

3-1-1991

Television and the Law in the Soviet Union

Michael J. Bazylar

Eugene Sadovoy

Recommended Citation

Michael J. Bazylar and Eugene Sadovoy, *Television and the Law in the Soviet Union*, 11 Loy. L.A. Ent. L. Rev. 293 (1991).
Available at: <http://digitalcommons.lmu.edu/elr/vol11/iss2/2>

This Article is brought to you for free and open access by the Law Reviews at Digital Commons @ Loyola Marymount University and Loyola Law School. It has been accepted for inclusion in Loyola of Los Angeles Entertainment Law Review by an authorized administrator of Digital Commons@Loyola Marymount University and Loyola Law School. For more information, please contact digitalcommons@lmu.edu.

TELEVISION AND THE LAW IN THE SOVIET UNION

Michael J. Bazylar† and *Eugene Sadovoy*‡

“Face the facts, baby, there ain’t no news in Russia”

-Clark Gable, playing a Moscow correspondent
in 1940 movie, *Comrade X*

“Raising a television camera in the Soviet Union is equivalent
to raising an M-16 - everybody scatters”

-Former ABC Television Moscow correspondent
Anne Garrells

I. INTRODUCTION

A good indicator of a nation’s political system is the state of its television industry. If the system is democratic, television will provide, in addition to entertainment, valuable critical coverage of the government and events in the country.¹ In a totalitarian system, television news merely presents the formal governmental position.²

† Professor of Law, Whittier College School of Law. A.B. 1974, University of California, Los Angeles; J.D. 1978, University of Southern California. Professor Bazylar was born in the Soviet Union and came to the United States in 1964.

‡ Broadcast journalist and host of *America Tonight*, the first American weekly broadcast on Soviet television; Lecturer of Russian, University of California, Los Angeles. B.A., University of Leningrad, 1983; M.A. University of Southern California, 1988. Mr. Sadovoy was born in the Soviet Union and came to the United States in 1983.

1. S.W. HEAD, *WORLD BROADCASTING SYSTEMS: A COMPARATIVE ANALYSIS* 177 (1985); W.J. HOWELL, JR., *WORLD BROADCASTING IN THE AGE OF THE SATELLITE* 12 (1986); B. PAULU, *RADIO AND TELEVISION BROADCASTING IN EASTERN EUROPE* 8-10 (1974).

For treatments of Soviet television by western sources see H. SMITH, *THE NEW RUSSIANS* 148-173 (1990); E. MICKEWICZ, *SPLIT SIGNALS: TELEVISION AND POLITICS IN THE SOVIET UNION* (1988); R. ENGLISH & J. HALPERIN, *THE OTHER SIDE: HOW SOVIETS AND AMERICANS PERCEIVE EACH OTHER* 51-85 (1987) [hereinafter *THE OTHER SIDE*] (the two introductory quotes are from this treatise); McNair, *Glasnost And Restructuring in the Soviet Media*, 11 *MEDIA CULTURE & SOCIETY* 327 (1989); Buhks, *Nouveaux Programmes Mixtes Show/Actualites A La Television Sovietique*, 30 *CAHIERS DU MONDE RUSSE ET SOVIETIQUE* 159 (1989); Mickewicz, *Mass Culture, Change And Mobilization: The Media Revolution*, 15 *SOVIET UNION/SOVIETIQUE UNION* 187 (1988) [hereinafter *Mass Culture*].

Summaries and transcripts of selected Soviet television shows, Soviet articles on the mass media, and texts of Soviet laws affecting the Soviet mass media are available through the Foreign Broadcasting Information Service [hereinafter FBIS].

2. S.W. HEAD, *supra* note 1, at 59, 135; B. PAULU, *supra* note 1, at 11.

Two sets of laws determine whether television news will be open or censored. The first are laws dealing with speech. If speech laws effectively provide for freedom of speech for the nation's citizenry, television news coverage likewise will be open.³ The second are legal rules regarding ownership of television stations. If private industry is legally allowed to enter the television field, alternative points of view will be presented to the public. A private television system cannot exist in a totalitarian state.⁴

Since 1985, Soviet television, like the rest of Soviet society, has undergone a revolution. For the first time in its existence, Soviet television has been allowed to criticize the government and to present events as they actually are, rather than as the rulers wish for them to be.⁵ In fact, television in the USSR has been the pioneer in breaking many of the taboos formerly constraining the nation's mass media.⁶ In 1990, after much debate, the Soviets promulgated laws seeking both to abolish censorship in the mass media and allow the creation of a private television industry.⁷ These laws are an important first step aimed at guaranteeing freedom of speech for the Soviet mass media and eventually transforming Soviet television from a highly centralized, state-run system to a decentralized and privately-owned television industry.

Time will tell whether these legal changes are temporary or permanent. Unfortunately, 1991 has started off badly. With the gradual breakdown of Soviet society, the nation's political system has taken a sharp turn to the right.⁸ Fittingly, the first indicator of the Soviet Union's move away from democracy has been the State's increased control of Soviet television. Soviet television in 1991, unlike in its most recent past, increasingly presents only the sanitized, government version of the news.⁹ Controversial news programs have been removed from the air,¹⁰ and the central government has taken over control of television programming; in one instance even seizing by force a television broadcasting

3. S.W. HEAD, *supra* note 1, at 59, 178.

4. *Id.* at 59, 61. For an excellent discussion by a liberal Soviet economist on the problems of de-nationalizing Soviet industries see Naishul, *The Sufferings of Privatization*, Soviet Analyst, Jan. 23, 1991, at 3.

5. For a discussion of the recent changes in Soviet society under Gorbachev see Bazylar, *The Gorbachev Revolution*, 12 WHITTIER L. REV. 1501 (1990).

6. According to one western scholar, "Under Gorbachev, television has been accorded status as a powerful vehicle for the shaping of public opinion." E. MICKEWICZ, *supra* note 1, at 179.

7. See *infra* text accompanying notes 96-189.

8. See *infra* text accompanying notes 190-94.

9. See *infra* text accompanying notes 190-234.

10. See *infra* text accompanying notes 198-200.

center.¹¹ Laws guaranteeing freedom of speech for the mass media, still in their embryonic stage, already are being ignored, and may eventually be repealed. Privatization and decentralization of Soviet television has also been put on hold.¹²

This article examines television and the law in the Soviet Union. Part I presents the history of Soviet television from its first appearance in the 1940s to March, 1985. This part focuses on the legal rules in the Soviet Union governing early television programming and broadcasting. Part II examines the role television played in the Gorbachev reforms. This part sets out and analyzes the laws passed between 1985 and 1990 aiming to transform Soviet television from a dull, government-controlled system to a system (based upon the Western model) where, in addition to providing entertainment, television provides a forum for discussion and debate. Part III examines the changes in 1991 which signal the return of Soviet television to its past. Finally, Part IV discusses the future of television and the law in the Union of Soviet Socialist Republics ("USSR"). This part proposes that Soviet law must provide greater freedom of speech to Soviet television and the tie between the State and the broadcasting media must be further severed. If the Soviet Union is to change — from a dictatorial system in which all information is tightly controlled and sanitized by the State to a democratic system in which the people are allowed to hear different points of view — Soviet television must lead the way.

II. SOVIET TELEVISION AND THE LAW IN THE PRE-GORBACHEV ERA

A. *Lenin's Legacy*

The Soviet Union is the largest country in the world, spanning two continents and eleven time zones.¹³ Television has been an important tool in keeping the country unified.¹⁴ In 1940, there were only 400 television sets in the country. By 1976, Soviet industry was producing seven million television sets annually.¹⁵ In 1960, only five percent of the Soviet

11. See *infra* text accompanying note 201.

12. See *infra* text accompanying notes 235-52.

13. E. MICKEWICZ, *supra* note 1, at 186.

14. According to one western expert on Soviet television, "The vastness of the country and its areas of inaccessible terrain are simply leapfrogged by the use of communications satellites . . . that bring national television programming to all eleven time zones." *Id.* at 186.

Dr. Mickewicz describes an installment of a British television documentary which "follows the life of a fur trapper in remote Siberia. He is out of reach of all government controls and contact, it appears, *but* he relies on television." *Id.* at 227, n. 7 (emphasis in original).

15. E. MICKEWICZ, *supra* note 1, at 3.

public was watching television; by 1986, 93% of the Soviet population were television viewers.¹⁶ Surveys conducted in the late 1970's show that 98% of Soviet factory workers watched television daily.¹⁷ According to a Soviet source, "[T]he necessity for families to acquire a television set today is so great that it is seen as an object of the first necessity. Its presence can be classified as an inelastic type of utility."¹⁸ Watching television is the third most frequent activity in the Soviet Union, after working and sleeping.¹⁹ A Western scholar conclusively states that television "has become the preeminent medium of mass communication [in the Soviet Union]."²⁰

Television did not exist during Lenin's rule. Lenin, however, is directly responsible for the widespread popularity of television in the USSR, since later Soviet political rulers applied Lenin's political and legal theories for the written mass media to television.

In his early work, *What Is To Be Done?*, Lenin set out the principle that the Communists should indoctrinate the people to a new Communist mentality.²¹ Lenin urged his common followers to use the mass media for this purpose.²² The Bolsheviks, therefore, very early began using the mass media to instill the "correct view" into the citizenry. The task of the mass media (at that time newspapers and journals) was not to provide news to the reader, but to give the reader a correct interpretation of the news.²³ The job of the Communist newspaper *Pravda*, despite its

16. *Id.*

17. *Id.* at 205.

18. *Id.* at 204 (quoting SEMYA I BLAGOSOSTOYANIE V RAZVITOM SOTSIALISTICHESKOM OBSHCHESTVE (Family and Well-Being in Developed Socialist Society) 204-05 (N.M. Rimashevskaya and S.A. Karapetyan, Moscow 1985)).

19. E. MICKEWICZ, *supra* note 1, at 204. As in the West, "[y]oung children are now part of the Soviet 'television generation,' watching at least as many hours as they spend in school." *Id.* Undoubtedly, the amount of television viewing time by children and young adults will increase as Soviet television presents more western-type entertainment programs and introduces more television channels, including cable television. *Cf. infra* note 265 (24 hour transmission of MTV comes to the Soviet Union).

20. E. MICKEWICZ, *supra* note 1, at 204 (emphasis added). Dr. Mickewicz ironically notes that "the 'new Soviet man' [a term coined by Marxist/Leninist political scholars] is now in front of the television set, and so is the rest of the family." *Id.* See also *Mass Culture*, *supra* note 1, at 190-91.

21. THE OTHER SIDE, *supra* note 1, at 53 (quoting V.I. LENIN, WHAT IS TO BE DONE? 67, 157-60 (Int'l. Pub. ed. 1969)). See also E. MICKEWICZ, *supra* note 1, at 27-28, 180, 213. According to one western scholar, Lenin's treatise, published in 1902, is "still the operational code of the [Soviet] media system." *Id.* at 184.

22. E. MICKEWICZ, *supra* note 1, at 27-28, 213.

23. See THE OTHER SIDE, *supra* note 1, at 52 (discussing Soviet version of "correct" interpretation of "facts"); E. MICKEWICZ, *supra* note 1, at 26-30 (discussing the "Soviet understanding of 'newsworthy'").

title,²⁴ was not to provide the truth, but to convince the reader about the proper interpretation of the truth.

As the first leader of the Soviet state, Lenin constructed a media apparatus directed by, and subordinate to, the Communist Party of the Soviet Union. According to Lenin:

Let there be ten times less newspaper material devoted to so-called current news, but let us have distributed in hundreds of thousands of million of copies, a press that acquaints the whole population with the exemplary achievement of affairs in a few state labor communes which surpass the others [T]hat is what should form the main content of our Soviet press.²⁵

A second task of the mass media, according to Lenin, was to integrate the many different nationalities of the Soviet Union into one socialist and unified state.²⁶ To reach the people through the newspaper, the Soviet population had to be able to read. For this reason, a mass literacy campaign was begun. In 1920, approximately 60% of the Soviet population was illiterate; by 1979 that proportion was only three-tenths of one percent.²⁷

B. *The Stalin Era*

Before there was television in the Soviet Union, there was radio. After the Bolshevik Revolution and through Stalin's rule, the Soviets encouraged their people to purchase radios.²⁸ The Communist rulers spread party messages throughout the vast country not only through oral agitation, but also through two sources of mass media, newspapers and radio. Stalin made radio production a high priority, and his successors followed suit. By 1979, there was one radio for every two persons in the Soviet Union.²⁹

Lenin, especially in the early 1920s during the years of the New Economic Policy, allowed private, non-Party newspapers and journals to coexist with the Bolshevik media apparatus. During Lenin's time pub-

24. The word "pravda" in Russian means "truth." The other major, Soviet nationwide newspaper is *Izvestia*, the Russian word for "news." A popular Soviet joke holds that "there is no truth in *Pravda* and no news in *Izvestia*."

25. McNair, *supra* note 1, at 328 (quoting Lenin, *Lenin About the Press* 332 (M. Saifulin, ed. (1972))). Gorbachev's views of the media are apparently similar to Lenin's. See E. MICKIEWICZ, *supra* note 1, at 213.

26. McNair, *supra* note 1, at 328 (quoting Lenin, *Lenin About the Press* 332 (M. Saifulin, ed. (1972))).

27. E. MICKIEWICZ, *supra* note 1, at 185-86.

28. *Id.*, at 17.

