ministry of Health used a competitive process with oversight from the national association of advertising agencies to contract an advertising agency to, among other things, design a media plan. Letter from Luis Varela dated January 9, 2008.

35 See <https://www.chilecompra.cl/Portal/InicioPortal.aspx>.

36 Interviews with seven current or former communications directors for national government offices, conducted between March and May 2007, Santiago, Chile.

37 Interviews conducted between March and May 2007, Santiago, Chile.

38 Interview, April 3, 2007, Santiago, Chile.

39 Interviews conducted between March and May 2007, Santiago, Chile.

40 Interview, April 17, 2007, Santiago, Chile. *La Época* was a newspaper founded by journalists and political activists from what later became the Concertación de Partidos por la Democracia, who were actively opposed to the Pinochet dictatorship. It closed in August 1998 after severe financial problems.

41 On a methodological note, where possible, data on the advertising purchased by government bodies is expressed in monetary terms, 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 of the advertising space, because 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 generally sufficient to indicate the inequities and pressures that result from biased allocation of advertising.

42 The memo had been signed on July 29, 2007. "Letter on Referendum Agitates Legislative Assembly," *La Nación*, September 7, 2007: http://www.nacion.com/ln_ee/2007/septiembre/07/pais1231375.html.

43 Telephone interview, November 30, 2007, San José, Costa Rica.

44 Interview, November 16, 2007, San José, Costa Rica.

- 45 Interview, May 20, 2007, Tegucigalpa, Honduras.
- 46 Interview, March 25, 2007, Tegucigalpa, Honduras.
- 47 Interview, June 1, 2007, Bogotá, Colombia.
- 48 Interview, June 7, 2007, Bogotá, Colombia.
- 49 Testimony provided on April 18, 2007, in the case of *Editorial Perfil S.A. et al v. National Executive Branch* (File no. 18.639).
- 50 Testimony provided on April 25, 2007, in the case of *Editorial Perfil S.A. et al v. National Executive Branch* (File no. 18.639).
- 51 Interview, June 6, 2007, El Progreso, Honduras.
- 52 Interview, September 20, 2007, Huaraz, Peru.
- 53 Telephone interview, August 10, 2007, Viedma, Argentina.
- 54 Email correspondence, March 30, 2007.
- 55 *Editorial Río Negro S.A. v. Province of Neuquen*, Supreme Court judgment of September 5, 2007. Available in Spanish at: <http://www.adc.org.ar/recursos/699/Fallo%20CSJN%20Diario%20Rio%20Negro%20Publicidad%20Oficial.doc>.
- 56 The scandal concerned allegations by a provincial legislator that he was offered financial credit by the 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 provincial supreme court.
- 57 *Editorial Río Negro v. Province of Neuquén*, petition submitted January 23, 2003.
- 58 ADC and other organizations filed “friend of the court” briefs in this case, and on October 14, 2003, the newspaper also took the case to the Inter-American Commission on Human Rights. As of 2006, ADC is a co-petitioner in this case.
- 59 See *Buying the News*, p. 43.
- 60 This paper was bought out in March 2003 and changed its name to *La Mañana de Neuquén* (*The Neuquén Morning*).
- 61 Opinion issued by Esteban Righi, attorney general, September 7, 2006.

- 62 Interview with Maximiliano Ahumada, owner and director of *Entre Líneas*, October 4, 2007, Santa Fe, Argentina.
- 63 *Entre Líneas*, April 2006, no. 11, page 25.
- 64 Interview, October 4, 2007, Santa Fe, Argentina.
- 65 Interview, October 17, 2007, Santa Fe, Argentina.
- 66 Telephone interview, October 18, 2007, Santa Fe, Argentina. Gabriel Rossini told us that when he became under-secretary in 2003 the annual provincial advertising budget was a bit over one million pesos (approximately \$315,000), and in 2005 was five million pesos (\$1.5 million). According to an article published in *Entre Líneas*, the 2007 budget was 11.4 million pesos (\$3.6 million) for the “Coordinating Ministry,” which centralizes the provincial executive branch advertising spending. “Advertising and Electoral Campaign,” *Entre Líneas*, No. 26 (September 2007), p. 14. The information was gathered by *Entre Líneas* using the 2007 municipal budget.
- 67 Interview with Maximiliano Ahumada, October 4, 2007, Santa Fe, Argentina. Telephone interview with Oscar Frutero, October 11, 2007, Santa Fe, Argentina. Telephone interview with Pablo Bosch, October 19, 2007, Santa Fe, Argentina. Telephone interview with Claudio De Lucca, October 19, 2007, Santa Fe, Argentina.
- 68 Interview with Vicky Zamora, producer of the story for AgenciaPeru, and Heidi Grossman, author of the story, April 17, 2007, Lima. Peruvian journalist Cecilia Valenzuela reported this story on her program *La Ventana Indiscreta* (*The Indiscreet Window*) on April 9, 2007. AgenciaPeru produces *La Ventana Indiscreta*. The contracting process in this case was not competitive, since the amounts in question were lower than the legal threshold for competitive bidding. The contracts were obtained by our researchers and had been posted on the website of the government’s Electronic System of Government Acquisitions and Contracts. See www.seace.gob.pe.
- 69 Law 28874 (2006) “On Regulation of State Advertising,” article 5.
- 70 Contracts involved Radio Mundo E.I.R.L. and Compañía de Televisión Cusqueña S.A.C. Source: Pedro Tenorio, “Ministry Paid Radios to ‘Improve’ Its Image,” *Peru 21*, April 17, 2007, p.6.
- 71 Law 28874 (2006) “On Regulation of State Advertising,” article 8. Garrido Lecca claimed publicly to have no knowledge of the contracts, and held his press chief responsible, whom he then fired. Press conference by Garrido Lecca, April 10, 2007, Lima, Peru.
- 72 The president stated: “What weighs more than the error is his commitment to ‘Water for All’ [a government potable water program] and he’s doing a good job...and that is worth more than those [mistakes] that can happen.” Adán Ríos, “García Calls Purchase of Information a ‘Slip Up,’” *Peru 21*, April 16, 2007, p. 4.
- 73 Interview, November 15, 2007, San José, Costa Rica.

- 74 Interview, November 14, 2007, San José, Costa Rica.
- 75 Telephone interview, November 30, 2007, San José, Costa Rica.
- 76 Telephone interview, November 14, 2007, San José, Costa Rica.
- 77 Interview, November 12, 2007, San José, Costa Rica.
- 78 Interview, November 14, 2007, San José, Costa Rica.
- 79 Telephone interview, November 30, 2007, San José, Costa Rica.
- 80 Interview, November 12, 2007, San José, Costa Rica.
- 81 Letter dated April 25, 2007, signed by Jorge Luis Girau Balverena, director of the Office of Transparency and Access to Public Information of the Loreto regional government.
- 82 Interview, August 20, 2007, Iquitos, Peru.
- 83 Interview, September 24, 2007, Iquitos, Peru.
- 84 Interview, September 26, 2007, Chiclayo, Peru.
- 85 Interview, September 26, 2007, Chiclayo, Peru.
- 86 Interview with Jesús Yesquén Bances, January 15, 2008, Chiclayo, Peru.
- 87 Interview, September 20, 2007, Huaraz, Peru.
- 88 Interview, March 23, 2007, Huaraz, Peru.
- 89 Letter from César Bustamante Flores dated January 25, 2008.
- 90 Letter from Edgar Caballero Cano dated January 29, 2008.
- 91 Until recently, Coquimbo was known as the Fourth Region.
- 92 Advertising Report for 2004–2006 of the Coquimbo Regional Government presented to the Chamber of Deputies’ Special Investigative Commission on Government Advertising, April 12, 2007, appendix 1.
- 93 Telephone interview, April 27, 2007, Arica, Chile.
- 94 Email correspondence, August 1, 2007.
- 95 Presentation in the seminar “Government Advertising Spending in Local Media,” Universidad del Mar, Quillota, Valparaíso, April 13, 2007.

- 96 Interview, May 21, 2007, Coquimbo, Chile.
- 97 Former editor at a regional television station, May 2007, Santiago, Chile.
- 98 Sources included two editors of digital regional media, one national correspondent and a radio director from Arica in the far north; a former editor of regional media, national correspondent, and former reporter for a regional newspapers in Antofagasta, in the desert mining region; a former reporter for a regional newspaper and a reporter for several radio stations in Coquimbo (five hours from Santiago); a former reporter in Santiago; and a journalist with a regional newspaper and a reporter in various media in Aysén.
- 99 Interview, April 18, 2007, Santiago, Chile.
- 100 Interview, April 12, 2007, Valparaíso, Chile; and interview, April 13, 2007, Los Andes, Chile.
- 101 Interview, April 13, 2007, Los Andes, Chile.
- 102 Average weekly sales were 48,779 copies in 2006, according to the Institute for Circulation Verification (Instituto de Verificación de la Circulación, IVC), accessed June 8, 2007 at www.ivc.org.ar. IVC provides free online ratings information.
- 103 Average weekly sales were 22,800 copies during the period January to June, 2007, according to the IVC.
- 104 According to Darío Gallo, former executive editor at *Noticias* magazine, *Poder* (which ceased publication in late 2006) had a weekly circulation of 4,000, and *Debate* had in 2006 an estimated weekly circulation of 2,500. These numbers were confirmed by an executive of the media company Editorial Perfil, who preferred to remain anonymous. Telephone interview, October 3, 2007.
- 105 Information provided to the ADC by Télam (the national news agency) July 5, 2006 and February 7, 2007, in response to various access to information requests.
- 106 Interview with Sergio Szpolski, May 30, 2007, Buenos Aires, Argentina.
- 107 Information provided to the ADC by Télam July 27, 2007.
- 108 Testimony provided on April 18, 2007, in the case of *Editorial Perfil S.A. et al v. The National Executive Branch*.
- 109 According to data provided by the national government for the first six months of 2007, including only those payments linked specifically to particular dates, and counting only Sundays, *Clarín* received 950,273 pesos (about \$300,000), *Página/12* received some one million pesos (\$318,000), and *La Nación* received 457,440 pesos (about \$145,000).