29. *Id.*

lished criticism of Party policy and of laws themselves also appeared.³⁰

Stalin, upon coming to power, began to strike against dissent in the mass media. By 1929, "there was not a single non-Party publication left nor any private publishing houses that could have served as vehicles for opposition views."³¹ Criticism of Stalin and the Communist Party was banned. The Soviet media truly became an instrument of the Party. At the same time, even non-political events which cast the Soviet Union in a bad light were not reported. From the 1930s to the mid-1980s — for more than 50 years — the Soviet Union was described by the Soviet mass media as a land of full employment, no homelessness, free medical care and nationalistic brotherhood among all the Soviet peoples. Unlike the rest of the world, in the Soviet Union, at least in the eyes of the media, airplanes did not crash, ships did not sink, and natural disasters never occurred.³²

C. *The Early Age of Soviet Television*

Television came to the Soviet Union in the 1940s.³³ At first, many television programs were broadcast only locally, since it was impossible to transmit programs from one region of the Soviet Union to another.³⁴ In 1957, the USSR State Committee for Radio and Television was formed. The Committee held an exclusive monopoly for control of radio and television in the USSR.³⁵ One aim in creating the national Committee was to wrest control of radio and television programming from local authorities. Ideological uniformity over the airwaves now could become possible, as the Communist Party began to exercise control of all radio and television stations throughout the vast country.

In the 1960s, however, local programming still dominated the television airwaves. Many of the local broadcasts were not even in Russian, but in the native local language.³⁶ A concern about an increase in nationalism, as a result of local programming, led the Communist rulers to further centralize the broadcasting media. In 1970, a central decree put a more centralized system of programming into force.³⁷ The decree gave

30. McNair, *supra* note 1, at 329.

31. *Id.* at 239 (quoting R. MEDVEDEV, *LET HISTORY JUDGE* 187 (1971)).

32. *Id.* at 330.

33. Experimental television broadcasts began in Moscow in 1931 and in 1934, the first television transmission with sound was made in the Soviet Union. Regular transmissions began in March 1939. B. PAULU, *BROADCASTING IN EASTERN EUROPE* 36-7 (1974).

34. *Id.* at 34.

35. *Id.* at 16, 228.

36. *Id.* at 6.

37. *Id.*

the television heads in Moscow ultimate control over both national and local broadcasting.³⁸ Individual television studios in every Soviet city now had to take their orders from Moscow.³⁹ According to a Soviet writer, with the 1970 Decree, "the [central] Party took the entire responsibility for the political, ideological, [and] artistic level of television programs."⁴⁰

The 1973 Decree also placed television *before* radio in the title of governmental administrative body controlling radio and television. That body now became the "USSR State Committee for Television and Radio Broadcasting" or more popularly by its Russian language acronym, Gosteleradio.⁴¹

By launching its first communications satellite in the mid-1960s, the Soviet Union guaranteed that the bureaucrats in Moscow would have complete control over television broadcasting.⁴² For the first time in Soviet history, information could be instantaneously transmitted to almost every home in the vast country. Mass, one-way visual communication had finally come to the Soviet Union. According to a Western scholar:

Radio, which the Soviets developed in a crash program right after the Bolshevik Revolution, did not reach the entire population, and people who read newspapers (especially the national ones) tended always to be among the better educated. . . . But with the advent of television, virtually total saturation of the population could, for the first time, be assured. That meant people of all age groups and all levels of education would be the

38. B. PAULU, *BROADCASTING IN EASTERN EUROPE* 6 (1974).

39. *Id.* at 25.

40. *Id.* at 6 (quoting V.V. EGOROV, *TELEVIDENIE I ZRITEL* 45 (Television and the Viewer) (1977). A Western journalist describes Soviet television before Gorbachev as follows:

Only two channels broadcast nationwide cross the eleven time zones Minority republics and important regional centers . . . were allowed for a few hours a week to broadcast local programming which was heavy on folklore and native costumes. In other words, it was a dull wasteland in the early 1970s, so insufferably dull that a Soviet diplomat, back home after a stint in Washington, admitted to me that his eleven-year old son, having become accustomed to American TV, was bored out of his wits with Soviet programming and had become practically unmanageable.

H. SMITH, *supra* note 1, at 162.

Smith relates the following Soviet joke, popular during the Brezhnev era, which illustrates both the political structure and lack of variety of television viewing in the USSR: "A viewer tuned in to find, on the first program, Brezhnev delivering a windy speech. He switched to the second program: again, Brezhnev droning on. On the third program, a uniformed officer pointed a gun at the viewer and ordered: 'Comrade, go back to channel one.'" *Id.*

41. E. MICKEWICZ, *supra* note 1, at 6; *see also Mass Culture, supra* note 1, at 191. One western journalist describes Gosteleradio as "one of the stalest, most centralized monopolies of the Soviet state." H. SMITH, *supra* note 2, at 162.

42. E. MICKEWICZ, *supra* note 1, at 4, 13-16.

recipients of standardized messages, and the transmission of these messages would take place with unheard-of speed, reaching everyone nearly simultaneously. That kind of public in those numbers have never been seen before in Soviet mass media.⁴³

A national television network called the First Program or Central Broadcast (*Pervaya Programa*) began operations in 1960.⁴⁴ *Pervaya Programa* originates from the Central Television Studios in Moscow, and is shown throughout the USSR. Local television stations are prohibited from changing or interfering with the transmission of *Pervaya Programa* nationwide programs.⁴⁵ A 1984 statement to the local television studios stated: "[T]he most important social-political programs of central broadcasts such as the television program *Vremya* [the nation's evening news program 'Time'] . . . must not be 'covered' by local broadcasts."⁴⁶

In 1982, a second national television network, called the Second Program (*Ftaraya Programa*), came into existence.⁴⁷ The audience for *Ftaraya Programa* is less than half the audience for the *Pervaya Programa*.⁴⁸ In the eyes of the central administrators of Moscow, the Second Program is considered not as important as the First Program. For this reason its shows are not as current or interesting, and may even be repeats of the First Program.⁴⁹ Local television studios are also more likely to insert local programming into the Second Program than into the First Program.⁵⁰

In 1965, Moscow residents received their own television channel, now called the Third Program (*Tretiiya Programa*) in Moscow.⁵¹ *Tretiiya Programa* is an educational channel and broadcasts sometimes practical, but most often ideological and political instruction.⁵² In 1967, Moscow received another channel, the Fourth Program (*Chetviortaya Programa*),

43. *Id.* at 4.

44. *Id.* at 5. In 1967, the new National Television Center, with a 1,750 foot tower, began operations in Ostankino, a Moscow suburb. The Ostankino Television Center is still operational today.

45. *Id.*

46. E. MICKEWICZ, *supra* note 1, at 5. In 1985, the head of Gosteleradio estimated that ninety percent of Soviet television consider "Vremya" their main source of information. *Id.* at 32. That figure is astounding.

47. *Id.* at 5-6, 7-8.

48. *Id.* at 7.

49. *Id.* at 8.

50. *Id.*

51. E. MICKEWICZ, *supra* note 1, at 9.

52. *Id.*

which broadcasts in the evenings.⁵³ Finally, Muscovites now receive the Leningrad television channel.⁵⁴

Unlike the West, a large share of television programming in the Soviet Union is political or educational, with a heavy emphasis on the political. According to one Western study: "Fully 41% of the entire week we surveyed was devoted to news and public affairs. News and news analysis is firmly fixed at 20% of each weekday's television airtime."⁵⁵ To avoid the unexpected, very few television programs were broadcast live until recently.⁵⁶

Even today, television remains almost exclusively a state-controlled and highly centralized enterprise.⁵⁷ At the Communist Party level, the Party Central Committee's Department of Propaganda sets the ideology and central plan for all mass media, including television.⁵⁸ At the governmental level, Gosteleradio exercises day-to-day control over all television broadcasting.⁵⁹

Until recently, Soviet television commentators were paid Party propagandists, rather than western style television journalists. Their role could be likened to official government spokesmen found in the West.⁶⁰ As a result, the Soviet dissident historian Roy Medvedev was able to claim in 1977 that the Soviet people are:

[I]ll-informed on the simplest level about things going on in their own country and are even more ignorant about events in the world at large. The overwhelming majority of Soviet citizens have no available means of finding things out; besides being a source of irritation, this also results in a extremely distorted view of the world.⁶¹

53. *Id.*

54. *Id.*

55. *Id.* at 151 (emphasis in original). See also *id.* at 154 ("pie chart" illustrating weekly programming for Soviet television).

56. See *infra* text accompanying note 78.

57. See *infra* text accompanying notes 127-32.

58. E. MICKEWICZ, *supra* note 1, at 22.

59. See *supra* text following note 41. For discussion of the 1991 reorganization plan for Gosteleradio see *infra* text accompanying notes 228-32.

60. See e.g. THE OTHER SIDE, *supra* note 1, at 57 (U.S. Presidential spokesman accusing Soviet television commentator Vladimir Pozner of being "a trained propagandist for the Soviet Union [and] whose concept of truth is whatever statement will advance Communist objectives"). For Pozner's autobiography and his view of Soviet television see V. POZNER, LET HISTORY JUDGE (1990).

61. R. MEDVEDEV, ON SOCIALIST DEMOCRACY 202 (1977), cited and quoted in McNair, *supra* note 1, at 331.

III. SOVIET TELEVISION AND GORBACHEV'S INFORMATION REVOLUTION

Mikhail Gorbachev came to power in March, 1985, when he assumed the role of General Secretary of the Communist Party of the Soviet Union.⁶² One month later, at the April Plenum of the Central Committee of the Communist Party, Gorbachev launched the campaign of *glasnost*, or openness, promising a new information policy for the Soviet Union.⁶³ At the plenum, Gorbachev assured the Soviet people that, with the help of the mass media, they will be given the truth rather than a sanitized version of events.⁶⁴ Gorbachev even promised to fill in the "blank spots" of Soviet history.⁶⁵ No longer would the Soviet Union be a country with an unpredictable past.

Running concurrently with the campaign of *glasnost* came *perestroika*, the process of restructuring or privatizing the Soviet economy.⁶⁶ Unlike *glasnost*, *perestroika* had little influence over the mass media at first. Television, along with radio and newspapers, remained in government hands. By the late 1980s, however, critics (both inside and outside the government) began to call for at least partial privatization of the mass media.⁶⁷ Nevertheless, *glasnost*, rather than *perestroika*, was the catalyst for the information revolution in Soviet mass media. Many times, television programming was at the forefront of the revolution.

A. Glasnost and the Television Reforms

Gorbachev's information revolution, however, had a inauspicious start. In a February, 1986 speech to the 27th Party Congress, Gorbachev stated that "Central Committee sees [the mass media] as an instrument of creation and an expression of the Party's general viewpoint."⁶⁸ This continuing connection between the mass media and the Party was confirmed two months later during the April, 1986 disaster at the Chernobyl

62. See generally *Moscow's New Boss: Younger, Smoother and Probably Formidable*, TIME, Mar. 25, 1985.

63. McNair, *supra* note 1, at 327. For an interview of a leading Soviet journalist discussing Gorbachev's media reforms see Gardner, *The Media Under Gorbachev*, 42 J. INT'L. AFF. 357 (1989) (interview with Vitalii Korotich, editor-in-chief of "Ogoniok" Magazine).

64. McNair, *supra* note 1, at 327.

65. *Id.*

66. See generally Bazylar, *Making Profits From Perestroika: Soviet Economic Reform and New Trade Opportunities in the Gorbachev Era*, 11 WHITTIER L. REV. 323 (1989).

67. See e.g. H. SMITH, *supra* note 1, at 150-51 (statements of Bella Kurkova, executive editor of "Leningrad's most daring television program"); *id.* at 161-62 (statements of Siberian party officials and television executives); *id.* at 172 (statements of television producers of Moscow's radical television program, "Vzglyad").

68. THE OTHER SIDE, *supra* note 1, at 55.

nuclear reactor complex.⁶⁹ As the world was experiencing its greatest nuclear accident, Soviet television remained silent. Three days later an announcer on the evening national news program read a terse twenty-four word bulletin stating that a nuclear reactor was damaged at Chernobyl. The bulletin was not given any prominence, and no photographs accompanied the story.⁷⁰ It took Gorbachev eight days to finally appear on television and address the nation. Even during his television address, Gorbachev spent most of his time attacking the West for exaggerating the effects of the accident and linking the Chernobyl disaster to upcoming talks on arms control with the United States.⁷¹

Slowly, however, Soviet mass media coverage of the disaster increased. Television reporters were allowed on the scene and actual footage of the damaged Chernobyl plant appeared on Soviet television.⁷² According to a western analyst,

Chernobyl was probably a watershed for the Soviet media. A policy of responsiveness and openness that had never really been tested and was only gradually being introduced was suddenly in the center of national and international attention. Chernobyl accelerated the implementation of the new media policy beyond what had been anticipated or agreed to. The early decisions conformed to cautious . . . policy; the later decisions took a bolder approach and parted with tradition.⁷³

In May, 1986, *Pravda* published an article accusing the main television news program *Vremya* of stale and one-sided coverage.

The most important factor in the effectiveness of information is timeliness Often it happens that the greater the occasion for timeliness, the less chance that it will be conveyed by television. This relates to both the domestic and the international parts of the broadcast One doesn't sense in the program the 'nerves' of current day 'a few hours ago. . .,' 'we just received this communication'⁷⁴

Pravda went on to accuse television news of providing unfair coverage of the West.

The information about the capitalist world is monotonous. The

69. See E. MICKEWICZ, *supra* note 1, at 60-68; THE OTHER SIDE, *supra* note 1, at 55; McNair, *supra* note 1, at 332-33.

70. E. MICKEWICZ, *supra* note 1, at 62.

71. *Id.*

72. *Id.* at 62-63.

73. E. MICKEWICZ, *supra* note 1, at 64-66.

74. E. MICKEWICZ, *supra* note 1, at 68. See also McNair, *supra* note 1, at 333, (discussing the May, 1986 PRAVDA article.)

journalists' clichés migrate from broadcast to broadcast. Many of them show political meetings, demonstrations, and protests. Rarely do they discuss the achievements of science or technology, about how, under conditions of capitalism, they turn out for simple workers, about economic and cultural collaboration, about problems of women, old people, the growth of crime and terrorism in the Western world, about the problems and successes of the socialist countries.⁷⁵

Shortly thereafter television programming began to change. In springtime of 1986, Gosteleradio gave *Vremya* a "facelift."⁷⁶ That same year, the Soviets began using television satellites for "space bridges" between Soviet and American television audiences.⁷⁷ More programs began to be broadcast live.⁷⁸ Soviet television also began to show the positive achievements of the West. A television documentary lauded the success of McDonald's, showing the fast, friendly service Americans receive when they eat out, in contrast to the slow and rude restaurant service in the Soviet Union.⁷⁹

"Critical television" now became in demand. Throughout 1987 and 1988, Soviet television broadcast numerous *60 Minutes*-type exposés on corruption both within the government and the Party. Most often, the

75. E. MICKEWICZ, *supra* note 1, at 68.

76. *Id.* at 147. Soviet television traditionally suffers from the "talking heads" syndrome of programs which televise individuals either talking directly to the audience or to each other. According to one western study, on *Vremya*, "the anchor alone reading the news, takes up, on the average, over a *quarter* of the entire news broadcast, in contrast to a mere 6 percent for [television news on the American television network] ABC." *Id.* at 123. (emphasis in original).

The format for presentations of stories also is different from American television. The transition from one story to the next on *Vremya* is sometimes slow Transitions may also be rather abrupt; there is almost never a leadout (the correspondent's practice of identifying himself or herself at the end of the story and inviting the viewer back to the studio) and stories simply end. Sometimes a number of stories will follow one another, without introduction by the anchor. The viewer knows that change has taken place by the change in correspondent and locale.

Id. at 148-49.

77. For a detailed description of a 1986 "space bridge" program between Seattle and Leningrad see E. MICKEWICZ, *supra* note 1, at 43-48. The program was hosted by Phil Donahue in the United States and well-known Soviet commentator Vladimir Pozner in the Soviet Union. See, POZNER, *supra* note 60.

78. According to one western writer, "[T]he shift in programming policy to hire [television] broadcasts is one of the hallmarks of the Gorbachev era." E. MICKEWICZ, *supra* note 1, at 9. See also *Mass Culture*, *supra* note 1, at 192.

79. The McDonald's broadcast on Soviet television was widely discussed in both the Soviet Union and in the United States. For one description, see E. MICKEWICZ, *supra* note 1, at 75. Interestingly, in 1990, McDonald's opened its first outlet in the Soviet Union, in central Moscow.

exposés would accuse some local officials of waste and corruption.⁸⁰

The Soviet television public could not believe what it was seeing. For the first time in Soviet history the mass media, with Soviet television leading the way, publicized what was wrong rather than what was right in the country. Opinions which in the past could lead to imprisonment, banishment, or even death were regularly expressed on television news programs.⁸¹

The mass media, however, was still bound by two taboos. First, while it could criticize local government and Party officials, criticism of the top national leadership, especially Gorbachev, was forbidden. Second, the media could mention Lenin, the god-like founder of the Soviet state, only in laudatory terms.

In 1988 and 1989, television broke both these taboos. In June, 1988, *Pervaya Programma* aired gavel-to-gavel coverage of the session of the national legislature, the Supreme Soviet.⁸² For the first time in Soviet history, Soviet citizens saw their legislators on live television debate each other and criticize the people in power. Given the television spotlight, numerous Supreme Soviet deputies rose to criticize the handling of the country by Gorbachev and his closest advisors.⁸³

The taboo against criticism of Lenin was broken in 1989. In April, 1989, theater director Mark Zakhrov on the late night live program *Vzglyad* (Viewpoint)⁸⁴ remarked that Lenin's body ought to be removed from the mausoleum and buried in a normal fashion. Even though Zakhrov was not criticizing Lenin directly, but only proposing that Lenin's body be given a decent burial, his comments created an outrage. Alexander Aksanov, then head of Gosteleradio, was forced to resign for allowing such comments to be made on television.⁸⁵ Soon afterwards, criticism of Lenin, however mild, began to appear on some of the most

80. E. MICKEWICZ, *supra* note 1, at 111-12, 215.

81. THE OTHER SIDE, *supra* note 1, at 75.

82. In a 1989 article, most likely written earlier, Dr. Brian McNair of the University of Ulster correctly predicted the change in Soviet television:

A very limited number of taboo areas remain sheltered from the critical attention of journalists, most notably direct criticism of the General Secretary and of the founder of the state, Lenin. The time cannot be far off, however, when even these remaining 'sacred cows' of Marxism-Leninism can be considered legitimate subjects of critical glasnost.

McNair, *supra* note 1, at 334.

83. *Mass Culture*, *supra* note 1, at 198.

84. For an interesting description of how the *Vzglyad* program came into existence see H. SMITH, *supra* note 1, at 165-72. For descriptions of the *Vzglyad* program on Lenin, see H. SMITH, *supra* note 1, at 169; *Mass Culture*, *supra* note 1, at 193.

85. H. SMITH, *supra* note 1, at 170; *Mass Culture*, *supra* note 1, at 193.

radical television programs.⁸⁶ While Gorbachev blamed Stalin and then Brezhnev for the failures of Soviet society, some Soviet television commentators and their guests suggested that Lenin's original policies may have planted the seeds for the political dictatorship and economic stagnation that occurred after Lenin's death.⁸⁷

In 1988, television stations in various Soviet republics also began asserting more independence. According to one Western scholar, "In the summer of 1988, nationalist movements in the Baltic republics of Lithuania, Estonia and Latvia were practically born on television discussion shows. In Georgia, Armenia, Azerbaijan, and elsewhere, the spark of nationalism was spread by regional television."⁸⁸ As the independence movements in the Baltic republics gained political power, their television stations began airing programs supporting secession from the Soviet Union. Georgian television also became known for its independence.⁸⁹ Even in Leningrad, the bulwark of traditional Communism, television played a major role in ousting the former Party stalwarts from power.⁹⁰ Its popular news magazine, *Fifth Wheel (Ptatoye Koleso)* showed episodes that included an exposé of the KGB and an interview with one of Stalin's former executioners, who explained in meticulous detail how he carried out Stalin's orders.⁹¹

The most controversial program, however, became *Vzglyad*, the late night music and information show on *Pervaya Programma*.⁹² The interviews on *Vzglyad* were conducted live. Because the program was aired at almost midnight, the show began to handle topics untouched by the other mass media. Eventually, *Vzglyad* became the second most popular program on Soviet television, trailing only the main evening news program, *Vremya*.⁹³

By mid-1989, all of the old prohibitions had seemed to be broken. Soviet television not only would feature programs criticizing the Soviet rulers, but would discuss such long-banned topics as homelessness, crimi-

86. H. SMITH, *supra* note 1, at 170.

87. *Id.*

88. *Id.* at 161.

89. *Mass Culture*, *supra* note 1, at 194. "In Georgia, Armenia, Azerbaijan, and elsewhere, the spark of nationalism was spread by regional television." H. SMITH, *supra* note 1, at 161.

90. H. SMITH, *supra* note 1, at 147-53, 158-65.

91. *Id.* at 155-56.

92. For a discussion of *Vzglyad* see H. SMITH, *supra* note 1, at 165-71. "Shock is its trademark. Since it began on October 2, 1987, *Vzglyad* has broken more taboos and more exclusives than any other show on television." *Id.* at 165.

93. *Id.* at 165.

nal statistics, religion, and homosexuality.⁹⁴ The entertainment portion of Soviet television also began to change. "T.V. programming [now] include[d] topical talk shows, fashion parades, game shows, film clips of Western stars from the Beatles to Bruce Springsteen and even an occasional beauty contest."⁹⁵ Shows featuring violence and sex began to appear. By late 1990, Soviet television featured scenes of sex and violence that could not be shown on the broadcast television channels in the United States.

B. The Legal Reforms

As Soviet television began to change dramatically, liberal television journalists began calling for new laws to institutionalize the changes taking place. It became apparent that the laws on the books no longer reflected the actual reality. Soviet television producers casually ignored censorship regulations long ago imposed upon them.⁹⁶

1. The July 15, 1990 Television Decree

On July 15, 1990, Gorbachev, as part of the power given to him by the Supreme Soviet to rule by decree, issued the "USSR President's Decree on Democratization and Development of Television and Radio Broadcasting in the USSR."⁹⁷ The aim of the Decree was to free radio and television from the Communist Party apparatus. The Decree gave local governments, other political parties and public organizations access to the airwaves. While the Decree contains many caveats, according to one Soviet television producer, it signals "the end of monopoly of television in the Soviet Union . . . [c]ompetition has started and the viewers will win."⁹⁸

Because it is a general decree issued by the President of the USSR, rather than a law passed by the Soviet parliament, the Decree fails to specify the changes that should come about in television broadcasting.

94. For a discussion of the limits of *glasnost* as they pertain to the mass media, see H. SMITH, *supra* note 1, at 158-61.

95. *Id.* at 163.

96. *Id.* at 153-58.

97. For the text of the decree see Appendix 1 [hereinafter "TV Decree, July, 1990."] For discussion of Gorbachev's power to rule by decree see "Government By Decree," *Soviet Analyst*, Feb. 6, 1991, at 1. For a good discussion of the effect of the decree on privatization of Soviet television see Shogren, *Glasnost Update: Gorbachev Unchained Soviet Radio and TV, but Fledgling Capitalists Have to Scramble For the Money to Invest in their Media Projects*, *L.A. Times*, Oct. 9, 1990 at F1, col. 5 ("husband and wife TV team dream of becoming the Roone Arledge and Diane Sawyer of Soviet television").

98. Shogren, *supra* note 97, at F5, col. 1.

Considering what it aims to accomplish, the Decree is very short, containing only a preamble and five articles.

The Preamble begins by acknowledging that “[t]elevision and radio are the largest mediums of the media for information, propaganda, and education.”⁹⁹ Moreover, the Preamble recognizes that television and radio programs “to a large extent form public opinion and people’s feelings.”¹⁰⁰ Surprisingly, the Preamble makes no mention for the need of greater freedom of speech and public debate on television and radio. There is only a brief reference to “the democratization of society.”¹⁰¹ Instead, the Preamble speaks in conservative terms. It states that “it is particularly important that television and radio should fully promote the consolidation of society; strengthen its stability and tranquility and secure the protection of state interests, the humanization of relations among people, law and order, and inter-ethnic concord.”¹⁰²

Article One of the Decree is short. Speaking in anticipatory terms, it merely proposes that the USSR Supreme Soviet “adopt a law on the USSR regulating the activity of television and radio broadcasting in the country and determining the status and competence of [Gosteleradio].”¹⁰³ To date, the Supreme Soviet has not adopted such a law.

Article Two of the Decree proposes the expansion of the rights and powers of the republic and local television and radio committees. This clause contains the most important language of the Decree. It states: “[S]oviets of People’s Deputies at all levels, public organizations, and parties have the right to open new television and radio centers or studios from their own financial and technical resources, or by means of leasing air time and a technical means of broadcasting from [Gosteleradio] and the USSR Ministry of Communications.”¹⁰⁴ In effect this clause provides for the first time in Soviet history the existence of private television stations. The legal requirements for the creation of a private television enterprise are amazingly simple: the Decree merely mandates that these new private television centers and studios be registered.¹⁰⁵ Unfortunately, the Decree fails to specify whether government authorities at the national or republican levels, or both, have the power to issue such registration licenses.

The simple legal requirement of registration hides a very practical

99. TV Decree, preamble (July, 1990).

100. *Id.*

101. *Id.*

102. *Id.*

103. TV Decree, art. 1 (July, 1990).

104. *Id.* at art. 2.

105. *Id.*

but very difficult requirement, now imposed by this clause. The right to create a new television station or broadcast new, independent television programs is given only to those who can afford to do so "from their own financial and technical resources, or by means of leasing air time [from the state]."¹⁰⁶ In effect, the Decree states that if "you want to play the television game, you must pay for it yourself. The State will not finance or subsidize your private venture." As will be discussed below, today in the USSR private individuals do not have the financial resources to operate private television channels or lease air time from the State. For this reason, there has been no rush of registrants clamoring to open private television studios in the USSR since the Decree's passage.