- 110 An independent media analyst estimated *Página/12*'s daily sales between 10,000 and 15,000 copies, except on Sundays, when he estimates sales at about 25,000. Telephone interview, September 27, 2007.
- 111 "The Media Secretary Backed Off His Lawsuit Against *Noticias*," *Clarín*, July 2, 2005, <http://www.clarin.com/diario/2005/07/02/sociedad/s-05208.htm>.
- 112 "Journalists are No Longer Necessary Intermediaries," *La Nación*, February 4, 2007.
- 113 Interview with Sergio Basich, August 16, 2007, Buenos Aires, Argentina.
- 114 In February 2008, the first instance court ruled against *Perfil*, which appealed the judgment.
- 115 Horacio Verbitsky, "Discretionality," *Página/12*, June 1, 2006: <http://www.pagina12.com.ar/diario/elpais/1-67691-2006-06-01.html>.
- 116 Interview, June 20, 2007, Buenos Aires, Argentina.
- 117 Jorge Fontevecchia, "Why We Increased the Price," *Perfil*, December 3, 2006: http://www.perfil.com/contenidos/2006/12/03/noticia_0008.html.
- 118 Interview with former journalist from *Noticias*, April 18, Buenos Aires, Argentina.
- 119 Interview, April 17, 2007, Buenos Aires, Argentina.
- 120 Interview, July 3, 2007, Neuquén, Argentina.
- 121 Interview, July 10, 2007, Neuquén, Argentina.
- 122 Interview, July 26, 2007, Tegucigalpa, Honduras.
- 123 Interview, April 19, 2007, Tegucigalpa, Honduras.
- 124 Interview, May 18, 2007, Tegucigalpa, Honduras.
- 125 Interviews conducted in May 2007 in Tegucigalpa, Honduras.
- 126 Ibid.
- 127 Interview, May 20, 2007, Tegucigalpa, Honduras.
- 128 Letter signed by José Raúl Valladares Funes, dated December 27, 2007.
- 129 Interviews on May 20, 2007, and August 31, 2007, Tegucigalpa, Honduras.
- 130 Interview, July 24, 2007, Tegucigalpa, Honduras.

- 131 Interview, June 4, 2007, El Progreso, Honduras.
- 132 Interview with the president of the Colombian Federation of Journalists, Eduardo Márquez, March 26, 2007, Bogotá, Colombia. Marisol Cano B. and Thora Gehl, "Estimate of Support to Media and Journalists in Colombia and Contributions to a Joint Strategy 2006-2015," working document for the conference *Toward New Strategies of Support for Journalism and Media in Colombia*, September 25-26, 2006, convened by Reporters Without Borders-Sweden, International Media Support and the Antonio Nariño Project.
- 133 Interview, April 27, 2007, Barranquilla, Colombia.
- 134 Email correspondence with Zamira Betin, communications secretary of the mayor's office of Barranquilla, May 25, 2007. Letter dated March 22, 2007, signed by John Zamora, chief of the press and communications area, department of Bolívar. Letter dated March 22, 2007, signed by Humberto Mendieta Torres, communications advisor to the department of Atlántico. Letter dated June 5, 2007, signed by Fernando Tinoco Tamara, secretary general of the city of Cartagena.
- 135 Twelve interviews in the Atlantic region conducted in April 2007 and six interviews in Cauca in May 2007.
- 136 Interview, April 24, 2007, Cartagena, Colombia.
- 137 Fifty percent of this agency is owned by the government of Cartagena.
- 138 Interview, April 24, 2007, Cartagena, Colombia.
- 139 Telephone interview, October 3, 2007.
- 140 Letter dated July 30, 2007, signed by John C. Montoya, general manager of Aguas de Cartagena.
- 141 Interview, May 23, 2007, Popayán, Colombia.
- 142 Letter dated December 27, 2007.
- 143 Interview, April 26, 2007, with a print journalist in Barranquilla. Interview with radio journalist Carlos Hurtado, April 25, 2007, in Cartagena, Colombia. Interview with Bertha Teresa Bolaños, chief editor of the newspaper *La Verdad*, April 25, 2007, in Cartagena.
- 144 Interview, April 25, 2007, Cartagena, Colombia.
- 145 Interview, May 18, 2007, Popayán, Colombia.
- 146 Interview, April 24, 2007, Cartagena, Colombia.
- 147 Interview with John Zamora, chief of the press and communications area, department of Bolívar, April 21, 2007, Bogotá, Colombia.

148 Interview, May 21, 2007, Popayán, Colombia.

149 Based on the official exchange rate on July 15, 2006.

150 Letter dated April 3, 2007, signed by Darling Isaziaga Angel, acting subsecretary of revenue, department of Atlántico, in response to our formal access to information request. The 40 million pesos were received by P&P Publicidad del Atlántico, which according to the Barranquilla Chamber of Commerce is solely owned by Alexandra de la Hoz.

151 Letter dated March 22, 2007, signed by John Zamora, chief of the press and communications area, department of Bolívar. Letter dated March 22, 2007, signed by Humberto Mendieta Torres, communications advisor to the department of Atlántico. Letter dated March 23, 2007, signed by Joaquín Mateo Pinto, administrative secretary of the city of Barranquilla. All three letters refer to 2005, 2006, and the first three months of 2007. Letter dated June 5, 2007, signed by Fernando Tinoco Tamara, secretary general of the mayor of Cartagena. This letter refers to 2005 and 2006. All four letters were replies to our formal access to information requests.

152 Law 80 (1993), article 24. See Appendix B for more on the relevant legal framework.

153 Decree 2434 (2006), paragraph 3.

154 “In Buenos Aires alone, in 2005, there were 18 radios and 10 cable channels that offered [this system known as *loteo de medios*].” Source: doctoral thesis by Adriana Amado entitled “News about the Newspapers,” presented on November 14, 2007, to the Latin American Faculty of Social Sciences, p. 227. She mentions in particular the following radio stations: FM 95.9 Rock & Pop, FM 94.7 Palermo, FM Cultura, FM 88.9 La Isla, FM 95.1 La Metro, FM 100.7 Radioshow, FM 88.7 La Tribu, FM El Faro (*Radio Nacional*), AM 1190 Radio América, AM 1030 Radio Del Plata, AM 990 Radio Splendid, AM 1070 Radio El Mundo, AM 910 Radio La Red, AM 950 Radio Belgrano, AM Radio Cooperativa, AM Radio Colonia, AM 630 Radio Rivadavia, and AM 850 Radio Nacional. She affirms that the cable channels that operate nearly exclusively with this system are P+E (until it went off the air on August 2006), Plus Satelital, Metro, CVN, Canal 26, Magazine TV, América Sports, and América TV.

155 While it is not possible to determine, from the official aggregate data, what portion of this amount goes to journalists and content producers and how much goes to advertising agencies and other intermediaries, it is clear that the former is a significant percentage.

156 Information provided to the ADC by Télam, the state news agency, on July 5, 2006, and February 7, 2007, in response to various access to information requests.

157 Cited in María O’Donnell, *Propaganda K [for Kirchner]: A Promotion Machine with the State’s Money* (Planeta, Buenos Aires, 2007), p. 71.

158 Interview, June 28, 2007, Buenos Aires, Argentina.

159 Telephone interview, June 28, 2007, Buenos Aires, Argentina.

- 160 Ibid.
- 161 Ibid.
- 162 Telephone interview, August 2, 2007, Buenos Aires, Argentina.
- 163 Telephone interview, August 2007, Buenos Aires, Argentina.
- 164 Telephone interview, December 4, 2007, Buenos Aires, Argentina.
- 165 Telephone interview, October 12, 2007, Buenos Aires, Argentina.
- 166 María O'Donnell, *Propaganda K*, p. 70.
- 167 Email communication, May 31, 2007.
- 168 FOPEA's *Code of Ethics: Ethical Principles for Journalistic Practice*, principle 20, November 25, 2006. Available in Spanish at: http://www.fopea.org/contenido/c_digo_de_tica_de_fopea.
- 169 Interview, June 5, 2007, El Progreso, Honduras.
- 170 Interview, June 5, 2007, El Progreso, Honduras.
- 171 Interviews, June 4 and 5, 2007, El Progreso, Honduras.
- 172 Interview, June 5, 2007, El Progreso, Honduras.
- 173 Interview, June 4, 2007, El Progreso, Honduras.
- 174 Ibid.
- 175 Interviews, June 4 and 5, 2007, El Progreso, Honduras.
- 176 Interview, June 4, 2007, El Progreso, Honduras.
- 177 Radio forum on Radio Progreso, January 8, 2007, El Progreso, Honduras.
- 178 Interview with Oscar Girón, director of Radio Perla, June 6, 2007, El Progreso, Honduras.
- 179 Interview, June 5, 2007, El Progreso, Honduras.
- 180 Interview, June 5, 2007, El Progreso, Honduras.
- 181 Interview, June 5, 2007, El Progreso, Honduras.
- 182 Interviews with José Peraza and Lesli Roxana Banegas, June 5, 2007, El Progreso, Honduras.

183 Interview, June 6, 2007, El Progreso, Honduras.

184 Interview, June 5, 2007, El Progreso, Honduras.

185 Interview with Carlos Alvarado, June 5, 2007, El Progreso, Honduras.

186 See *Buying the News*, pp. 46–47. According to Editor-in-Chief Italo Pisani, although the government of Neuquén has increased its advertising in *Río Negro*, the difference between government advertising received by the two outlets is still significant. Interview, July 27, 2007, General Roca, Argentina. Our measurements for March 1–15, 2007, showed that the provincial government contracted 8,995 cm² in *La Mañana de Neuquén* but only 2,540 cm² in *Río Negro*; a second measurement for the second half of April 2007, showed that the government contracted a total of 16,485 cm² in *La Mañana de Neuquén* and 12,794 cm² in *Río Negro*.

187 See *Buying the News*, pp. 47–48, where we documented an abrupt decrease in government advertising in *Hoy Día Córdoba* in relation to competing newspapers.

188 Interview, April 18, 2007, Bogotá, Colombia.

189 Interview, April 18, 2007, Bogotá, Colombia.

190 No independent organizations in Colombia measure circulation or volume of sales. Readership is measured by surveys. The General Study of Media (Estudio General de Medios) conducted by the Colombian Association of Media Research (Asociación Colombiana de Investigación de Medios, ACIM) is the most-used readership survey. The ACIM is composed principally of the most important media in the country, including those covered in this report.

191 Our study measured government advertising in square centimeters for February 6–12, March 6–12, April 17–23, and May 22–28, 2005; February 5–11, March 12–18, April 16–22, and May 21–27, 2006; and February 4–10, March 11–17, and April 15–21, 2007. We did not include pages with judicial edicts because it was difficult to determine whether they were paid for by private parties or the courts.

192 Again, we measured government advertising in square centimeters for February 5–11, March 12–18, April 16–22, and May 21–27, 2006; and February 4–10, March 11–17, and April 15–21, 2007. Once again, we did not include pages with judicial edicts because it was difficult to determine whether they were paid for by private parties or the courts. Because *El Espectador* is published only on Saturdays, we compared its circulation to the average Monday through Saturday circulation for *La República*.