Article Two also contains an important restriction: It deems "invalid any acts on the part of republican [and local] organs adopted without agreement with the USSR Council of Ministers"¹⁰⁷ if these acts are "directed at change in the legal and property position of the functioning subdivisions of [Gosteleradio]."¹⁰⁸ This provision aims to prevent the various republics seeking independence from the Soviet Union from taking over existing television stations from the central government.¹⁰⁹

Article Three of the Decree enunciates the important concept that state television and radio broadcasting functions "should be implemented independently of political and public organizations."¹¹⁰ Therefore, while the Decree recognizes the near monopoly of the State in television and radio broadcasting, it confirms that the state radio and television channels should not be mere tools of the State or the Communist Party.¹¹¹ This clause contemplates state-owned television and radio channels similar to those existing in the West. While the television station may be government owned or subsidized, the government permits the station to exercise journalistic freedom.¹¹² The British Broadcasting Service in the United Kingdom and the Public Broadcasting Service in the United States are good examples of such public but journalistically independent television systems.¹¹³

The third article aims to break Communist Party control of the electronic mass media by stating:

The monopolization of air time by one or another party, polit-

106. *Id.*

107. *Id.*

108. TV Decree, art. 2 (July, 1990)

109. *See infra* text accompanying note 201.

110. TV Decree, art. 3 (July, 1990)

111. *Id.*

112. *See infra* text accompanying notes 260-63.

113. *Id.*

ical current, or group is impermissible, as is the conversion of state television and radio broadcasting into a means of disseminating the private political views of its staff.¹¹⁴

In actuality, the last phrase restricts journalistic freedom by prohibiting dissemination of the private political views of television and radio commentators who, rather than strictly reporting the news, may wish to state their personal opinions. Most likely, the prohibition against editorials is aimed at television journalists who have used television air time to criticize the Gorbachev government.¹¹⁵

Article Four of the Decree directs Gosteleradio to "carry out a reorganization of its activity for the fuller and free manifestation of the creative potential of its employees and strengthening democratic principles."¹¹⁶ This clause also directs Gosteleradio "[t]o switch to a competitive contract system of work agreements" and to provide "opportunities of self-financing for individual sections [of Gosteleradio]."¹¹⁷ The clause also speaks of creating "official rates of pay, taking into account the state of its finances" in order to carry out for "profit. . . commercial activity."¹¹⁸ In effect, this section aims to make Gosteleradio into a self-supporting, commercially competitive state organization that would carry on its activities for profit. Read together with Article Two which allows Gosteleradio to lease its facilities and air time, this clause contemplates that independent organizations and private entities would pay a competitive rate to Gosteleradio. As mentioned above, however, the creation of a competitive "for-profit" system imposes an insurmountable burden on independent producers and entrepreneurs seeking to open private television stations. Since Gosteleradio controls almost all the television studios and production facilities in the Soviet Union, the rates they can charge for use of such studios and facilities effectively prohibits competition from the private sector.

To date, in fact, financial considerations have kept private individuals and companies off the television airwaves. The only new channel in

114. TV Decree, art. 3 (July, 1990). Prior to Gorbachev, the electronic mass media was under complete control of the Communist Party.

115. See e.g., Shogren, *supra* note 97, at F3, col. 1. Also, the term "private political views" is vague. A reporter may not know where the line is crossed from news reporting ("fact") to dissemination of private political views ("opinion").

116. TV Decree, art. 4 (July, 1990).

117. *Id.* The clause is vague. Since the State owns almost all television studios and equipment, with whom is the State to compete?

118. *Id.* Prior to the Decree, all Soviet media, including Gosteleradio, were not considered "commercial enterprises, but state-owned and operated instructional vehicles." E. MICKIEWICZ, *supra* note 1, at 29.

Moscow is the so-called "Superchannel."¹¹⁹ The Superchannel is the first commercial channel in the history of Soviet television. However, its owner is Gosteleradio, which in effect is the State, but operates it purely as a commercial venture.¹²⁰ Gosteleradio sells both time for commercials and also air time to independent producers for their own television programs. Almost all of the programming is entertainment, with little political content.¹²¹ To obtain precious hard currency, Gosteleradio has sold air time on the Superchannel to foreign entities.¹²² However, since Gosteleradio has complete discretion as to what programs it will allow on the Superchannel, foreign producers have avoided political topics on their programs in order to keep them on the air.¹²³

Article Five of the Decree, the final clause, speaks of the "necessity for the construction of a [Russian Republic] television . . . studio complex in Moscow City."¹²⁴ The clause also contemplates that, as part of the Soviet program for converting Soviet defense industries to non-military purposes, the new Soviet space satellite systems "Gelikon" and "Energia" will be used to increase the number of television and radio channels throughout the Soviet Union.¹²⁵

Both of these proposals have yet to be brought into effect. As long as Gorbachev's archrival, Boris Yeltsin, remains President of the Russian Republic,¹²⁶ it is doubtful that the national government will allow the Russian Republic to have its own television complex. To date, the "Gelikon" and "Energia" systems have not been used to improve television broadcasting in remote regions of the USSR.

The July 15, 1990 Decree is a good first step toward creating a legal basis for competitive television and alternate programming in the Soviet Union. The Decree, however, contains undue legal restrictions.

First, the new Decree gives too much control to Gosteleradio. According to would-be independent Soviet producer Sasha Kuznetsov, "[t]he law is against us. [B]efore the Decree the television producer had in effect three bosses: Gosteleradio, regional Soviet [council] and the city

119. B. Kalvov, *Goluboi Ekran v Seruiu Polosku*, (Green Lines on the Blue Screen) *Komsomolskaia Pravda*, Dec. 25, 1990, at 4, col. 8.

120. *Id.*

121. One of the co-authors hosts a program on the Superchannel. Since this information is not published, it comes from personal knowledge.

122. *Id.*

123. *Id.*

124. TV Decree, art. 5 (July, 1990).

125. *Id.*

126. See *infra* text accompanying notes 213-16. See generally *Russia's Maverick: Boris Yeltsin, The Bad Boy Of Soviet Politics Battles Gorbachev In A Crucial Vote This Week*, *TIME*, March 25, 1991 at 27.

soviet [council]."¹²⁷ According to Kuznetsov "three bosses were easier"¹²⁸ because authority was diffused. Now "the station is only under the hand of Gosteleradio, which can be very heavy. We are still free right now, but once Gosteleradio realizes its new power, that freedom might be taken away."¹²⁹ Therefore, television stations still have no independent legal status in the Soviet Union.

Second, the limits imposed by the Decree upon local governments also bar alternative programming over local television channels. In its strictest sense, the Decree outlaws any acts taken by local governments without permission from Gosteleradio. One Leningrad producer commented, "this effectively takes away Leningrad television from the city of Leningrad."¹³⁰ Essentially, the Decree aims to prevent radical governments in the Baltic republics, the Caucauses, and, most important, in the cities of Moscow and Leningrad, from airing programs on television contrary to interests of the central government.¹³¹

Third, requiring local governments, political parties and public and private organizations to pay broadcast costs prevents these cash-starved Soviet organizations from having their own shows. Producers of an existing television show owned by Gosteleradio who want to go independent have an additional problem: the now independent producers will need to buy their own equipment instead of using state-owned television equipment. Independent producers, however, rarely have sufficient rubles or hard currency to purchase expensive technical equipment. Therefore, producers of television shows currently shown on the air remain slaves of Gosteleradio. As explained by one Soviet producer, "it was easy for Gorbachev to make such a Decree, because he knows no one here has the money to make truly independent television."¹³²

Nevertheless, the financing problem is not insurmountable. Television producers wishing to go independent may form co-production ventures with foreign companies. The Soviet partner can provide local talent while the western partners provide the technical equipment. The aim would be to produce a television program shown in the Soviet Union but interesting enough to be exported for profit to the West.

127. Shogren, *supra* note 97, at F4.

128. *Id.*

129. *Id.*

130. *Id.*

131. Arguably, this is the legal justification for the military takeover of the local television station in Lithuania. See *infra* text accompanying note 201.

132. Shogren, *supra* note 97, at F4. According to a western scholar of Soviet television, "[I]t seems unlikely that Gosteleradio's nationwide monopoly of broadcasting will be challenged." *Mass Culture*, *supra* note 1, at 199.

Alternatively, would-be independent producers can enter into barter arrangements with western companies. For example, a Soviet television producer agrees to provide free advertising to a western company in exchange for technical equipment or hard currency necessary to purchase or lease the equipment.

A third solution is to raise capital by either selling shares of television programs or obtaining a loan from the newly emerging private cooperative banks throughout the Soviet Union. Since state banks do not give loans to independent television producers, raising capital through private loans and sale of shares seems a viable alternative.

Independent producers can raise money by charging viewers for access to certain television broadcasts. Technology already exists in the Soviet Union for cable television; in fact, a few cities in the USSR already have cable television channels.¹³³ This method, however, can only be moderately successful in raising capital. Cable television will have a small audience, thereby limiting the amount of income that a cable television station can earn. Additionally, the income earned would only be in non-convertible rubles, preventing cable companies from purchasing Western-made equipment necessary to operate a cable television station.

Finally, it should be noted that part of the Decree may soon be superceded by Gorbachev's February 8, 1991 Decree transforming Gos-teleradio into a wholly-owned public corporation.¹³⁴ As discussed below, the February, 1991 Decree strengthens even further presidential control of television and radio in the USSR.¹³⁵

B. August 2, 1990 Law on the Press And Other Mass Media

On August 2, 1990, the Law on the Press and Other Mass Media came into effect.¹³⁶ While the law has become popularly known as the

133. The next major growth in Soviet television will be in cable. Already, cable television exists in the Soviet Union. See W.J. HOWELL, *supra* note 1, at 146; FBIS-Sov-90-149, Aug. 2, 1990 at 36 (*Gosteleradio Chief Welcomes Cable TV Partnership*), 37 (*Television, Cable Union Established*); Verdian, *Televideniie Po Podpiske* (Cable Television), *Sovetskaiia Kultura*, July 14, 1990 at 2, col. 1. See also *infra* note 248 (24 hour a day MTV comes to the Soviet Union via cable television).

134. See Appendix 3 for text of the Feb. 8, 1991 television decree.

135. See *infra* text accompanying notes 228-34.

136. For the text of the Law on the Press see Appendix 2 [hereinafter "Law on the Press"]. For a critical discussion by a Soviet scholar of the law see Sergeev, *Is This A Law?*, *Sovetskaiia Kultura*, Dec. 22, 1990, at 1. For the text of the Law, see Appendix 2.

After the death of Andrei Sakharov, the Soviet Union's most celebrated human rights activist and Supreme Soviet Deputy, the Supreme Soviet has become much less independent and critical of Gorbachev. Whatever law Gorbachev proposes to the Supreme Soviet, the legislature automatically passes. According to a British scholarly publication, "Where Mr.

Law on the Press,¹³⁷ it regulates not only newspapers and journals but, as its full title indicates, all other mass media, including television.

It is noteworthy that this is a law passed by the Soviet legislature, rather than a decree issued by the President. Unlike the television Decree, therefore, it signifies the collective will of the elected representatives of the Soviet population. Moreover, because it is a popularly based law, the Law on the Press was widely debated prior to its passage.¹³⁸ The Soviet legislature issued a draft of the Law in 1988.¹³⁹ For a time it seemed that the Law would never go into effect; however, with democratization going full speed in the first half of 1989, the Law was brought before the Supreme Soviet, which quickly passed it. It took effect on August 2, 1990.¹⁴⁰ Finally, because it is a law rather than a decree, the Law on the Press is more specific than the television Decree issued earlier by Gorbachev. While the television Decree contemplates enabling legislation in the future, the Law on the Press makes immediate changes to the regulation of the mass media by the government.

The major thrust of the Law on the Press is to abolish the legal power of the Soviet censorship office, Glavlit.¹⁴¹ Prior to Gorbachev's taking power, the Glavlit censors had their own office in every major newspaper and other mass media organizations in the country.¹⁴² Without the censors' "Approved" stamp, no article could be accepted for publication by the state printing houses nor any speech read over the

Gorbachev leads, the USSR Supreme Soviet blindly follows." *The Evil Empire Strikes Back*, Soviet Analyst, Jan. 23, 1991, at 1.

137. See e.g., McNair, *supra* note 1, at 342; Dobbs, *Soviet Censorship: Dead But Showing Signs of Life: New Title On Door is 'Media Consultant'*, Washington Post, Aug. 2, 1990, at A28, col. 1.

138. For discussions of the draft versions of the Law on the Press see H. SMITH, *supra* note 1, at 172. McNair, *supra* note 1, at 342-43; M. Fedotov, *Toward Conceptualization Of The Law On The Press And Information*, Sovetskve Gosudarstvo I Pravo (1987).

139. See sources cited *supra* note 138.

140. According to one western scholar, writing at a time when the passage of the Law on the Press was still being debated: "Assuming that the draft law is in due course fully implemented (and at the time of writing the process had yet to be completed), it will be the most significant event in the development of the Soviet media system since Lenin's Press Decree of 1917." McNair, *supra* note 1, at 343.