193 We measured government advertising in square centimeters for February 4–10, March 11–17, and April 15–21, 2007. Once again, we did not include pages with judicial edicts.

194 Interview, April 18, 2007, Bogotá, Colombia, and letter from Jorge Sierra dated January 22, 2008.

- 195 Letter from Carlos Bitar, secretary general of the Ministry of Communications, dated December 17, 2007.
- 196 See www.radiominuto.org.
- 197 Letter dated March 23, 2007, signed by Joaquín Pinto Castillo, administrative secretary of the municipality of Barranquilla.
- 198 "Judge Orders Arrest of Guillermo Hoenigsberg," *El Heraldo (The Herald)*, September 20, 2006.
- 199 Letter dated March 23, 2007, signed by Joaquín Pinto Castillo, administrative secretary of the municipality of Barranquilla.
- 200 Data from the Colombian branch of the Brazilian Institute of Public Opinion and Statistics (Instituto Brasileiro de Opinião Pública e Estatística.), a multinational public opinion firm, for the period July through December 2007.
- 201 Information provided on March 23, 2007, by Joaquín Pinto Castillo, administrative secretary of the municipality of Barranquilla.
- 202 *Buying the News*, p. 67.
- 203 The ADC measured public and private advertising in *Página/12*, in square centimeters, during the period June 13–27, 2007.
- 204 According to the Institute of Circulation Verification (IVC), during the first six months of 2007, *Clarín's* daily circulation was about 396,000 and *La Nación's* 162,000. IVC, data for first six months of 2007, Monday to Sunday. An independent media analyst estimated *Página/12's* sales between 10,000 and 15,000 copies except on Sundays, when he estimates sales at about 25,000. Telephone interview, September 27, 2007.
- 205 Information provided to the ADC by Télam, on July 5, 2006, and February 7, 2007, in response to various access to information requests.
- 206 Telephone interview with journalist in Santa Cruz, on condition of anonymity, May 2007, Santa Cruz, Argentina.
- 207 "News for Sale," Committee for the Protection of Journalists, October 23, 2007, available in English at: http://www.cpj.org/Briefings/2007/argentina_07/index.html; and in Spanish at: http://www.cpj.org/Briefings/2007/argentina_07/index_sp.html.
- 208 O'Donnell, *Propaganda K*, p. 16.
- 209 Information provided to the ADC by Télam on July 27, 2007.

210 Chubut, like Santa Cruz, is a scarcely populated Patagonian province, but with twice the population of its neighbor.

211 Law 25.610 (2002) “On the Reform of the National Electoral Code,” article 64 *quater*.

212 Law 19.884 (2003) “On Transparency, Limit and Control of Electoral Spending,” article 4.

213 Law 996 (2005) on Guarantees, article 31.

214 *Ibid*, article 33. Exceptions are made for specific situations related to issues such as national defense and security, certain public works, natural disasters, etc. Between January 30 and May 26, 2006 (preceding the presidential election of May 28, 2006), the Presidencial Agency for Social Action and International Cooperation authorized seven sole-source contracts, in this case for government advertising. Source: <http://www.contratos.gov.co/consultas/resultadoListadoProcesos.jsp#>, accessed November 23, 2007. The National Police authorized two sole-source contracts, as well. See: <http://www.contratos.gov.co/consultas/resultadoListadoProcesos.jsp#>, accessed November 23, 2007.

215 Law 28278 (2004) “On Radio and Television,” article 53.

216 Law 28874 (2006) “On Regulating State Advertising,” article 5.

217 Decrees 1737 and 1738 (1998), which require all entities that spend public funds to adhere to austerity measures.

218 Decree 1737, article 7.

219 *Ibid*, article 9. The following agencies are exempted from the austerity decrees: 1) the Administrative Department of the Presidency of the Republic; 2) the Office of National Taxes and Customs; 3) industrial and commercial state industries that market goods and services in competition with private providers.

220 Law 19.896 (2003) Organic Law of State Financial Administration, article 3. This provision existed previously in Law 1.263 (1975).

221 When asked for comment on these ads, Diógenes Plata Ramírez, secretary general of the government of Huila, said that the ad placed by the government of Huila was part of a campaign to improve the institutional image of the government and the province generally. Letter dated December 27, 2007. In response to a similar inquiry regarding the ad placed by the government of César, municipal legal office director Elios Muildo Daza pointed out that the ad contained concise information on government activities and results, and the ad’s purpose was to comply with the obligation to provide information and accountability regarding the use of public funds. Letter dated December 24, 2007.

222 Information provided to the ADC by Télam July 27, 2007.

223 An ad with this text appeared in *Clarín* on March 5, 2006.

224 According to official government data during the first six months of 2007, spending on these ads totaled 6.5 million pesos (\$2 million). They cost well over that spent on “Registered Work” (2.6 million pesos) and “Anti-influenza Vaccines” (2.3 million pesos). Information provided to the ADC by Télam on July 27, 2007.

225 Email correspondence with Graciela Misasi, general director of government advertising (an office of the media secretary), December 5, 2007.

226 Information provided to the ADC by Télam July 5, 2006.

227 See “Campaign Advertising,” Infocívica (online news bulletin), August 17, 2007. According to information provided by the city of Buenos Aires, government spending increased 50 percent in February 2007 compared to the same month in 2006. Similarly, the increase in March was 133 percent and in April was 86 percent.

228 The secretary of the president spent 457,568,770 lempiras (\$24,082,566) in 2005, an election year, compared to 15,457,242 lempiras (\$813,539) in 2006, a non-election year. Similarly, the President’s Office spent 643,371,006 lempiras (\$33,861,631) in 2005 compared to 15,348,474 lempiras (\$807,814) in 2006. These figures were taken from quarterly budget reports for years 2005 and 2006 posted online at www.sefin.hn. The secretary of the president is an office responsible for managing the president’s image and until January 2008, was run by Yani Rosenthal, member of the family that owns *Diario Tiempo* and Channel 11.

229 National government spending increased from approximately five billion pesos in 2005 (\$1.6 billion) to approximately twelve billion pesos in 2006. Letter from the General Audit Agency (Contraloría General de la República) signed by Carlos Eduardo Acosta Moyano, director of accounts and fiscal statistics, dated March 12, 2007. Data include the legislative and judicial branches, the public prosecutor’s office, the General Audit Agency, and the national executive branch; they do not include state-owned enterprises.

230 Data on national government advertising spending provided by the Division of Accounting and General Control of the *Contraloría de la República*, letter dated June 14, 2007, signed by Luis Téllez Mellado, chief of division.

231 Interview, August 3, 2007, Santiago, Chile. Vidal was minister secretary general of government between 2003 and 2005, when he became interior minister for President Ricardo Lagos. He is currently the minister of the interior.

232 In 2003, national government advertising (including centralized agencies) totaled 46.3 million pesos (about \$14.6 million), in 2004 it was 99.8 million pesos (\$31.6 million), in 2005 it was 127.5 million pesos (about \$40.5 million), and in 2006 it was 209.6 million pesos (just over \$66 million). Data for 2003–2005 was provided by the national government to Citizen Power Foundation and cited in “The Big Advertising (Overburdened),” Infocívica (online news bulletin), June 27, 2006: <http://www.infocivica.org.ar/nota.php?idn=904>.

233 In the first six months of 2007, advertising spending by centralized government agencies totaled 164.7 million pesos (just over \$52.2 million), compared to 209.6 million pesos (approximately \$66.5 million) in all of 2006.

234 “Journalists Are No Longer Necessary Intermediaries,” *La Nación*, February 4, 2007.

235 Private advertising in the first six months of 2007 increased only 53 percent over the total for the sector in 2006, compared to a 78 percent increase in government advertising spending during the same period. Source: Argentine Chamber of Media Federations, September 2007: http://www.centralesdemedios.com.ar/inversiones_netas.html.

236 See “Campaign Advertising,” Infocívica (online news bulletin), August 17, 2007.

237 In Río Negro, according to official figures provided by Communications Secretary Claudio Mozzoni for 2005 and 2006 and figures obtained unofficially for 2007, spending by the executive branch (including decentralized agencies and state companies) was 3.9 million pesos (about \$1.2 million) in 2005, and 4.8 million pesos in 2006. In 2007, the total budget was 9.2 million pesos. Between January and April—an election period—advertising spending totaled 3.3 million pesos, more than in all of 2004. According to information provided by the provincial government of Córdoba, advertising spending by the Secretary of Public Information totaled 10.9 million pesos (approximately \$3.5 million) in 2005 and 14.9 million pesos in 2006, a 35 percent increase. The months in 2005 with the highest spending were August, September, and October—leading up to national legislative elections held in October 2005.

238 Interview, March 20, 2007, Bogotá, Colombia.

239 Interview, March 22, 2007, Bogotá, Colombia.

240 Carlos Alfonso Velásquez, “The State of Freedom of the Press in Colombia: A Vision with Emphasis on the Regions,” *Revista Palabra Clave (Key Word Magazine)*, No. 8, June 2003. Media Observatory of the School of Communications, University of La Sabana: http://sabanet.unisabana.edu.co/comunicacion/palabraclave/downloads/pclave_008-01.pdf.

241 Interview with Darío Fernando Patiño, March 20, 2007, Bogotá, Colombia.

242 Letter dated December 28, 2007.

243 Interview, April 2007, Bogotá, Colombia.

244 César Mauricio Velásquez Ossa and Jesús Erney Torres Loaiza, “Information Domination: Who Has the Power?,” *Key Word Magazine*, No. 10, 2004. Media Observatory of the School of Communications, University of La Sabana, accessed June 6, 2007 at: <http://aquichan.unisabana.edu.co/index.php/palabraclave/article/viewArticle/42/65>.