The last reference is to the November, 1917 Decree on the Press, one of the first acts of Soviet power signed by Lenin. The 1917 decree "presupposes the establishment of the total freedom of the press 'within the limits of responsibility before the courts, according to the progressive law in this respect.'" Fedotov, *supra* note 138, at 4 (quoting the 1917 law). The 1917 law was never passed "and disintegrated in numerous normative acts." *Id.*

141. Glavlit is an acronym in Russian, standing for the "Chief Administration for the Affairs of Literature and Publishing Houses." Glavlit was established in 1922. E. MICKEWICZ, *supra* note 1, at 23. See also *Mass Culture*, *supra* note 1, at 194.

142. Dobbs, *supra* note 137, at A28, col. 1.

electronic mass media.¹⁴³ Before 1985, censorship by Glavlit was so strict that even some of the words of Lenin were banned.¹⁴⁴ According to a Soviet political commentator, "I was able to leaf through the Glavlit book of forbidden subjects on several occasions. Practically everything was forbidden. Included in the list of what was forbidden was the mentioning, directly or even indirectly, the existence of that famous organization, Glavlit."¹⁴⁵

A major impetus for the passage of the Law on the Press was to bring legal regulations of the mass media up-to-date with reality. For instance, by the time the Law was passed, the former legal requirement of prior censorship was widely ignored. Numerous television programs, for instance, broadcast shows without clearance from the Glavlit censors.¹⁴⁶

The Law on the Press contains eighty-nine articles. It provides both new legal freedoms and legal obligations for the Soviet mass media.

Article One sets out the theme of the Law. It begins with the declarative statement: "The press and other mass information media are free."¹⁴⁷ It concludes: "Censorship of mass information is not permitted."¹⁴⁸ The remainder of Article One defines the terms "freedom of speech" and "freedom of the press." According to the Article both terms have the same meaning: "The right to express opinions and beliefs, to seek, select, receive, and disseminate information and ideas in any form, including the press and other mass information media."¹⁴⁹

Article Two defines "mass information" and "mass information media," terms used throughout the Law on the Press. It states that the term "mass information" specifically includes "the reports or materials publicly disseminated in . . . audio visual format,"¹⁵⁰ in other words, television. The next paragraph is even more explicit. It states that "mass information media" means "television and radio programs."¹⁵¹ Therefore, television falls within the jurisdiction of the Law of the Press.

Article Three allows the mass information media to publish and broadcast in "the languages of the peoples whom they serve or whose

143. *Id.*

144. *Id.*

145. *Id.*

146. *Id.*

147. Law on the Press, art. 1.

148. *Id.*

149. *Id.*

150. Law on the Press, art. 2.

151. *Id.*

interest they represent."¹⁵² For television, this article gives television stations throughout the Soviet Union the right to broadcast in languages other than Russian. This article is aimed to protect local television stations when they wish to broadcast in the native language of their republic. In the last two decades, as a result of pressure from Gosteleradio, the percentage of television programs broadcast on local television stations in Russian has increased.¹⁵³ This article may reverse the trend.

Article Four states that mass information media, through its editorial office, is a separate legal entity under both USSR and republican laws.¹⁵⁴ As a legal entity, the mass information media organ can sue and be sued. In conformance with Gorbachev's *perestroika* campaign, the mass information media organ carries out its activities "in conditions of economic autonomy and economic accountability."¹⁵⁵ For television, this article confirms the need of television stations and television production facilities to be economically self-sufficient. As discussed previously,¹⁵⁶ economic self-sufficiency today remains the greatest hurdle to independent television producers starting their own television stations and creating new television programs.

Article Five, the most widely publicized article of the Law on the Press, must be read in conjunction with Article One.¹⁵⁷ Article Five sets out the limits on the mass media's freedom of speech rights. Under Article Five the mass information media is not permitted:

- (1) [T]o publicize information containing state secrets or other secrets specifically protected by law;
- (2) [T]o call for the violent overthrow or change of the existing state and social system;
- (3) [T]o propagandize war, violence, cruelty, or racial, national, or religious exclusivity or intolerance;
- (4) [T]o disseminate pornography; or
- (5) [T]o incite the commission of other criminally punishable acts.¹⁵⁸

These five prohibitions to the wide-ranging freedom from censorship set out in Article One pose the most serious threat to freedom of speech for television and other mass information media organs. The major criti-

152. Law on the Press, art. 3.

153. E. MICKEWICZ, *supra* note 1, at 17.

154. Law on the Press, art. 4.

155. *Id.*

156. *See supra* text accompanying notes 119-23.

157. *See supra* text accompanying notes 147-49.

158. Law on the Press, art. 5.

cism leveled against Article Five is that nowhere does it define its terms. For instance, it is impossible to know what is a "state secret" under the first prohibition. Therefore, when a television program or other mass media organ broadcasts or publishes information, it does not know whether that information constitutes a state secret.

The second prohibition limits political speech. Undoubtedly, it prohibits the mass media from calling for the overthrow of the Communist system of government. However, this prohibition contains one significant caveat: the political speech must call for the violent overthrow of the existing state and social system. Therefore, peaceful calls for the abolition of Communism are not prohibited by the Law on the Press.

The Law's third category of restrictions at first blush seems reasonable. Nevertheless, this category can also be criticized for failing to define its terms. For example, what speech falls under the rubric of "propagandiz[ing] cruelty . . . or racial, national, or religious . . . intolerance?"

Experience in the West, especially in the United States, shows the near impossibility of defining "pornography," the term used in the fourth prohibition.¹⁵⁹ Finally, the prohibition against inciting the commission of other criminally punishable acts appears reasonable.

Overall, the failure of the Law on the Press to define the prohibitions on speech subjects it to abuse by governmental authorities. Since the law proposes criminal punishment for its breach,¹⁶⁰ the Supreme Soviet should amend the law, or pass subsequent legislation more specifically defining the terms used in Article Five. It is patently unfair to impose criminal punishment for conduct that is not specifically defined.

Article Five also prohibits the mass media organs from violating any Soviet citizen's right of privacy and further prohibits these organs from defaming any citizen.¹⁶¹ Later, the Law on the Press devotes two long and detailed articles on the right of a citizen or organization to rebut a defamatory publication. Article Twenty-Six gives the defamed person or organization the "right to request a mass information medium's editorial office to refute published reports that do not conform with reality or defame the honor and dignity."¹⁶² For radio and television it specifies that

159. See *New York v. Ferber*, 458 U.S. 747 (1982) ("pornography"); *Miller v. California*, 413 U.S. 15 (1973) ("obscenity"). On December 6, 1990, Gorbachev established an anti-pornography commission "to take urgent measures to protect public morals." Survey, *Soviet Analyst*, Jan. 23, 1991 at 8. (quoting text of decree establishing commission).

160. See *infra* text accompanying notes 186-87.

161. Law on the Press, art. 5.

162. Law on the Press, art. 26.

the refutation or reply must be "read out by the radio or television announcer in the same program or series of programs at the same time, not later than one month following receipt of the demand."¹⁶³ Article Twenty-Seven empowers the courts to settle disputes between the mass media organs and the alleged victim of a defamatory publication regarding the victim's rights to refutation and reply.¹⁶⁴

This article illustrates another curious feature of the Law on the Press. Throughout its text, the Law delegates to Soviet courts the power to be the final arbiter for any disputes regarding its interpretation.¹⁶⁵ This is in sharp contrast to past practice, and even to the situation today, where Soviet judges remain nameless, faceless servants with little independent authority.¹⁶⁶ It is surprising therefore, that the Soviet legislature would give Soviet courts the power to interpret such an important law. Moreover, by this feature, the Law on the Press follows the common law legal tradition where judges have great powers to interpret laws rather than the civil law legal tradition, where the judges do not have such powers.¹⁶⁷

Undoubtedly, the Law's drafters devoted considerable language to defamation and its remedies due to the numerous accusations already being made against the mass media for defaming public personalities. In the most famous instance, Leningrad Television accused former conservative Politburo member Yegor Ligachev of corruption. Ligachev, in turn, sued Leningrad Television for defamation.¹⁶⁸

Articles Seven to Twenty, listed as Chapter Two of the Law on the Press, set out the procedures for creating a legally recognizable mass media organ, referred to as a "mass information medium."¹⁶⁹ Most importantly, Article Seven allows any private individual or public or private organization to create a mass information medium.¹⁷⁰ The State, and even more important, Communist Party no longer have the exclusive right to own and control the mass media. Overruling seventy-three years of Soviet precedent, Article Seven states: "Monopolization of any form of mass information medium (press, radio, television or others) is not

163. *Id.*

164. Law on the Press, art. 27.

165. See e.g., Law on the Press, arts. 22, 24, 35.

166. See M. GLENDON, M. GORDON AND C. OSAKWE, *COMPARATIVE LEGAL TRADITIONS* 747 (1984).

167. *Id.*

168. *Mass Culture*, *supra* note 1, at 193.

169. Law on the Press, arts. 7-20.

170. *Id.* at art. 7.

permitted.”¹⁷¹

The remainder of the articles in Chapter Two define a “founder” of a mass information medium and the registration process for creating a mass medium organ.¹⁷² Soviet courts are given the power to review the government’s denial of a mass media registration application.¹⁷³

Two major criticisms can be made of the registration process. First, the law does not specify which government body has the power to register a mass media organization. The bitter feud between the central government and the local governments already has resulted in disputes about which government body can register a television station. Leningrad Television, for instance, has declared its independence from both Moscow and Leningrad city authorities. Its conservative “founders” are clashing for control of the airwaves with the radical government of the Leningrad City Council.¹⁷⁴

Second, the law does not specify who can be the founder of a mass information media. As a result, editorial boards of various existing newspapers have applied for registration as founders.¹⁷⁵ Such registration applications have been challenged by the political bodies which claim to actually own the newspaper, such as the Communist Party of the Soviet Union.¹⁷⁶ The Law on the Press must be amended to specify who can legally be a “founder” of a mass information medium.

Chapter Three of the Law on the Press is short and deals with the procedure of dissemination of mass information.¹⁷⁷ Its most important article for television, Article Twenty-Two, prohibits the broadcast of any television program without obtaining prior authorization from the chief editor of the broadcast.¹⁷⁸ In effect, “wild rogues” reporters are not permitted to get on the air and broadcast without permission from the management in charge.

Article Twenty-Four, found in Chapter Four of the Law, sets out important free speech rights. It states: “Citizens have the right to receive promptly through the mass information media reliable reports on the activity of state organs, social organizations and officials.”¹⁷⁹ This

171. *Id.*

172. *Id.* at arts. 8-20.

173. *Id.* at art. 14.

174. FBIS-Sov-91-026 Feb. 7, 1991, at 74 (*Leningrad TV Seeks Editorial Independence*).

175. FBIS-Sov-91-017, Jan. 25, 1991, at 35. (*Leningrad Media To Break From Gosteleradio*).

176. *Id.*

177. Law on the Press, arts. 21-23.

178. *Id.* at art. 22.

179. *Id.* at art. 24.

clause allows the mass media to inform the Soviet public about the activities of governmental bodies, and their officials. Article Twenty-Four allows a mass media organ to sue a governmental body or a public official for refusing to provide information about the activity of the governmental body.¹⁸⁰ Unfortunately, the Law nowhere sets out what information must be provided to the mass media. Arguably, the government has no right to withhold any information from the mass media unless it falls under the category "state secrets" found in Article Five. It is doubtful however, whether government bureaucrats will adhere to such an interpretation.

Articles Twenty-Nine to Thirty-Two, set out as Chapter Five, create the status of a "journalist." A journalist "means a person engaged in the gathering, creation, editing or preparation of material for a mass information medium and associated with the said medium through labor or other contractual relations while engaged in such activities with its authorization."¹⁸¹ Television reporters clearly come within the definition of journalists. The prestigious status of being an individual in the Soviet Union means that the journalist has, along with other rights, the right "to seek, obtain and disseminate information;" "to be received by officials in connection with the exercise of his professional duties as a journalist;" "to make any recordings, including recordings made using audiovisual equipment;" and "on presentation of his credentials as a journalist, to be present at natural disaster areas and at rallies and demonstrations."¹⁸² These rights, listed in Article Thirty, can rightfully be called the "Journalist's Bill of Rights" in the Soviet Union.

Each of these rights marks a significant change from previous law and practice. Journalists now have the right to be investigative reporters, rather than obedient spokesmen for the government. Moreover, a journalist now is given a specific right to be present at political rallies and protests and to freely report on these events. The specific inclusion of the right of a journalist to be present in natural disaster areas is a reaction to the former practice of the Soviet rulers censoring news of natural disasters in the country.¹⁸³

It is unlikely that any amateur "newshound" can now claim the right as a journalist to be present at rallies, demonstrations and natural disasters or to be received by government officials. Article Twenty-Nine specifically requires that the journalist be either an employee of the mass

180. *Id.*

181. *Id.* at art. 29.

182. Law on the Press, art. 30.

183. See *supra* text accompanying note 32.

information medium or an independent contractor for the media organ, or be working as a journalist with the authorization of the medium.¹⁸⁴ As already discussed, a mass information medium itself must be duly registered with governmental authorities. This disposes of the need of the actual journalist being registered with the State. The Law's drafters should be credited for not setting up another bureaucratic step by requiring governmental registration of individual journalists. Moreover, a requirement of individual registration leads to the danger that the State may refuse registration to the most outspoken critics of the government.

Article Thirty-Three, found in Chapter Six of the Law, deals with the penetration of foreign mass media in the Soviet Union. Again, in direct contrast to previous practice, the Law now provides that "USSR citizens have the right to access to information from foreign sources, including direct television broadcasting, radio broadcasting, and press."¹⁸⁵ Jamming of foreign radio programs beamed into the USSR, such as Radio Liberty, is now prohibited.

Articles Thirty-Five to Thirty-Nine collected as Chapter Seven, set out the consequences for violating the Law on the Press. Article Thirty-Seven punishes a mass information medium that engages in compilation and dissemination of information without registration with a fine of up to fine hundred rubles and confiscation of the illegal material.¹⁸⁶ Repeat offenders are subject to criminal liability and fines of up to one thousand rubles and confiscation of the technical facilities.¹⁸⁷

The Law on the Press likewise imposes liability on government officials for violating the rights of journalists. Such government officials open themselves up to criminal liability and a fine of up to five hundred rubles.¹⁸⁸

Finally, Article Thirty-Nine allows the individual to sue a mass information medium for publishing false or defamatory material. Courts are given the power for determining the amount of damages a victim of defamation can receive.¹⁸⁹

IV. SOVIET TELEVISION AND THE HALT OF *GLASNOST*

The liberalization and privatization of Soviet television that occurred from 1988 to 1990 appears to be a temporary phenomenon. In

184. Law on the Press, art. 29.

185. *Id.* at art. 33.

186. *Id.* at art. 37.

187. *Id.*

188. *Id.* at art. 36.

189. Law on the Press, art. 39.

1991, Soviet television is reverting to the pre-Gorbachev era. Increasingly, only views of the central government and the Party are given television air time. Critics of the central government in 1991 must struggle to appear on national television.

Laws passed in 1990 to liberalize television broadcasting and expand the freedom of the mass media are still on the books. However, Gorbachev and his supporters, in a bid to hold on to power, are paying little attention to legal rules which they themselves promulgated.

A. Soviet Television Returns to Its Past

As the Soviet Union enters a new decade, its economic system is crumbling. Productivity and economic output are both going down.¹⁹⁰ *Perestroika*, at least to date, has not improved the Soviet economy, but in many respects has made it even worse.¹⁹¹ At the same time, the various republics of the Soviet Union are calling for not only economic but also political independence.¹⁹² In 1990, the Soviet parliament gave Gorbachev the power to rule by presidential decree. Gorbachev was instructed to use this power to stabilize the nation's political and economic situation.¹⁹³ Unfortunately, Gorbachev is increasingly using this new power to stifle dissent.¹⁹⁴ One of the first victims of Gorbachev's new policy has been television.

Examining from hindsight, the critical event leading directly to oppression of Soviet television was the surprise resignation on December 20, 1990 of Edvard Shevardnadze as Foreign Minister of the USSR.¹⁹⁵ In his resignation announcement, Shevardnadze warned in vague terms, of the emerging dictatorship in the Soviet Union.¹⁹⁶

Eight days later, on December 28, 1990, *Vzglyad*, the radical late-night *Pervaya Programa* program,¹⁹⁷ intended to interview two of Shevardnadze's aides who would explain why the Foreign Minister resigned. The show was never aired. Leonid Kravchenko, Gorbachev's newly appointed chairman of Gosteleradio, personally banned the December 28th broadcast.¹⁹⁸ Kravchenko, however, did not stop at banning one controversial broadcast. The January 4, 1991 edition of

190. See Goldberg, *Perestroika's Broken Promises*, A.B.A.J., Mar. 1991, at 28.

191. *Id.*

192. *Id.*

193. Nelan, *Boris v. Mikhail*, TIME, Mar. 24, 1991, at 26, 30.

194. See Coleman, *Time To End A Fixation On Gorbachev?*, TIME, Mar. 18, 1991, at 47.

195. Talbot, *The Conductor of Discord*, TIME, Mar. 25, 1991, at 33.

196. *Id.*

197. See *supra* text accompanying notes 92-93.

198. Survey, Soviet Analyst, Feb. 6, 1991, at 7.

Vzglyad also was cancelled.¹⁹⁹ On January 10, 1991, Gosteleradio announced that the program was being suspended indefinitely.²⁰⁰

On January 13, 1991, the next momentous event occurred. Soviet paratroopers stormed and took over the television broadcasting center in the Lithuanian capital of Vilnius. Fourteen people were killed in the process.²⁰¹ The purpose of the takeover was to silence the increasingly critical coverage of Gorbachev by the pro-independence Lithuanian television.

On January 16, 1991, Gorbachev dropped another bombshell. With the liberal mass media severely criticizing the military takeover of the television center in Vilnius, Gorbachev proposed that the Supreme Soviet suspend for six months the Law on the Press.²⁰² Gorbachev stated:

I propose that we now suspend the law on the press. The Supreme Soviet has the full power to take this step. Constructive dialogue and cooperation is very important for us now. I think that our newspapers and television and radio stations should express the viewpoint of society and not that of some political groups, especially narrow groups.²⁰³

Gorbachev's effort to suspend the Law on the Press did not succeed. Instead, the Supreme Soviet passed an alternative measure creating a legislative committee to work on procedures for insuring greater objectivity by the mass media.²⁰⁴ On the same day that Gorbachev sought to suspend the Law on the Press, *Pervaya Programma* aired, immediately following *Vremya*, a ten minute documentary praising the paratroopers who seized the television station and accusing Lithuanian nationalists of fomenting violence in the republic.²⁰⁵ Surprisingly, Alexander Nevzorov, the host and producer of the liberal Leningrad news show, *600 Seconds*,²⁰⁶ hosted the program.

199. *Id.*

200. *Id.*; *Soviets Take Radical TV Show Off The Air*, L.A. Times, Jan. 11, 1991, at A4, col. 1. A few weeks later, *Vzglyad* began broadcasting intermittently on Leningrad Television. Shogren, *Soviets Curb Alternative Radio Station*, L.A. Times, Feb. 4, 1991, at A4, col. 1; Parks, *Liberal Soviet Daily Gets Pressure From The Right*, L.A. Times Feb. 5, 1991, at H2, col. 4.

201. According to a western news report, "In Lithuania, the republic's television broadcast center is still in the hands of the anonymous [pro-Communist] 'Committee of National Salvation' after its seizure by the army." Parks, *supra* note 200, at H2, col. 4.

202. Parks, *Gorbachev Defeated in Bid to Suspend Press Law*, L.A. Times, Jan. 17, 1991, at A36, col. 1. See also Eaton & Kempster, *Administration Condemns Gorbachev's Call For Legislature to Suspend Press Law*, L.A. Times, Jan. 17, 1991, at 36, col. 1.

203. See Parks, *supra* note 202.

204. *Id.*

205. *Id.*

206. Two weeks later, Nevzorov survived a 2 a.m. assassination attempt while he was riding in a car outside of Riga, the capital of the Baltic Republic of Latvia. *Soviet Glasnost Journalist*

Following the successful takeover of the Lithuanian television station, Gosteleradio forbid the liberal Television News Service (TNS) to critically cover the events in the Baltics.²⁰⁷ Instead, TNS was given a script as to what news they could report. When TNS officials refused to read the official news report, a government spokesman was forced to read the "official version" of the news.²⁰⁸

Gorbachev's tightening control of the mass media coincided with his call on February 6, 1991 for a March 17, 1991 referendum on the future status of the Soviet Union.²⁰⁹ Following the announcement of the upcoming referendum, Gorbachev immediately took to the television airwaves urging passage of the referendum.²¹⁰ Soviet television began a massive campaign to convince viewers to support Gorbachev's position. In late February, 1991, when Gorbachev flew to Minsk to further promote the referendum, Soviet television widely covered his trip.²¹¹ In a style reminiscent of the Brezhnev era, Gorbachev's entire speeches were televised.²¹² Numerous television programs promoted only one political position: the March 17, 1991 referendum must be approved.

Despite increasing conservatism, Soviet television sometimes still presents an alternative political point of view. On February 19, 1991, Boris Yeltsin, President of the Russian Republic and Gorbachev's archrival, was allowed to appear on a live, late night television program.²¹³ Yeltsin had previously complained that he had been denied access to television, and specifically accused Kravchenko of being behind the move.²¹⁴ Moreover, two weeks earlier, Gosteleradio withdrew key frequencies of Radio Rossya, the pro-Yeltsin Russian Republic radio station which had

Survives Ambush With Guns and Grenade, L.A. Times, Feb. 4, 1991, at A4, col. 4. According to one report, "Nevzorov, once the darling and epitome of glasnost for his aggressive crime reporting [on *600 Seconds*] has been discredited in the eyes of liberals because of his stand on the Vilnius massacre." *Id.* For discussion of Nevzorov and his show *600 Seconds* see H. SMITH, *supra* note 1, at 153-54.

207. Shogren, *supra* note 200, at A4, cols. 1-2.

208. *Id.*

209. Nelan, *Boris v. Mikhail*, TIME, Mar. 24, 1991, at 26, 30.

210. Dahlburg, *Gorbachev Asks Unity, Calls Critics Neo-Bolsheviks in Byelorussia Trip*, L.A. Times, Feb. 27, 1991, at A3, col. 1; Clines, *Top Story on Moscow TV: Vote 'Da' on Referendum*, L.A. Times, Mar. 8, 1991, at A3, col. 3; Dahlburg, *Gorbachev, Yeltsin Clash in Rival Broadcasts on National Unity Vote*, L.A. Times, March 16, 1991, at A13, col. 1.

211. Dahlburg, L.A. Times, Feb. 27, 1991, *supra* note 210, at A3, col. 4.

212. *Id.*

213. Dahlburg, *Gorbachev Must Go, Yeltsin Says*, L.A. Times, Feb. 20, 1991, at A1, col. 4.

214. Dahlburg, *supra* note 213, at A1, A21, col. 1. Prior to his appearance, Yeltsin insisted on a one-hour live, television address on *Pervaya Programa*. Kravchenko made the following counter-offer: thirty minutes, on *Ftaraya Programa*, and prerecorded. Yeltsin refused, (see FBIS-Sov-91-026, Feb. 7, 1991 at 70) and eventually prevailed.

been operating since December, 1990.²¹⁵ It was unexpected, therefore, that Yeltsin would appear live on state-controlled television. Given an opportunity to address a nation-wide audience, Yeltsin issued an unprecedented call for Gorbachev's immediate resignation.²¹⁶

The next day, Gorbachev and Kravchenko mounted a television counter-attack. Breaking with the recent practice of showing only delayed broadcasts of Supreme Soviet sessions, national television began broadcasting live, midday coverage of repeated condemnations of Yeltsin by Supreme Soviet deputies.²¹⁷

Vremya that evening devoted the first seventeen minutes of its broadcast to anti-Yeltsin features. The television program showed the President of the Ukrainian Republic criticizing Yeltsin's speech as being "hasty, ill-considered and irresponsible" and cautioning that it "might be used for the further destabilization of the country."²¹⁸ The program also featured a congress of the heads of Soviet industries issuing a statement criticizing Yeltsin.²¹⁹

Three days later, on February 23, 1991, a rally was held in Moscow in support of the Gorbachev government.²²⁰ Military reservists were given special time off to attend the rally.²²¹ Soviet television extensively covered the demonstration, and continued to interview individuals who specifically criticized Yeltsin and called for his resignation from the Russian parliament.²²²

The next day a pro-Yeltsin rally was held in Moscow. According to the Western media, between forty thousand²²³ to one hundred thousand²²⁴ people took to the streets to voice their support for Yeltsin, and

215. Parks, *Conservatives Step Up Attacks on Gorbachev*, L.A. Times, Feb. 3, 1991, at A1, A25, col. 6; Shogren, *supra* note 200, at A4, col. 1; Magurn, *The Rise And Fall Of Radio Russia*, Soviet Analyst, Feb. 20, 1991, at 5.

216. Yeltsin stated on the live program: "I am disassociating myself from the presidential position and policy and calling for [Gorbachev's] immediate resignation and the delegation of [his] powers to a collective body, namely the Council of the Federation [the executive body composed of the heads of the 15 republics]. Dahlburg, *supra* note 213, at A1, col. 4. *Vremya*, the nationwide evening television program, completely ignored Yeltsin's announcement. *Id.*

217. Shogren, *Yeltsin Reprimanded For Calling Gorbachev To Quit*, L.A. Times, Feb. 21, 1991, at A21, col. 1; Fein, *Soviets Counterattack, Assailing Yeltsin Demand*, N.Y. Times, Feb. 17, 1991, at A8, col. 4.

218. Fein, *supra* note 217, at A21.

219. *Id.*

220. *Id.*

221. *Id.*

222. *Id.*

223. Clines, *40,000 Rally To Support Yeltsin Against Gorbachev*, N.Y. Times, Feb. 25, 1991, at A3, col. 3.

224. *100,000 Back Up Yeltsin In Rally Near Kremlin*, L.A. Times, Feb. 25, 1991, at A4, col. 1.

demand the resignation of Gorbachev.²²⁵ Interestingly, some of the harshest criticism at the rally was levelled at Kravchenko for slanting coverage in favor of Gorbachev.²²⁶ According to one speaker, "Yesterday [Kravchenko] showed us the rally of soldiers, of KGB and of apparatchiks, who were brought here by force. Today we demonstrate the free will of the people. Let him prove that he is not a boot-licker. The next word is yours, Mr. Kravchenko."²²⁷ Kravchenko never responded.