245 Interview, January 30, 2007, Montevideo, Uruguay.

- 246 Interview, May 2, 2007, Montevideo, Uruguay.
- 247 Interview, April 25, 2007, Montevideo, Uruguay.
- 248 Interview, February 27, 2007, Montevideo, Uruguay.
- 249 Interview, April 30, 2007, Montevideo, Uruguay.
- 250 Interview, November 13, 2007, San José, Costa Rica.
- 251 Interview, November 16, 2007, San José, Costa Rica.
- 252 C-Libre Alert of April 24, 2006, included in C-Libre's 2006 *National Report on Freedom of Expression and the Right to Information*, January 2007, Tegucigalpa, Honduras.
- 253 Interview, April 18, 2007, Tegucigalpa, Honduras.
- 254 Interview, April 24, 2007, Tegucigalpa, Honduras.
- 255 Interview, March 20, 2007, Tegucigalpa, Honduras.
- 256 Interview, April 19, 2007, Tegucigalpa, Honduras.
- 257 Interview, March 25, 2007, Tegucigalpa, Honduras.
- 258 Interview, May 19, 2007, Tegucigalpa, Honduras.
- 259 Letter signed by José Raúl Valladares Funes, dated December 27, 2007.
- 260 Inter-American Declaration on Principles of Freedom of Expression (2000), para. 12.
- 261 By law, no person may hold total or partial title to more than two frequencies in each of the three broadcasting bands (AM, FM, and television), or to more than three frequencies on all three bands. Decree 734/78, article 12. (Ownership of cable television stations is not taken into account.) According to Luis Stolovich, an economist who has studied tendencies in media ownership in Uruguay, it is common for media owners to circumvent this provision by having a second person, who in some cases may be a family member, hold title to additional licenses. See Luis Stolovich, "The Map of Economic Power in Uruguayan Communications Media," AMARC working document (Montevideo, 2003). This practice can also be used to hide the partisan connections between media owners and government officials. In some cases, the government has expressly exempted media owners from this restriction. See, for example, resolution 1659/80 (1980) that exempted the owners of RUTSA from this restriction.
- 262 Conrado Hughes was the director of the Budget and Planning Office during the government of Luis Alberto Lacalle (1990-1995). According to Hughes, Pablo García Pinto, then-presidential advisor on broadcast licensing, told him that rather than holding a competitive process for granting TV licenses, Lacalle preferred to maintain the policy implemented by his party in previous decades.

“The history of granting licenses was a mandate that the Colorado Party had used with great political efficiency...and he didn’t think it was prudent to abandon that idea...The key [in the granting of licenses] was the pre-existing television groups, which was obviously Lacalle’s idea, and that was what was implemented.” Telephone interview, May 10, 2006, Montevideo, Uruguay. In 1993, Lacalle’s government desisted from holding a competitive process for granting authorization to cable television operators, and instead authorized three existing (non-cable) television companies to operate cable stations. See, Carlos García Rubio, *What Cable Left Us* (Ediciones de la Pluma, 1994). After receiving separate authorizations, the three companies joined together in a single company, Equital, installed a single cable network and offered three services with nearly identical programming and fees. This action occurred in the context of an already highly concentrated ownership of television broadcasting services. According to media analyst Martín Prats, “This is a serious problem, since the most powerful media is concentrated in few hands, which works against plurality and diversity, and with them, the quality of democracy.” Email correspondence, May 2007.

263 See Law 14.670 (1977) on broadcasting, and related regulations in Decree 734/78 (1978) (modified by decrees 327/80 (1980) and 350/86 (1986)); and Law 16.099 (1989) on the press.

264 Decree 734/78 (1978), article 2.

265 *Ibid*, article 7.

266 *Ibid*, article 8, sections (d), (e), and (g).

267 Law 14.670, articles 3 and 4.

268 Decree 734/78 (1978), article 7.

269 For example, the international Catholic radio chain Radio María recently purchased authorizations from several broadcasters in Uruguay, which resulted in the firing of all of the press employees; some of those stations merely use computers to retransmit the chain’s programs, with no local programming or employees.

270 Community radio stations are generally defined by three key aspects: they are not-for-profit; their property is owned by the community; and they are characterized by community participation in their programming. See “What is a community radio?” on the website of the World Association of Community Broadcasters (AMARC) at: http://alc.amarc.org/index.php?p=Que_es_una_Radio_Comunitaria.

271 Public letter issued by the Uruguayan Press Association (Asociación de la Prensa Uruguaya, APU) and the World Association of Community Broadcasters, May 8, 2007.

272 In 2001, the government of Jorge Batlle created the Communication Services Regulatory Unit (URSEC) to regulate and control the telecommunications sector. Its members are designated by the executive branch and in practice, it acts as an advisory board to the executive branch. President Luis Alberto Lacalle granted dozens of broadcast licenses during the final days of his administration. President Julio María Sanguinetti (1985–1990 and 1995–2000) did the same at the end

of his second term. For example, on February 1, 2000, just days before he was to hand over the presidency to President Jorge Batlle, he granted dozens of radio broadcast licenses. The military dictatorship that ruled Uruguay between 1973 and 1984 also granted dozens of licenses to radio stations in the last months and even days before it turned over the government to a civilian administration.

273 “Discrepancies with Criteria for Conceding Radio and TV Frequencies,” *Búsqueda (Search)*, May 13, 1999, p. 7.

274 Email correspondence, May 2007.

275 The Frente Amplio’s platform included a specific reference to democratizing communication: “We do not have adequate legislation that allows for the rational use of and access to the channels of expression, so it is necessary to remove the control of the media from the Ministry of Defense. It is necessary to promote a law that definitively regulates the functioning of the electronic media, so that [all] Uruguayans have the same possibilities for access and use of the media democratically.” Excerpted from *Main Programmatic Lines for the Government 2005–2009*, Fourth Congress of the Frente Amplio, December 20–21, 2003.

276 Presidential decree, May 9, 2005.

277 AMARC press release, “Senate Approves Community Media Bill”, November 15, 2007, and email correspondence with Gustavo Gómez, December 21, 2007. The text of Law 18.232 is available in Spanish at: : http://legislaciones.amarc.org/URU_Ley_Radiodifusion_Comunitaria.pdf.

278 AMARC, “Senate Approves Community Media Bill.”

279 Interview with Manuel Méndez, president of the Uruguayan Press Association, May 26, 2007, Montevideo, Uruguay. Interview with Gabriel Kaplún, former media coordinator for Vázquez’ political coalition (*Encuentro Progresista-Frente Amplio*), June 4, 2007, Montevideo, Uruguay.

280 Interview, June 4, 2007, Montevideo, Uruguay.

281 “The Government Will Make Its First Call for Allocating Radio Waves: Intends to Improve Procedures of Previous Administrations,” *Búsqueda (Search)*, February 1, 2007, p. 15.

282 Law 28278 (2004) “On Radio and Television,” articles 13 and 14.

283 Interview, May 24, 2007, Lima, Peru.

284 Memorandum dated July 17, 2007, signed by Greta Jáuregui Lambruschini, director of the Office of Attention to Citizens and Document Management.

285 See Law 28278 (2004) “On Radio and Televisión,” article 15; and implementing regulation, Chapter III, “Requirements for authorization.”

286 *Ibid*, article 11.

287 Memorandum dated July 17, 2007, signed by Greta Jáuregui Lambruschini, director of the Office of Attention to Citizens and Document Management.

288 Interview, July 12, 2007, Lima, Peru.

289 Ibid.

290 Interview with Giovanni Acates, journalist of *La Voz de Cainarachi*, April 2007, Lima, Peru.

291 Memorandum 0010-2007/MTC/08, dated July 18, 2007, signed by Greta Jáuregui Lambruschini, director of the Office of Attention to Citizens and Document Management.

292 Interview with Giovanni Acates, journalist of *La Voz de Cainarachi*, April 2007, Lima, Peru.

293 These efforts include the Citizen Initiative for a Broadcasting Law for Democracy, a coalition of organizations that elaborated a declaration of 21 points for the adoption of a new law that would replace the one passed under the military dictatorship. These points give the state the right and responsibility to promote cultural diversity and communications pluralism, and to prevent the concentration of media ownership. They promote the creation of an open and public register for licenses, and the reservation of 33 percent of frequencies in all bands for nonprofit organizations. These points also suggest the establishment of quotas for local and national programming and the prohibition of arbitrary allocations of government advertising, among other points. These proposals are available in Spanish at [://www.coalicion.org.ar/](http://www.coalicion.org.ar/).

294 President Cristina Fernández de Kirchner met with representatives of the Citizen Initiative for a Broadcasting Law for Democracy (see previous endnote) and media owners associations. She also discussed the issue in several public speeches.

295 Law 22.285 “On Broadcasting” (1980).

296 COMFER is the entity responsible for implementing the 1980 Broadcasting Law, which provides that COMFER’s board of directors should include representatives of the army, the air force, and the navy. Instead of modifying this problematic provision, successive post-1983 governments have “intervened” in COMFER by disregarding the statutory appointment procedure and instead naming the board of directors through executive decree. As a rule, every new president appoints a new COMFER board with no congressional or public oversight. According to article 39 of the Broadcasting Law, licenses are granted by the executive branch after a competitive process conducted by COMFER. For complementary broadcasting services, such as cable television, COMFER uses sole-source contracting.

297 Decree 527/2005, dated May 20, 2005.

298 Decree 1151/1984.

299 See Damián Loreti, *The Right to Information: the Relationship between Media, Audience and Journalists* (1995, Paidós, Buenos Aires), pp. 142–3; and Ricardo Porto and Claudio Schifer, “Legal Regulation of Broadcasting in Argentina,” *Revista Comunicaciones (Communications Magazine)*, Institute of Communications Law, University of Buenos Aires, year 1, number 4. Available online at: http://www.derecho.uba.ar/rev_comunicaciones/ed004/doctrina.htm .

300 Decree 753/2006.

301 COMFER resolution 1366/2006.

302 Interview, April 1, 2007, Buenos Aires, Argentina.

303 Law 23.696 “On State Reform” (1989).

304 Interview with Gonzalo Carbajal, advisor to the General Coordination of the COMFER, November 1, 2007, Buenos Aires, Argentina.

305 COMFER resolution 1366/2006, annex III, lists the conflict zones that are excluded from this process. Interview with Néstor Busso, April 30, 2007.

306 Interview, November 1, 2007, Buenos Aires, Argentina.

307 In Argentina, a cooperative is a not-for-profit entity with limited liability, created in order to provide certain services to its “associates.” The law states that cooperatives that provide public services may only provide broadcasting services if they abide by certain specific requirements intended to prevent anti-competitive or monopolistic practices, and if there is no other broadcaster in the area of influence providing the same kind of service. In other words, if another competitor enters the market, the cooperative is no longer eligible to provide broadcasting services.

308 *Cooperativa Telefónica Libertador Gral. San Martín Ltd v. COMFER*, File No. 293/06, Judgment of October 15, 2007.

309 The Argentine Association of Cable Television stated in a paid advertisement that “cooperatives have a legal framework that gives them benefits and privileges not recognized for other economic actors, especially individuals and/or legal license holders for broadcast services. As a result, they can—and in fact, do—use ‘cross-subsidies’ as instruments for financing other initiatives, using tax-exempt profits to subsidize services at prices that are clearly under market value. Their practices allow them to advance in the local market, destroying businesspeople that operated in the community before the cooperative initiated its new activities.” This paid advertisement is available, in Spanish, at <http://www.atvc.org.ar> .