B. *The February, 1991 Decree*

Unable to convince the Supreme Soviet to suspend the Law on the Press, Gorbachev took an alternate legal route aimed to curb criticism of his government on Soviet television. On February 8, 1991, Gorbachev issued a presidential decree transforming Gosteleradio from a governmental committee into an autonomous, state-owned corporation, called the "All Union State Television and Radio Broadcasting Company."²²⁸ Gorbachev named Leonid Kravchenko, the chairman of Gosteleradio, as head of the new public corporation.²²⁹ This new organizational structure gives the company chairman greater powers than those given the old Gosteleradio chairman. The company chairman is allowed to make

225. For further discussion of the rivalry between Yeltsin and Gorbachev see Nelan, *supra* note 209, at 26.

226. Never before has a head of Gosteleradio come under such special scrutiny.

227. L.A. Times, *supra* note 224, at A4, col. 1. (statement of Telman Gdlyan, a former high-ranking Soviet investigator fired by Gorbachev). Despite its large size, *Vremya* showed no footage of the pro-Yeltsin rally. Instead, a newscaster read a short account of the rally issued by Tass, the official Soviet news agency. *Id.*

A special report then followed the *Vremya* program, showing film of the previous day's anti-Yeltsin rally. According to a New York Times report, the television special report exaggerated the size of the crowd at the anti-Yeltsin rally by ten-fold and distorted other facts. Clines, *supra* note 223, at A3, col. 4.

On March 10, 1991, another pro-Yeltsin rally was held in Moscow, with more than 100,000 people marching through the capital demanding Gorbachev's resignation. The *Vremya* reporter covered the rally as follows: "I honestly wanted to find something constructive to report, but all I heard was no, no to the president, no to the Supreme Soviet, no to the referendum. All right, destroy everything, but will that make our lives better?" Schmemann, *Huge Rally In Moscow Calls On Gorbachev To Resign*, N.Y. Times, Mar. 11, 1991, at A3, col. 3.

228. For the text of the decree, see Appendix 3. See also Parks, *Changes Seem To Ensure Gorbachev's Grip On TV, Radio*, L.A. Times, Feb. 9, 1991, at A20, col. 1; Magurn, *supra* note 215, at 6.

229. Parks, *supra* note 215, at A20, col. 1. A British observer of Soviet television facetiously comments on Kravchenko's appointment: "The most ominous announcement by Kravchenko was that at that moment he was the sole employee of the new company; all other staff of Gosteleradio would have to arrange contracts with the new company. Naturally, no honest and conscientious employee had anything to worry about. Of course not!" Magurn, *The Rise And Fall Of Radio Russia*, Soviet Analyst, Feb. 20, 1991, at 6.

many more decisions without consulting with government and Party officials; the chairman is also freed from supervision by the Communist Party, as well as by the Supreme Soviet.²³⁰ Under the new scheme, the chairman of the company is responsible only to the President of the USSR, namely Gorbachev.²³¹

The February, 1991 decree also allows the company to retain its foreign currency earnings.²³² Previously, Gosteleradio had to turn over its revenues to the State. Moreover, "because it is no longer effectively a government ministry but a public corporation, the new body will be freed from state regulations and wages, and Soviet journalists expect Kravchenko to grant substantial raises in an effort to reduce tensions."²³³

At the same time Gorbachev created a new radio and television council, whose task would be to coordinate national broadcasting and assist the various Soviet republics to develop their own programming and facilities. Kravchenko was appointed chairman of the council.²³⁴

The transformation of the forty-year old television and radio committee into a public corporation provides Gorbachev with greater powers to control television. The new corporation is directly responsible to Kravchenko and Gorbachev. Kravchenko, unlike his most recent predecessors, has proven to be a Gorbachev loyalist who is not afraid to take repressive measures against the mass media. In effect, the reorganization decree gives Gorbachev, in his role as President of the USSR, virtual control over the television airwaves.

By early 1991, therefore, Soviet television has made a sharp turn-about in its coverage of political events. With the exception of Yeltsin's February, 1991 appearance, Soviet television presents only the viewpoint of Gorbachev and his supporters. Gorbachev's new allegiance with the conservatives has resulted in the near-total disappearance of democracy on Soviet television. "Critical television" now means criticism of Gorbachev's opponents. Given the power to rule by decree, Gorbachev has increasingly used that power to stifle opposition and to keep his opponents away from the mass media.

V. THE FUTURE OF SOVIET TELEVISION AND THE LAW

Before the Gorbachev era, making predictions for the Soviet Union

230. Parks, *supra* note 215, at A20, col. 2.

231. *Id.*

232. *Id.* at col. 4-5.

233. *Id.* at col. 4.

234. *Id.*

was a relatively easy task.²³⁵ Gorbachev's predecessors followed cautious and conservative policies. Changes in the Soviet Union came about slowly and gradually. The situation has now completely changed. Every day brings new economic changes, political events, and laws.²³⁶ It becomes more difficult, therefore, to predict what Soviet television and the legal rules covering its administration will look like in the future.

A general prediction can be made. Soviet television and its legal rules will always reflect the political situation in the country. Where the Soviet nation goes, Soviet television will not merely follow, but will lead the way. From this general prediction, more specific comments can be made.

The worst case scenario involves the break up of the Soviet Union, and even civil war.²³⁷ In such instance, Soviet television will become part of the fray. Each political movement will seek to seize the television airways to pronounce and promote its point of view. Every political movement in the world today recognizes the power of television to influence public opinion. In a political uprising, the rebels first seek to capture the nation's television facilities. Most often, the political group that is able to control the television airways will be the group that will ultimately succeed in gaining political power during a civil war. If a civil war occurs in the Soviet Union, the conservative and radical political movements will fight over control of the television airwaves.²³⁸

With civil war, laws on the books governing Soviet television will become quickly obsolete. It becomes irrelevant therefore to discuss the legal status of Soviet television during a civil war.

In a second scenario of the future of the Soviet Union, civil war is avoided, but only at the cost of returning the country to its previous totalitarian status. Attempting to hold onto power, Gorbachev may move even further to the right and align himself with the powerful, but conservative institutions which can help keep him in power: the KGB

235. Western Sovietologists used to predict the Soviet political future by examining the order in which Communist Party leaders lined up to watch the annual May Day Parade on Red Square. Those standing closest to the General Secretary of the Party were considered "rising stars" in the Party.

236. Nelan, *supra* note 193, at 26-27.

237. See Church, *Operation Steppe Shield?*, TIME, Mar. 18, 1991, at 59 ("There is nothing farfetched about the idea that there might be a civil war in the USSR.").

238. In a January, 1991 speech Ivan Polozkov, head of the conservative Russian Republic Communist Party, complained that "the country's news media . . . were almost totally in the hands of liberals. 'If the monopoly on *glasnost* belonged before to the Communist Party . . . now it is in the hands of forces that are fighting against the Party.'" Parks, *supra* note 215, at A25, col. 4. The Party conservatives very much would like to wrest any control over the mass media from the "liberals."

and the military. Alternatively, the military may stage a *coup d'etat* for the first time in Soviet history, and impose military rule upon the nation. In such instance, the military may even allow Gorbachev to stay on as President of the USSR. Gorbachev may then become the ceremonial head of the Soviet state, with no more political power than the British monarch.

To predict how Soviet television and the law will look in such a political setting, one needs merely to look at the state of Soviet television prior to the Gorbachev era. A central government agency will control the television facilities throughout the USSR. Program content will be directed from Moscow. Alternative political viewpoints will not be tolerated. Live political programs and debate will no longer be aired. Soviet television, along with the rest of the mass media, will return to its dreary past.

In such instance, Gorbachev, or his more conservative successor, may even retain the Law on the Press, the 1990 television Decree and other regulations permitting free speech and privatization. The law on the books, however, will have little resemblance to reality. Soviet history demonstrates that the Communist rulers have a penchant for issuing glorious legal pronouncements and then ignoring them completely.²³⁹ The 1936 Soviet Constitution was issued by Stalin during the height of his repression. Yet, Stalin's Constitution provided on paper the rights and liberties not yet available in the West.²⁴⁰ Similarly, the 1977 Brezhnev Constitution,²⁴¹ still in force today, provides for freedom of speech,²⁴² freedom of the press,²⁴³ freedom of religion,²⁴⁴ and the right of the various republics to secede from the Soviet Union.²⁴⁵ Most of these rights and guarantees have never actually come into existence.²⁴⁶

Unfortunately, the grave political and economic difficulties the So-

239. See H. SMITH, *supra* note 1, at 173. See generally O.S. IOFFE, *SOVIET LAW AND SOVIET REALITY* (1985) (critical treatise of differences between Soviet law on the books and Soviet law in reality, by one of the Soviet Union's foremost legal scholars, now living in the West).

240. See B. PAULU, *supra* note 1, at 41-42.

241. See KONST. SSSR (USSR Constitution), *adopted* at the Seventh (Special) session of the Supreme Soviet of the USSR, Ninth Convocation, Oct. 7, 1977.

242. *Id.* at art. 50. Article 50 also states: "Exercise of these political freedoms is ensured by . . . the opportunity to use the press, television, and radio." See also W.J. HOWELL, *supra* note 1, at 134 (discussion of the Soviet Constitution and the mass media).

243. KONST. SSSR (USSR Constitution).

244. *Id.* at art. 52.

245. *Id.* at art. 72.

246. Professor Leon Lipson of Yale Law School tells the following anecdote: A Soviet dissident is arrested by the KGB for protesting in Red Square. During his interrogation, the dissident points to the article of the Soviet Constitution giving him the right to protest. To

viet Union is presently encountering makes this return to the past a more likely possibility. As discussed above,²⁴⁷ in 1991 television has been returning to its previous role as merely a "mouthpiece" of the Communist rulers in power. On the entertainment side, Soviet television may continue to allow Western-type television programs. The conservative rulers may wish to promote more entertainment shows in order to keep the Soviet populace complacent. Leonid Kravchenko recently commented that "the people had gotten fed up with political clap-trap and wanted real feelings."²⁴⁸ This is reminiscent of George Orwell's work in *1984*, where the rulers disseminate innocuous public culture to their people.²⁴⁹

The third, and most hopeful scenario, is that the reforms begun by Mikhail Gorbachev will be continued by him, or by a liberal successor. While the economic program of *perestroika* may currently be regarded as a failure, the success of *glasnost* should not be underestimated.²⁵⁰ For the first time in Soviet history, the Soviet public is allowed to publicly criticize its rulers.²⁵¹ Prior to Gorbachev, it was unimaginable that television would air programs challenging Soviet power.²⁵²

When democratic reforms are instituted, it becomes more difficult to turn back the clock and return to the old system. Assuming, therefore, that liberalization in the Soviet Union once again can continue, a place exists for the law to help Soviet television retain its newfound freedoms. Four reforms can help keep Soviet television democratic.

this, the KGB interrogator responds, "Comrade, I thought we were having a serious discussion."

247. See *supra* text accompanying notes 228-34.

According to Vladislav Fronin, the editor-in-chief of the now-liberal newspaper *Komsomolskaya Pravda*, "If Gorbachev could find a way, he might well reimpose government controls on all the media . . . There is no mistaking the shift to the right now . . . and freedom of the press and freedom of speech could easily be judged as 'somewhat premature' for our situation." Parks, *supra* note 200, at H2, col. 5.

248. FBIS-Sov-91-036, Feb. 22, 1991, at 68. And entertainment is what they are getting. See L.A. Times, Feb. 5, 1991 at F9, col. 3 ("Geraldo Rivera's television talk show will be dubbed in Russian and aired daily in the Soviet Union starting March 1"); Shogren, *Leningrad Tunes In To Its MTV Today*, L.A. Times, Mar. 8, 1991, at F24, col. 4 (140,000 homes in Leningrad receiving cable television can now tune in to MTV in Europe 24 hours a day; no censorship is predicted for the MTV videos); Carney, *Murder and Mayhem*, TIME, Feb. 11, 1991 ("Soviet television and newspapers have turned graphic tales of violence into standard fare").

249. See e.g., FBIS-Sov-91-036, Feb. 22, 1991, at 67 (Central TV Moving Toward 'Orwellian' Model).

250. See Bazyler, *supra* note 5, at 1501-03 (discussing the success of *glasnost* and the failure of *perestroika*).

251. *Id.* at 1501.

252. See *supra* text accompanying notes 55-61.

A. *Strengthening Free Speech Guarantees*

Of foremost importance to Soviet television are the laws dealing with freedom of speech and freedom of the press. If the Supreme Soviet promulgates more laws giving ordinary citizens the right to criticize the State, then Soviet television will benefit. New laws protecting the rights of individuals and the mass media to speak freely cannot alone guarantee that this will actually occur.²⁵³ Nevertheless, without a legal foundation which television commentators can point to as a basis for engaging controversial news gathering and reporting, it is doubtful that politically independent television will ever flourish in the Soviet Union. The 1990 Law on the Press is a significant step in institutionalizing the new freedoms granted through *glasnost*, but as discussed above,²⁵⁴ the Law needs further amendments to clarify the distinction between permissive speech and forbidden speech.