310 COMFER resolution 726/2000.

311 See the following COMFER resolutions: 139/2001; 1111/2001; 2183/2001; 2343/2001; 86/2002; 473/2002; 533/2002; 624/2002; 465/2003; 766/2003; 1172/2003; 241/2004; 1202/2004; 1684/2004; 100/2005; 712/2005; 947/2005; 1475/2005; and 197/2006.

312 *Cooperativa Telefónica de Servicios Públicos y Comunicaciones de Villa del Totoral Limitada v. COMFER*, File No. 351-C-04. Another section of the same Court of Appeals issued a similar ruling in the case of *Cooperativa de Servicios Públicos de Villa Santa Rosa v. COMFER*.

313 *Cooperativa Telefónica de Servicios Públicos y Comunicaciones de Villa del Totoral Limitada v. COMFER*, at 10.

314 COMFER resolution 1242/2006.

315 Email communication, May 23, 2007.

316 Telephone interview, October 11, 2007.

317 According to CNDC, as a result of the merger, approximately 55 percent of the national market in the cable business will be controlled by the new company (Report No. 637 CNDC-07/12/07, page 64). In some cities, the new company will control more than 80 percent of the market, according to the same report.

318 Constitution of Colombia (1991), article 75.

319 Decree 1445 (1995) adopted national technical radio broadcasting plans; Decree 1446 (1995) determined “norms for the establishment, organization, and functioning of radio chains”; Decree 1447 (1995) regulated the concession of radio frequencies and determined the applicable criteria, fees, and sanctions.

320 Decree 1981 (2003), article 17.

321 *Ibid*, article 20.

322 “A New Wave of Community Radio Takes Off,” *El Tiempo (Time)* online news service, May 12, 2007, accessed June 6, 2007.

323 See *Colombian Network of Community Radios v. Ministry of Communications*, Judgment of the Administrative Court of Cundinmarca, paras. 3–10.

324 Judgment No. T-460 of the Constitutional Court, June 8, 2006.

325 Ministry of Communications communication No. 147181, dated January 26, 2007.

326 Bidding Process No. 01/2007 of the Ministry of Communications, available in Spanish at: http://www.mincomunicaciones.gov.co/mincom/src/index.jsp?page=./mods/contenido/noticia_user_view&id=522, accessed on October 29, 2007.

327 Letter from Claudia Patricia Ferreira, advisor to the deputy minister of communications, dated February 5, 2008.

- 328 Interview with Carlos Rincón, president of the “Citizen Antenna” Association of Community Radios; and Jorge Londoño Lugo, member of the Colombian Network of Community Radios (Red Colombiana de Radio Comunitaria, RECORRA), February 5, 2008, Bogotá, Colombia.
- 329 Interview, June 11, 2007, Tegucigalpa, Honduras.
- 330 CPJ letter to San Lorenzo Mayor Mónica de la Quintana, August 13, 2007, available in Spanish at: http://www.cpj.org/protests/07ltrs/americas/arg07aug07pl_sp.html.
- 331 Interview, August 16, 2007, Buenos Aires, Argentina.
- 332 *Sharetta v. City of San Lorenzo and Others*, File No. 873/07.
- 333 Paid advertisement signed by Mayor Mónica de la Quintana in the newspaper *El Ciudadano de la Región (Citizen of the Region)*, July 28, 2007.
- 334 Letter to City Council President Leonardo Raimundo, dated July 17, 2007.
- 335 Presentation to the Freedom of Expression Commission of the Chamber of Deputies, August 16, 2007. Transcript available at: http://www1.hcdn.gov.ar/dependencias/clexpresion/vtaquiografica%20X%20del_16-08-07.html.
- 336 Interview, August 16, 2007, Buenos Aires, Argentina.
- 337 Telephone interview, December 3, 2007, San Lorenzo, Argentina.
- 338 Press release of the Committee for the Defense of Freedom of Expression of the Press Union of Rosario, July 26, 2007; press release of the Forum of Argentine Journalism (FOPEA), August 8, 2007, available in Spanish at: http://www.fopea.org/contenido/inicio/reclamo_por_el_cierre_de_imprensa_de_diario; letter of CPJ published in *El Observador*, August 13, 2006.
- 339 Constitution of the Province of Santa Fe (1962), article 11.
- 340 Interview, November 16, 2007, San José, Costa Rica.
- 341 Interview, March 26, 2007, Huaraz, Peru.
- 342 Interview, May 29, 2007, Huaraz, Peru.
- 343 Interview, April 25, 2007, Montevideo, Uruguay.
- 344 Interview, June 6, 2007, El Progreso, Honduras.
- 345 Interview, July 30, 2007, Neuquén, Argentina.
- 346 Interview, April 25, 2007, Cartagena, Colombia.

- 347 Interview, January 11, 2007, Puerto Tejada, Colombia.
- 348 Telephone interview with TVN journalist Ali Astete, March 5, 2007, Calama, Chile.
- 349 Email correspondence June 15, 2007, with Susana Mena of the Communications Department, CODELCO headquarters, Santiago, Chile.
- 350 Interviews with a marketing executive of a regional media outlet in the fifth region of Valparaíso, April 13, 2007; telephone interview with journalist Ali Astete, of the Journalists' Association of El Loa, Antofagasta region and journalist on TVN Calama, March 5, 2007; email correspondence with journalist in a regional media outlet January 31, 2007; interview with Ricardo Aravena, former editor of TVN Red Antofagasta, May 30, 2007, Santiago, Chile; telephone interview with Patricio Figueroa Encina, who worked with several regional media and is currently adjunct correspondent for *El Mercurio* in Antofagasta, March 5, 2007.
- 351 Email correspondence, June 15, 2007, with Susana Mena of the Communications Department, CODELCO headquarters, Santiago, Chile.
- 352 Ricardo Ruiz Lolas was director of the now-defunct newspaper *El Valle*, de Quillota-Los Andes, press director of Channel 2 and Radio Superandina and correspondent for *El Mercurio de Santiago*, in Los Andes. Email communication, March 6, 2007.
- 353 Interview with account executive of a regional media outlet, April 13, 2007, Los Andes, Chile; text message exchange with a journalist from a Los Andes-based regional media organization, January 29, 2007 and April 12, 2007.
- 354 Telephone interview with TVN journalist Ali Astete, March 5, 2007, Calama, Chile.
- 355 Interview with Antonio Varas, April 13, 2007, Los Andes, Chile.
- 356 For example, Samuel and Mendel Winter, former directors of Lima-based television Channel Two, were sentenced to five years in prison and paid \$250,000 in fines for having taken payments from Montesinos in return for editorial support for Fujimori's re-election. The Winter brothers were released from prison in June 2004 after serving two-thirds of their five-year sentence. Other media directors are currently fugitives, including the former director of Andina de Televisión, Julio Vera Abad, also accused of accepting government payments from Montesinos in exchange for changing the editorial line of Channel 9 in favor of the Fujimori government. "Winters Brothers To Be Freed," Agency Peru (online news service), June 2, 2004, available at http://www.agenciaperu.com/actualidad/2004/jun/winters_libres.htm. "Ten Years of Prison are Requested for Former Television Director Julio Vera Abad," *Radio Programas del Peru (Peru Radio Programs)*, May 11, 2006, available at http://www.rpp.com.pe/portada/politica/38170_1.php.
- 357 Law 28874 (2006) "Regulating State Advertising."
- 358 Ibid, articles 2 and 4.

- 359 Ibid, article 1.
- 360 Ibid, article 5.
- 361 Ibid, article 3.
- 362 Ibid, article 5.
- 363 Ibid, article 7.
- 364 Ibid, article 6.
- 365 Ibid, article 8.
- 366 Interviews conducted between September 15 and October 15, 2007, Lima, Peru.
- 367 “Advertising Investment of Government Institutions and State-owned Enterprises: Importance and Distribution: 2004–2005,” FUCATEL Media Observatory (*Observatorio de Medios FUCATEL*), Santiago, May 2006.
- 368 For a summary of the current relevant legal framework, see Appendix B.
- 369 Email communication, August 16, 2006.
- 370 The full report, in Spanish, can be found at <http://www.camara.cl/comis/doc.aspx?prmSES=8619>.
- 371 In September 2007, the Ministry of Health had posted its plans, but its regional ministerial secretariats in regions 1, 2, 3, 4, 5, 6, 8, and the Metropolitan region had not. In the seventh region, only partial information regarding advertising in some media was available, but no overall plan. Neither the Housing Ministry, its services, nor its regional secretariat in the Metropolitan region had posted plans, nor had the ministries of education or the interior.
- 372 The meeting was organized by the Grupo Medios y Sociedad (Media and Society Group, a Uruguayan NGO working on freedom of expression issues), the World Association of Community Broadcasters (AMARC), and the British Embassy.
- 373 See event report online at http://legislaciones.amarc.org/foro/02062006_PublicidadOficial/index.htm.
- 374 Interview, April 26, 2007, Montevideo, Uruguay.
- 375 Statement by the current president of the Mortgage Bank of Uruguay, Walter Morodo, cited in “Advertising: [Government Officials] to Decide Whether to File Criminal Charges,” *El País*, February 2, 2006.

376 “BSE Spent \$6.7 million on Advertising Questioned by Actual Directors and Union,” *Búsqueda*, June 2, 2005.

377 Letter dated March 27, 2007 signed by Gustavo Vilaró, president of the State Insurance Bank.

378 Interview, March 19, 2007, Montevideo, Uruguay.

379 Board of directors resolution number 1755/05, November 23, 2005.

380 Interview with Beno Ruchansky, president of UTE, February 27, 2007, Montevideo, Uruguay.

381 Interview with Víctor Rossi, minister of transportation and public works, March 22, 2007, Montevideo, Uruguay.

382 Readership estimates were provided by the Media Observatory of the Latin American Center of Human Economy (*Observatorio de Medios del Centro Latinoamericano de Economía Humana*). Data corresponds to December 2006.

383 Interview, February 26, 2007, Montevideo, Uruguay.

384 Interview, April 26, 2007, Montevideo, Uruguay.

385 See *Basic Principles for the Regulation of Government Advertising*, ADC (October 2006), p. 19.

386 Decree 183/08.

387 The meeting took place on April 30, 2008 in the city of Ushuaia, Argentina.

388 “The bills to regulate the distribution of government advertising have been put aside by pro-government forces for the last four years,” said Representative Federico Pinedo of the PRO party, author of one of the bills together with Representative Paula Bertol, also of the PRO party. He stated that pro-Kirchner legislators “never provided quorum, since 2004 when the first bills on this issue were presented.” See “Government Advertising: Six Bills are Stopped in Congress,” Perfil.com, November 14, 2007.

389 This bill was presented in November 2007 by Raúl Patricio Solanas, a representative from the Peronist Front for Victory party.

390 At this writing the following had participated in the sessions convened by the Commission: Association of Argentine Journalistic Entities (ADEPA); Association of Argentine Private Radio Broadcasters (ARPA); Association of Newspapers of the Interior of the Argentine Republic (ADIRA); Association of Argentine Tele-broadcasters (ATA); Argentine Association of Cable Television (ATVC); Center for the Implementation of Public Policies for Equity and Growth (CIPPEC);

Argentine Forum of Community Radios (FARCO); and the Argentine Chamber of Advertisers. More meetings with more organizations are expected.

391 See <http://sipren.com.ar/descargas/proyectos/proyecto-de-ordenanza-sobre-publicidad-oficial/download.html>.

392 Interview with Fabiana Orqueda, legal representative of the Río Grande Press Union, by electronic messaging, December 4, 2007.

393 Ordinance 7647.

394 Email communication with Jorge Conalbi, director of *Diario Sumario de Alta Gracia* (*Summary Newspaper of Alta Gracia*), October 10, 2007.

395 “Cispren Supported the Government Advertising Ordinance in Alta Gracia,” *Prensared*, March 7, 2007, available in Spanish at <http://www.cispren.com.ar/indexmain.php?lnk=1&mnu=10&idnota=3729>.

396 Working meeting with the ADC, May 18, 2007, Alta Gracia, Argentina.

397 Email communication with Jorge Conalbi, October 10, 2007.

398 Ordinance 7647, article 15.

399 Article 5 states, “The percentage established in article 4 of this ordinance [for each media category] shall be distributed regularly and simultaneously to each media outlet duly registered for the term of the budget year, and the same space should be contracted in the same type of media, respecting the prices approved at the time of registry.”

400 Working meeting with the ADC, May 18, 2007, Alta Gracia, Argentina.

401 Email communication with Jorge Conalbi, October 10, 2007.

402 See “Other Localities Follow the Path of Alta Gracia,” *Diario Sumario de Alta Gracia*, October 26, 2007.

403 Panelists included ADC Executive Director Roberto Saba, Ricardo Gil Lavedra (former justice minister), journalist Alfredo Leuco, Guillermo Mastrini (director of the Communication Sciences department at the University of Buenos Aires), and Norma Morandini (journalist and member of the lower house of Congress). This event was moderated by journalist María O’Donnell, a member of the journalists’ association, FOPEA.

404 See “Pronounced Increase in Government Advertising Spending,” *Clarín*, August 3, 2007 at: <http://www.clarin.com/diario/2007/08/03/sociedad/s-04301.htm>; and “In the First Six Months, the Government Spent 63% More on Advertising,” *La Nación*, August 27, 2007, at: <http://www.lanacion.com.ar/938330>.

405 In November 2007, the provincial government provided several boxes of information, but failed to answer all the questions asked. The ADC went back to court to ensure full compliance with the judgment, including by receiving information on the criteria used by the province to allocate advertising. In December 2007, the judge issued another injunction ordering the government to fully comply with the sentence within 30 days.

406 Transparency Pact, Ibagué, Tolima, February 7, 2004, section (h).

407 District of Ibagué Resolution 039 (2005), article 4.

408 Ibid, article 1.

409 District of Ibagué Decree 0685(2004).

410 Telephone interview October 31, 2007, Ibagué, Colombia.

411 The final text as ratified by the various governors and mayors is as follows: “The administration commits to developing a transparent procedure for the efficient, objective, decentralized and public distribution of government advertising, by both centralized and decentralized agencies. In addition to respecting these principles, this procedure will comply with current contracting regulations. NOTE: The Presidential Anticorruption Program has been advised regarding the evaluation of this commitment by the Freedom of Press Foundation, which will be in charge of evaluating its implementation.”

412 More detailed information on the transparency laws of each country, as well as on government failures to respond to our specific requests for information or comment on the abuses documented in this report, can be found in Appendix C.

413 “Journalists said that the government hasn’t showed good faith or openness, emphasizing that Kirchner didn’t offer a single press conference since he took office in 2003, and has given only a few interviews. ‘The best journalists are photographers, because they don’t ask questions,’ Kirchner said with irony to the members of his cabinet during a meeting in July (2005) in which the press was permitted access.” *Attacks on the Press 2005*, Committee to Protect Journalists, available in Spanish at: <http://www.cpj.org/attacks05/lang/AtaquesPrensa2005.pdf>.

414 See *Buying the News*, p. 27.

415 Presentation before the Special Investigative Commission on Government Advertising, November 16, 2006, Santiago, Chile.

416 “Anepyme, Small Media Do Big Things,” *El Interlocutor (The Interlocutor)*, February 28, 2007, see <http://interlocutor.wordpress.com/2007/02/28/anepyme-los-pequenos-medios-hacen-cosas-grandes/>.

417 For more information and analysis, see, Ken Dermotta, *Chile Unedited: Journalism Under Democracy* (Ediciones B, Santiago, 2002).

418 Interview with researcher Manuel Torres, April 28, 2007, Tegucigalpa, Honduras.

419 These officials include former president Carlos Flores Facussé, president from 1998–2002 and owner of the newspaper *La Tribuna*; former congressman and presidential candidate Jaime Rosenthal Oliva, owner of the newspaper *Tiempo* and Channel 11; and Rafael Ferrari, owner of Emisoras Unidas and Telecentro, and former honorary ambassador to the United Nations Food and Agriculture Organization.

420 For ownership details see the online news service of C-Libre: www.conexihon.com, 1st edition, March 1–15, 2004.

421 See Transparency International's 2006 Corruption Perception Index at: http://www.transparency.org/news_room/in_focus/2006/cpi_2006__1/cpi_table.

422 "Winters Brothers to Be Freed," Agency Peru (online news service), June 2, 2004, available at http://www.agenciaperu.com/actualidad/2004/jun/winters_libres.htm; and "Ten Years of Prison Requested for Former Television Director Julio Vera Abad," Peru Radio Programs, May 11, 2006, available at: http://www.rpp.com.pe/portada/politica/38170_1.php.

423 Some of the information in this section is taken from *Buying the News*, and updated as necessary.

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

425 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."

426 According to Eduardo Civile, Télam's director of administration and finance, for centralized agencies Télam charges the Media Secretary's office as if they were a private advertising agency. When providing services to autonomous agencies, each individual agency is charged in the same way. Interview, August 27, 2007, Buenos Aires, Argentina.

427 Decree 2507/2002, article 5.

428 Interview with Federico Novello, Télam's legal director, and Eduardo Civile, Télam's director of administration and finances, August 27, 2007, Buenos Aires, Argentina.

429 Decree 436/2000, article 15.

430 O'Donnell, *Propaganda K*, p. 67.

431 Decree 993/1996.

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

433 Interview with Federico Novello, Télam's legal director, and Eduardo Civile, Télam's director of administration and finances, August 27, 2007, Buenos Aires, Argentina.

434 Ibid.

435 Interview September 17, 2004, Buenos Aires, Argentina, anonymity requested.

436 Interview with Dardo Fernández, June 28, 2007, Buenos Aires, Argentina.

437 Letter dated July 5, 2007, signed by Andrea Caldararo, director of content for state media, office of the media secretary, in reply to our access to information request.

438 On June 7, 2006, the ADC made a request for information to the National Bank. In a June 13, 2006, letter signed by the general deputy director, Santiago Emilio Zunino, the bank denied our request for information arguing that it is not covered by decree 1172/03 on access to information held by the executive branch.

439 Decree 1665/90 exempts the National Lottery from the rules established in decree 2219/71. Resolution 195/97 authorizes the lottery to manage its own advertising budget and to use single-source contracts for developing advertising campaigns.

440 Decree 293/92 exempts the tourism secretary from the rules established in decree 2219/71.

441 Decree 1475/89.

442 The ADC made information requests to the National Lottery and the tourism secretary. The National Lottery gave a delayed and partial response on May 2, 2008. The tourism secretary gave a partial and late response on May 16, 2008.

443 See *Buying the News*, pp. 27–40.

444 *Secretario de gobernación* generally translates as 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.

445 See *Buying the News*, pp. 47–48.

446 Email correspondence, May 27, 2007.

447 Law 19.886 (2003), articles 7 and 8.

448 Ibid, articles 7 and 8; and Law 19.886 (2004), article 45.

449 Ibid, articles 7 and 8.

450 Email communication with Moisés Sánchez, executive director of Pro Acceso, December 4, 2007.

451 Regulation of Law 19,886 (2004), Articles 14–18.

452 See for example, https://www.chilecompra.cl/portal/PortalProveedor/centro_informacion/convenios_marco/contratos/cm_guia_diarios.asp.

453 Telephone interview with Felipe Goya, head of purchasing policy and management, June 15, 2007, Santiago, Chile.

454 Final Report of the Special Investigative Commission on Government Advertising, p. 130.

455 Email correspondence with Luis Villagrán, director of the newspaper *La Región* (*The Region*) and the weekly *Tiempo* (*Time*) in the city of Coquimbo, July 24, 2007. Email correspondence with Domingo Olivares, deputy director of the newspapers *La Alternativa* (*The Alternative*) and *El Polémico* (*The Polemic*) of Antofagasta, July 23, 2007. Telephone interview with Jorge Budrovich, of the Coquimbo-based electronic media www.regiondecoquimboonline.cl, July 23, 2007, Coquimbo, Chile. Villagrán told us that he had never heard of the framework agreement.

456 Email correspondence with Marcelo Patroni, president of ANEPYME and director of the paper *Región XIV* of Valdivia, Chile, July 23, 2007.

457 We compared data on national government advertising spending by those entities covered by Chilecompra, provided by the Contraloría de la República (letter dated June 14, 2007, from the Division of Accounting and General Control, signed by Luis Téllez Mellado, chief of division); and Office of Public Acquisitions and Contracts [Chilecompra], “Report on Advertising Contracted by Public Agencies Covered by the Law of Public Acquisitions,” (November 2006), provided by the office of Chilecompra. The Chilecompra data do not include direct contracting outside of the Chilecompra system nor contracting by public companies. Also, it is possible that some government advertising purchased through Chilecompra is not included in these figures, given that some advertising is included as a sub-component of contracts corresponding to line items not identified as advertising.

458 Email correspondence with Daniela Vásquez Uribe, chief of communications of Chilecompra, June 6, 2007.

459 In September 2007, the Ministry of Health had posted its plans, but its regional ministerial secretariats in regions 1, 2, 3, 4, 5, 6, 8 and the Metropolitan region had not. In the seventh region, only partial information regarding advertising in some media was available, but no overall plan. Neither the Housing Ministry, its services, nor its regional secretariat in the Metropolitan region had posted plans, nor had the Ministry of Education nor the Interior Ministry.

460 Interview, April 12, 2007 Valparaíso, Chile, and interview, April 13, 2007, Los Andes, Chile.

461 Law 19,733 (2001) “On Freedom of Information and Opinion and the Exercise of Journalism,” article 4.

462 Testimony provided at the November 2, 2006, session of the Investigative Commission on Advertising.

463 Telephone interview with Javier Nuñez, February 23, 2007.

464 “Metropolitan Council of the Journalists’ Association presents its concerns regarding the results of the Media Fund for Regional Communication 2007,” *Universia* (online media), August 29, 2007, accessed at: http://www.universia.cl/html_estatico/portada/actualidad/noticia_actualidad/param/noticia/bcchhi.html.

465 Interview, April 24, 2007, Santiago, Chile.

466 Law 80 on Public Contracting (1993), as amended by Law 1150 (2007), which “introduces measures for the efficiency and transparency of Law 80 of 1993 and establishes other general dispositions for contracting with public resources.”

467 The original Law 80 included two types of contracting: a fully competitive process called “public contracting” and sole-source contracting. Law 80 (1993), article 24. The 2007 amendments provide for four types of contracting: competitive “public contracting,” a semi-competitive process called “abbreviated selection” (in which at least five bids are invited), a merit-based competition, and sole-source contracting. The abbreviated selection process is pending government regulation, while the merit-based competition is reserved for the selection of consultants or projects (and is unrelated to government advertising). Direct contracting is limited to certain specific cases, not tied to the relationship between the contract size and the agency budget, as stipulated in Law 80.

468 Decree 628 (2001), which replaced Decree 1967 (1999), under which the Ministry of Communications had to authorize advertising campaigns for the executive branch offices.

469 Interview with Ana María Varón, June 1, 2007, Bogotá, Colombia. Varon is in charge of government advertising for the Bogotá-based Grupo Latino de Publicidad (Latino Advertising Group), which sells advertising space in the leading national media *El Tiempo* and Caracol Radio, and is a former official of the Ministry of Finance and Public Credit responsible for contracting advertising. Interview with Irma Villalobos and Judith Osorio, June 20, 2007, Bogotá, Colombia. Villalobos and Osorio are advertising executives with the weekly *El Espectador*.

470 Law 80 (1993), article 29, as amended by Law 1150 (2007), article 5.

471 Law 80, article 29, sec. 3.

472 Decree 2434 (2006), art. 3. This requirement does not apply to contracts for amounts under 10 percent of the limit for direct contracting.

473 This estimate is based on data from the following agencies in response to our formal information requests: Ministry of Social Protection, Presidential Agency for Social Action and International Cooperation, House of Representatives of the National Congress, Office for Recruitment and Control of Reserves of the National Army, the National Police, and the Magistrates Council. Thirteen percent corresponded to competitive bidding, while 1 percent corresponded to interadministrative contracts.

474 Direct contract No. 11 of 2006 of the Ministry of Finance and Public Credit; Direct Contract No. 1 of 2007 of the National Police; Direct Contract No. 1 of 2006 of the Presidential Agency for Social Action and International Cooperation; Direct contract No. 14 of 2006 of the Geographic Institute Agustín Codazzi; Direct contract No. 007 of 2007 of the Financial Superintendent of Colombia.

475 Direct contract No. 04 of 2006 of the Social Security Institute; Contract No. 64-7-10032 of the National Police; Public bidding No. 26 of 2006 of the Social Protection Ministry, Invitation to contract No. 17 of 2007 of the Ministry of Interior and Justice. The formula used in the contracts is the same as that stated in a July 3, 2007, reply to our information request received from the Social Protection Ministry, signed by the chief of the Office of Communications Advisors, Ilse Milena Borrero M.; and from the National Police, interview with press chief of the Recruitments and Reservations Control, Marcela Moreno, July 11, 2007, in Bogotá, Colombia.

476 Contract No. 108 for 2007 of the National Civil Registry. The same formula is used for other contracts by the same agency.

477 This statistical study was performed by Carlos Urquilla Bonilla for the Costa Rica-based Institute of Press and Freedom of Expression (Instituto de Prensa y Libertad de Expresión, IPLEX).

478 Law 7494 (1995) "On Administrative Contracting," article 131(c).

479 Mishelle Mitchell, press director for the president's office, told us that her office does not use bidding processes for reasons of "realism." "Bidding processes take a lot of time and the advertising issue is 'dynamic,'" she said. Interview, November 14, 2007, San José, Costa Rica. Laura Mora, marketing director for ICE, said that the bidding process is "tedious." "It has to go through all of the internal paperwork and then to the audit office, which has to give its approval. With its approval one can contract. We try not to use bidding processes for this reason, only on very few occasions have we done so," she explained. Interview, November 14, 2007, San José, Costa Rica.

480 Interview, November 14, 2007, San José, Costa Rica.

481 Interview, November 14, 2007, San José.

482 Law 7494 (1995) on Administrative Contracting, article 131(c).

483 Interviews with Laura Mora, marketing director for ICE, Gabriela López, marketing director of CCSS, and Mishelle Mitchell, press director for the president's office, November 14, 2007, San José, Costa Rica.

484 Interview with Gia Pandolfo, former account agent responsible for the Bank of Costa Rica account at advertising agency JBQ, and current marketing coordinator for Repretel (which holds the country's leading radio stations and the second most important television station), November 15, 2007, San José, Costa Rica. Interview with Mishelle Mitchell, November 14, 2007, San José, Costa Rica.

485 Interviews with Laura Mora, marketing director for ICE, Gabriela López, marketing director of CCSS, and Mishelle Mitchell, press director for the president's office, November 14, 2007, San José, Costa Rica. According to Hilda Zúñiga, marketing director for Channel 7, the public institutions with their own creative and production departments are the exception.

486 Interview, November 12, 2007, San José, Costa Rica.

487 Interview with journalist Doris Rodríguez, November 12, 2007, San José, Costa Rica.

488 General Audit Agency Resolution 552-OD-74.

489 Interviews, November 12-16, 2007, San José, Costa Rica.

490 Decree 148-85 (1985), as amended by Decree 74-2001.

491 Implementing Regulation of the Law on State Contracting, Executive Agreement No. 055-2002, article 7(k).

492 Law on State Contracting (Decree 74/2001) governs all state procurements of public works, goods, and services. An individual or company that wants to contract with the state must register in the Suppliers and Contractors Register. For the procurement of goods and services, the law sets different kinds of procedures, depending mainly on the amount involved. For contracts involving more than 425,001 lempiras, the procedure to be followed is that of "public contracting" which is a form of competitive bidding involving a public call for offers. If the contract amounts to between 170,001 and 425,000 lempiras, the procedure is "private contracting," in which case the agency must invite bids by at least three registered suppliers. This procedure is also prescribed for specific cases, i.e., when there is a real urgency; when there is a limited number of possible suppliers; for reasons of security; and when a "public contracting" procedure is declared void. Another procedure is that of "direct contracting," which is not a competitive process. Nevertheless, if the contract involves between 50,001 and 170,000 lempiras, the agency must request at least three separate bids. If the contract involves less than 50,000 lempiras, only two offers are required.

493 For example: article 157 of the Penal Code provides that when the location of the person to be notified of a judgment is not known, the judgment shall be announced for three days in "the two radio-journals of the highest audience in the country ... or may be published in the two newspapers of highest circulation in the country, or on television." Similarly, article 55 of the Regulation for Telecommunications Costs and Fees orders telecommunications service providers "to publish in at least two newspapers of greater circulation in the country, in a detailed form, any fee before its application..."

- 494 Executive Decree 010/2005.
- 495 Interview with Carlos Espinal, July 24, 2007, Tegucigalpa, Honduras.
- 496 This memo states that “by instruction of the President of the Republic, all state secretaries, and heads of decentralized and de-concentrated institutions are informed that all advertising expenditures to be made by the different secretaries of the State and institutions should be done through the Private Secretary and Assistant, Raúl Valladares.”
- 497 Letter signed by José Raúl Valladares Funes dated December 27, 2007.
- 498 Interview, April 18, 2007, Tegucigalpa, Honduras.
- 499 Interview off the record with former government official, March 25, 2007, Tegucigalpa; and interview with Manuel Torres, April 28, 2007, Tegucigalpa, Honduras.
- 500 Interview with radio journalist Sandra Maribel Sánchez, June 11, 2007, Tegucigalpa, Honduras. Interview with Blanca Nieves Castellanos, administrative coordinator of the National Commission for the Development of the Non-Formal, Alternative Education Department, September 7, 2007, Tegucigalpa, Honduras.
- 501 Interview, May 7, 2007, Tegucigalpa, Honduras.
- 502 Law 28927 (2006) on the Public Sector Budget for Fiscal Year 2007, article 9; Regulation of State Contracts and Acquisitions, approved by Supreme Decree No. 084-2004-PCM, art. 77. See also article 23(g) of the State Contracts and Acquisitions Law, approved by Supreme Decree No. 083-2004-PCM and Supreme Decree No. 213-2006-EF, published December 28, 2006.
- 503 See www.consucode.gob.pe.
- 504 Law 28278 (2004) on Radio and Television, article 52.
- 505 Interview with Samuel Abad, Adjunct Ombudsman, February 8, 2007, Lima, Peru.
- 506 Interview off the record with a well-placed national government official, July 5, 2007.
- 507 Interview, September 2007, Lima, Peru.
- 508 The executive told us: “Normally it is by a bidding process, but in practice it is negotiated. At the channel we prefer to speak directly with the head of advertising of the presidency or the state agency in question and negotiate.... [When the contract is for an amount that requires a bidding process], sometimes we participate in the bidding, but that also is agreed on beforehand. That is, they ask for three supposed bidders but knowing that in our case we would be the ones that win. In reality, that is only so the [government] doesn’t crack down on us, but the advertising is negotiated previously” Another source in a television station told us: “What happens also is that the state comes to you because it prefers to advertise in media with programs with high ratings. That I know

of, the law does not require specific criteria for advertising contracting so they come to the channels with high audience measures and based on that advertising is negotiated.” Interviews, September 2007, Lima, Peru.

509 Interview, September 25, 2007, Lima, Peru.

510 Interview, September 26, 2007, Cusco, Peru.

511 Interviews, July 2007, Lima, Peru.

512 Telephone interviews, April-August 2007.

513 This system of norms and regulations is known as the Annotated Text on Accounting and Financial Administration (TOCAF).

514 TOCAF, article 33.

515 “Massive Bidding of State Accounts Has Advertising Agencies Up in the Air,” *El País*, “The Businessman” supplement, September 21, 2007.

516 Law 16.226 (1990) on Accounting and Budget Spending Balance for the 1990 Budget Cycle, article 494.

517 Law 16.320 (1991) on Accounting and Budget Spending Balance for the 1991 Budget Cycle, article 484.

518 Telephone interview, July 11, 2007, Florida, Uruguay.

519 See, for example, Law 16.736 (1996 National Budget Law), article 373.

520 “[Government Officials] Request that Agencies Comply with Advertising Quota,” *El País*, June 15, 2007.

521 Interview, January 29, 2007, Montevideo, Uruguay.

522 Decree 194/1997.

523 Interview, September 17, 2007, Montevideo, Uruguay.

524 Interview, September 17, 2007, Montevideo, Uruguay.

525 Letter dated February 7, 2007, signed by Ernesto Murro, president, and Eduardo Giogi, general secretary, of the social security bank. Letter dated March 27, 2007, signed by Gustavo Vilaró, president of the state insurance bank. Interview with Beno Ruchansky, president of the state electric company, February 26, 2007, Montevideo, Uruguay. Interview with Daniel Martínez, president of ANCAP, April 26, 2007, Montevideo, Uruguay.

526 Interview with Mario Galeotti, official in charge of spending, February 1, 2007, Montevideo, Uruguay.

527 Interview with Carlos Regueira, technical advisor in communication and dissemination of the Ministry of Public Health, April 26, 2007, Montevideo, Uruguay.

528 Interview with ANTEL communications advisor Michel Visillac in Gastón Pergola, “ANTEL Will Not Advertise Where It is Criticized,” *El País*, “The Businessman” supplement, September 21, 2007, p. 5.

529 “ANTEL Withdraws Authority from its Communications Advisor,” *El País*, September 22, 2007.

530 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 were required to fill out a form equivalent to a sworn statement, with personal information such as a document/ID number and nationality, and the motive for their request. The changes expanded the scope of those required to provide information upon request to include private businesses and organizations that hold information of “general interest”; these were required to divulge all of their information, not just the apparently “public information” they may hold (the term was not clarified in this context). The Chamber of Deputies had until late 2005 to adopt the bill in its original form or with the Senate’s modifications, and approval of the original bill required a difficult-to-achieve two-thirds vote. Neither version was approved, and the bill lost parliamentary status. Given the composition of the current Congress, it is unlikely that any proposal that contrasts with the Senate-modified version of 2005 will move forward. Although a handful of bills have been presented, activists are concerned that the Senate-modified version may again be presented, and pass.

531 Decree 1172/2003, article 12.

532 See Law 1829/1984 on the Right of Free Access to Sources of Public Information, as amended by law 3441/2000.

533 See Law 8803 (1999) “On Access to Knowledge of the Acts of State.”

534 Law 18.575 (1986) “Organic Constitutional Law on the General Bases of State Administration,” article 13, as amended.

535 Article 74 states: “Every person has a right to access to public documents except in cases established by law.” Article 15 provides a right of “habeas data” that allows individuals to access information about themselves held by public and private bodies. Article 78 regulates consumer product information, and Article 112 allows political parties the right of “access to official information and documentation”. Article 23 provides for the mechanism to demand information: “Every

person has the right to present petitions to the authorities for the general or private interest and to secure their prompt resolution.” See David Banisar, *Global Survey: Freedom of Information and Access to Government Records Around the World* (updated July 2006), at www.freedominfo.org.

536 Law 57 (1985) Ordering the Publication of Official Acts and Documents.

537 Administrative Code contained in Decree 01 (1984), articles 17 and 22.

538 Letter, dated March 1, 2007, signed by Minister of Finance and Public Credit Alberto Carasquilla B.; letter, dated May 28, 2007, signed by the deputy director of Recruitment and Reserves Control, Col. Carlos A. Rojas B.; letter, dated May 2007, signed by the general director of the Presidential Agency for International Action and Cooperation, Diego A. Molano.

539 Letter (no. UAC-032-07) signed by Mónica Patricia Vanegas, coordinator of the Citizen Attention Unit of the National Congress. The correct information was contained in a letter dated April 16, 2007, signed by Ricardo José Bitar C. of the Ministry of Communications.

540 Letter signed by Secretary General Fernando Tinoco Tamara, June 5, 2007. The letter contained information on government spending for 2005 and 2006.

541 Decree 170-2006.

542 Commission for Free Expression (C-Libre), 2006 *National Report on Freedom of Expression and the Right to Information* (January 2006, Tegucigalpa), p. 8.

543 Ibid, p. 23.

544 Thelma Mejía, “A Murky Transparency Law,” IPS (online news service), February 22, 2007, <http://ipsnews.net/news.asp?idnews=36682>. See also the case of *Claude Reyes v. Chile*, in which the Inter-American Court of Human Rights ruled, for the first time by any international court, that access to government-held information is a basic human right.

545 Transparency Information press release dated August 15, 2007. See http://www.transparency.org/news_room/latest_news/press_releases/2007/2007_08_15_ti_honduras_access_info. (The Spanish version is at: http://www.transparency.org/news_room/latest_news/press_releases/2007/2007_08_15_ti_honduras_acceso_info.)

546 Interview, April 18, 2007, Tegucigalpa, Honduras.

547 Interview, April 18, 2007, Tegucigalpa, Honduras.

548 Law 27.808 “On Transparency and Access to Information”: http://www.justiceinitiative.org/db/resource2/fs/?file_id=15210.

549 Letter dated July 18, 2007, signed by William Santa Cruz, director of public relations.

550 Interview, July 2007, Lambayeque, Peru.

551 Letter, dated August 17, 2007, signed by Rosario Oliva Porro, Director of Administration and Finance to Mayor Javier Alejandro Castro.

552 *Andrés Alsina v. Ministry of Education and Culture* (1999).

553 Information requests were submitted to the Presidency of the Republic, the Ministry of Transportation and Public Works, the Ministry of Public Health, the Bank of the Republic of Uruguay, the Social Security Bank, the Mortgage Bank of Uruguay, the State Insurance Bank, the national water agency, the state telephone company, the state electricity company (UTE), and the National Administration of Alcohol, Combustibles and Portland (ANCAP).

Open Society Justice Initiative

The Open Society Justice Initiative, an operational program of the Open Society Institute (OSI), 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 the following priority areas: anticorruption, equality and citizenship, freedom of information and expression, international justice, and national criminal justice. Its offices are in Abuja, Budapest, London, New York, and Washington DC.

The Justice Initiative is governed by a Board composed of the following members: Aryeh Neier (Chair), Chaloka Beyani, Maja Daruwala, Anthony Lester QC, Jenny S. Martinez, Juan E. Méndez, Wiktor Osiatyński, Herman Schwartz, Christopher E. Stone, Abdul Tejan-Cole and Hon. Patricia M. Wald. (Diane Orentlicher is on leave from August 2007 through August 2008.)

The staff includes Robert O. Varenik, acting executive director; Diane Orentlicher, special counsel; Zaza Namoradze, Budapest office director; Kelly Askin, senior legal officer, international justice; David Berry, senior officer, communications; Sandra Coliver, senior legal officer, freedom of information and expression; Eszter Filippinyi, program officer, freedom of information and expression; Julia Harrington, senior legal officer, equality and citizenship; Ken Hurwitz, senior legal officer, anticorruption; Katy Mainelli, director of administration; Chidi Odinkalu, senior legal officer, Africa; Darian Pavli, legal officer, freedom of information and expression; and Martin Schönreich, senior legal officer, national criminal justice. (James A. Goldston, executive director, is on sabbatical from August 2007 through August 2008.)

www.justiceinitiative.org

Email: info@justiceinitiative.org

Association for Civil Rights

The 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. The 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. The 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.

www.adc.org.ar

Email: adc@adc.org.ar

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

The political use of government advertising is among the most effective forms of censorship because it goes to the heart of journalists' autonomy. The testimonies and data included in this investigation make it impossible to deny that government officials have put in place a very effective and destructive assault against the dignity of the press and the right to free information in the continent. This is a most necessary report.

JAVIER DARÍO RESTREPO

Professor of Journalism Ethics, New Iberoamerican Journalism Foundation (Colombia)

The practices documented in this report demonstrate that many years after Latin America's dictatorships, there are still a number of serious, though more hidden, threats to media independence in Latin America. Undoubtedly, *The Price of Silence* makes an important contribution to raising the visibility of these problems and bringing about the structural changes needed to strengthen our democracies.

EDUARDO BERTONI

Former Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights

This report exposes the crude reality of how financial pressures cause media owners and journalists to refrain from publishing news that might annoy their government sponsors. These pressures are especially effective given the precarious labor conditions of most journalists in the region. *The Price of Silence* challenges us to find better ways to unmask and prevent this form of censorship.

LEO VALLADARES LANZA

Former Human Rights Ombudsman of Honduras and former president of the Iberoamerican Federation of Ombudsmen

The Price of Silence highlights the urgent need to limit governments' discretion and do away with discrimination in placing official advertising. Such practices seek to intimidate the media and interfere with news coverage, hindering the free flow of information and undermining debate on matters of public interest.

CARLOS LAURÍA

Coordinator of the Americas Program, Committee for the Protection of Journalists

The Price of Silence exposes a growing trend across several countries in Latin America: behind-the-scenes government interference with media freedom and editorial independence. This "soft censorship" and its pervasive chilling effects have not received the attention they deserve. By conducting systematic monitoring of such practices in Argentina, Chile, Colombia, Costa Rica, Honduras, Peru, and Uruguay, the report seeks to fill the information gap and reveal the danger soft censorship poses to journalistic freedom and independence.

The report reveals how governments in the countries examined abuse the powers of regulation and the public purse to control the press with little scrutiny: they use government advertising to punish critics and reward friendly media; deny access and information to journalists perceived as "critical"; secretly pressure media owners and editors to change their editorial lines; and grant broadcast licenses in ways that benefit political allies and silence independent voices.

The Price of Silence seeks to confront this threat by proposing policy actions to help media professionals, civil society groups, lawmakers at all levels, and regional and international monitors work together to break the silence that soft censorship engenders.