Western legal systems show that complete freedom of speech is impossible.²⁵⁵ Prohibitions against speech calling for political violence or racial and religious hatred appear as reasonable restraints to freedom of speech.²⁵⁶ Other laws, such as criminal sanctions for insulting the Soviet presidency or defaming the Soviet flag,²⁵⁷ are throwbacks to the pre-Gorbachev era and should be abolished. As in the West, courts in the Soviet Union will need to play an increased role in defining the limits of allowed speech in the country.

The need for a free and robust mass media in the Soviet Union must, however, be balanced against the need to protect individuals from defamation and undue intrusion into their lives. Already, Soviet television has been accused of unfair investigative journalism.²⁵⁸ As in the West, the Soviet legal system will need to further refine the civil law of defamation and the right to privacy in the Soviet Union. The Law on the Press has already confronted the problem by specifically devoting a number of articles to the issue of defamatory communication.²⁵⁹ The law may help assure that a robust and free-wheeling Soviet mass media is also a responsible mass media.

253. See e.g. *supra* text accompanying notes 237-43.

254. See *supra* text accompanying notes 159-60.

255. See L. TRIBE, *CONSTITUTIONAL LAW* 785-1062 (2d ed. 1988).

256. *Id.*

257. See e.g., *Woman Acquitted of Gorbachev Insult*, L.A. Times, Mar. 2, 1991, at A24, col. 1 (Soviet dissident acquitted of "insulting the President" but found guilty of "insulting the State flag" because she burned two red Soviet hammer-and-sickle flags in a public protest. She was sentenced to two years of correctional labor.).

258. See *supra* text accompanying notes 161-68.

259. *Id.*

B. Greater Privatization of the Television Industry

Undoubtedly, State-owned television will dominate the airwaves. Further privatization of the Soviet television industry will promote democracy in the USSR. Independent television channels can present points of view not available on State television channels. Private television channels, therefore, should be allowed to flourish. The Supreme Soviet should take the general statements of Gorbachev's 1990 television Decree and transform them into concrete guidelines for allowing the creation and operation of private television in the USSR.

Moreover, State-owned television should not necessarily mean television providing only the government point of view. The British Broadcasting Company in Great Britain,²⁶⁰ the Canadian Broadcasting Company in Canada,²⁶¹ and the Public Broadcasting Service in the United States,²⁶² are good examples of public-owned television channels which allow criticism of, and dissent from, the official government position. The employees who work for a government-owned television channel need not necessarily be "mouthpieces" of the government.

New technology being developed in the West, such as cable television, fiber optics, transmission of television signals over telephone wires, and interactive television, will most likely be introduced to Soviet television viewers by private industry. In the last decade, new technology has spawned greater privatization of television throughout the world.²⁶³ Unless the Soviet Union once again becomes a closed society, the trend toward privatization of television will continue in the USSR.

C. Greater Foreign Influence over Soviet Television

If democracy continues in the Soviet Union, it is inevitable that Western television will play a greater role in Soviet society. Already, Soviet television shows are emulating television in the West. Western television, however, will play a greater role than merely a model figure for Soviet television producers and journalists. Throughout the world, foreign television shows are freely broadcasting on local television systems. As elsewhere in the world, American shows may eventually dominate Soviet television.

260. See S.W. HEAD, *supra* note 1, at 70-71, 91-92.

261. For a recent discussion of the Canadian Broadcasting Service ("CBC") see Walsh, *Keeping Canada Canadian is Goal of Public TV Network*, L.A. Times, Feb. 26, 1991, at H4, col. 1. See also S.W. HEAD, *supra* note 1, at 87-88.

262. S.W. HEAD, *supra* note 1, at 205, 284, 313.

263. See S.W. HEAD, *supra* note 1, at 144-50. W. MCCAVITT, TELEVISION TECHNOLOGY: ALTERNATIVE COMMUNICATION SYSTEMS ix, 47-62, 119-23, 133-34 (1983).

The Soviet television and film industry is in great need of Western technology to produce programs for the domestic market.²⁶⁴ Soviet-American television co-productions, therefore, may become more common.

It is less likely that a Soviet television station will be jointly or partially owned by foreign interests. Most nations, including the United States, prohibit foreigners from owning the public airwaves.²⁶⁵ The Soviet Union, undoubtedly will also prohibit foreign television ownership.

D. Greater Decentralization of Soviet Television

It is now unanimously agreed, both in the Soviet Union and in the West, that if the USSR, or whatever it may wish to call itself in the future, is to survive, the various republics must be given more control over their own affairs. Political decentralization inevitably will lead to decentralization of the Soviet television industry. Gorbachev's attempts to keep a strong central television system, whether in form of a state committee or an independent government-owned corporation, cannot succeed in the long run. *Pervaya Programma* may continue to broadcast from the central television studios in Moscow; the various republics, however, must be given the legal right to have their own independent television stations. A successful confederation of sovereign states will lead to a confederation of independent television stations throughout the territory of what is now the USSR.

VI. CONCLUSION

Soviet television has undergone a rapid transformation in the last six years. A pioneer of democracy in Gorbachev's Soviet Union, it is now reverting to its former role as a tool of Government propaganda. Nevertheless, free-wheeling journalism and political debates still may appear on Soviet television. Legal reforms have lagged behind actual changes in the Soviet television industry. Nevertheless, new laws have helped to promote independent television in the Soviet Union. The success of these

264. A typical Soviet-American television project is the joint venture Lencentel, organized by the Leningrad City Council and Rutter-Dunn Communications, Inc. of Columbus, Ohio. Lencentel contracted with MTV Europe to broadcast MTV 24 hours a day on Leningrad Cable Television. Cable subscribers will pay for the service with rubles. Lencentel will pay its fees to MTV with hard currency. Since the MTV project will not generate hard currency, Lencentel will earn hard currency to pay MTV through other projects, including selling advertising to foreign companies in other media, such as billboards, and the manufacture of cable television equipment for export to the West. Shogren, *supra* note 248, at F24, col. 4.

265. See e.g., 47 U.S.C. § 310 (1934) (forbidding non-U.S. citizens from owning majority interest in a radio or television station in the United States).

laws is best illustrated by the opposition to them voiced by the conservative elements of Soviet society. Gorbachev's move to suspend the Law on the Press underscores the significance of that law. If the Law on the Press is useless, Gorbachev would not have strongly pushed for its suspension, and liberal lawmakers likewise would not have passionately fought for its existence. Soviet television can promote democracy in the Soviet Union. Soviet law can assist Soviet television in such an effort.

APPENDIX 1

USSR PRESIDENT'S DECREE ON DEMOCRATIZATION AND
DEVELOPMENT OF TELEVISION AND RADIO
BROADCASTING IN THE USSR

Television and radio are the largest mediums of the media for information, propaganda, and education. The content and trend of their programs, in the presence of objectivity and balanced assessment, to a large extent form public opinion and people's feelings. At the present time, when we are embarking on profound and complex transformations it is particularly important that television and radio should fully promote the consolidation of society; strengthen its stability and tranquility; and secure the protection of state interests, the humanization of relations among people, law and order, and inter-ethnic concord. Such aims demand the retention and the development of television and radio as a structure common to the whole nation.

At the same time the democratization of society, the growth in the role of sovereign Union republics and of the soviets of people's deputies, and the real emergence of political pluralism require a cardinal change in the nature of the country's television and radio broadcasting. I consider the following essential;

First: to define the legal basis of the activity of television and radio broadcasting in the new conditions; for this purpose, to recommend that the USSR Supreme Soviet adopt a law on the USSR regulating the activity of television and radio broadcasting in the country, and determining the status and competence of the USSR State Committee for Television and Radio Broadcasting and its mutual relations with central, republican, and local organs of power, political, and public organizations.

Second: To adopt a course toward expanding the rights and powers of republican, kray, and oblast television and radio committees; to make provisions in their structure for subdivisions which work on the provision of information to local organs of power; for the USSR Council of Ministers to coordinate with the councils of ministers of the Union republics and the Moscow and Leningrad Soviets on a procedure for allocating air time, channels, and frequencies for these purposes and for resolving matters relating to cadres; to take as a premise that soviets of people's deputies at all levels, public organizations, and parties have the right to open new television and radio centers or studios from their own financial and technical resources, or by means of leasing air time and the technical means of broadcasting from the USSR State Committee for Television and Radio Broadcasting and the USSR Ministry of Communi-

cations; in accordance with international practice, the creation and activity of such centers and studios should be registered by license; for the USSR State Committee for Television and Radio Broadcasting to confirm jointly with the USSR Ministry of Justice, prior to 1 September 1990 temporary provisions on the procedure for issuing licenses, bearing in mind that these acts will in fact be defined in a law of the USSR in the future; taking account of the importance of retaining a system of television and radio common to the whole nation, to deem as invalid any acts on the part of republican, kray, and oblast organs adopted without agreement with the USSR Council of Ministers, and directed at changing the legal and property position of the functioning subdivisions of the USSR State Committee for Television and Radio Broadcasting.

Third: To establish that the functions of state television and radio broadcasting should be implemented independently of political and public organizations, and serve the objective and all-round coverage of the processes taking place in the country.

The monopolization of air time by one or another party, political current, or group, is impermissible, as is the conversion of state television and radio broadcasting into a means of disseminating the private political views of its staff.

Fourth: To make it incumbent on the USSR State Committee for Television and Radio Broadcasting to carry out a reorganization of its activity for the fuller and freer manifestation of the creative potential of its employees and the strengthening of democratic principles. To switch to a competitive contract system of work agreements, to raise the material incentive of work by employees, and opportunities of self-financing for individual sections. To grant the USSR State Committee for Television and Radio Broadcasting the right to independently decide questions of staff structures and official rates of pay, taking into account the state of its finances, and to regularly use for these purposes part of the profit from commercial activity.

Fifth: The USSR Council of Ministers, jointly with the Councils of Ministers of Union Republics, should, by October 1990, examine the comprehensive program of material-technical and financial backing submitted by the USSR State Committee for Television and Radio Broadcasting, taking into account the necessity for the construction of a Russian Soviet Federated Socialist Republic Television and radio equipment and studio complex in Moscow City. Under the state program for the conversion of industrial defense sectors, there should be examination of the proposal for using the new space system Gelikon and Energia, and also mobile space communications reception and transmission systems

designated for providing the country's population with multi-channel television and radio.

APPENDIX 2

USSR LAW ON THE PRESS AND OTHER MASS INFORMATION MEDIA

Chapter. I. General Provisions

Article 1. Freedom of the press

The press and other mass information media are free.

Freedom of speech and freedom of the press, which are guaranteed to citizens by the USSR Constitution, mean the right to express opinions and beliefs, to seek, select, receive, and disseminate information and ideas in any form, including the press and other mass information media.

Censorship of mass information is not permitted.

Article 2. The mass information media

In the present law, mass information means reports and materials publicly disseminated in printed, audio, and audiovisual format.

Mass information media means newspapers, journals, television and radio programs, documentary movies, and other periodical forms of publicly disseminated mass information.

Mass information media are represented by the editorials offices of the periodical press and of television and radio broadcasting (news agencies and other institutions engaged in the production of mass information).

Article 3. The language of the mass information media

The mass information media engage in their activity in the languages of the peoples whom they serve or whose interests they represent. The mass information media have the right to disseminate mass information in other languages.

The state guarantees the right of USSR citizens to use their native language and other languages of USSR peoples when receiving and disseminating mass information in conformity with legislation on the languages of USSR peoples.

Article 4. Production and economic activity

The editorial office of mass information media is a legal entity operating on the basis of its statutes.

The editorial office has the right to carry out production and economic activity in conditions of economic autonomy and economic accountability.

The procedure for the granting of state subsidies to mass information media is defined by legislation of the USSR and Union and autonomous republics.

Article 5. Impermissibility of abuse of the freedom of speech

The use of mass information media to publicize information containing state secrets or other secrets specifically protected by law, to call for the violent overthrow or change of the existing state and social system, to propagandize war, violence, cruelty, or racial, national, or religious exclusivity or intolerance, to disseminate pornography, or to incite the commission of other criminally punishable acts is not permitted.

The use of mass information media to interfere in citizens' personal lives or to infringe their honor and dignity is not permitted and is punishable in accordance with the law.

Article 6. USSR legislation and Union and autonomous republics' legislation on the press and other mass information media

Legislation on the press and other mass information media comprises the present law and other USSR legislative acts promulgated in accordance with it, as well as laws and other legislative acts on the press and other mass information media in Union and autonomous republics.

Chapter II. Organization of the Activity of the Mass Information Media**Article 7. Founding rights**

The right to found a mass information medium belongs to soviets of people's deputies and other state organs, political parties, social organizations, mass movements, creative unions, and cooperative, religious, and other associations of citizens formed in accordance with the law, and also to labor collectives and citizens of the USSR over the age of 18 years.

Monopolization of any form of mass information medium (press, radio, television, or others) is not permitted.

Article 8. Registration of mass information media

The editorial offices of mass information media engaged in their activity after registration of the mass information medium in question.

Applications for registration of mass information media aimed at a unionwide public are submitted by the founders to the organs of state management as laid down by the USSR Council of Ministers, while applications for registration of mass information media aimed at republican or local public are submitted to the appropriate executive and administrative organs. Applications for registration must be examined within one month of receipt.

The registration of mass information media aimed at republican or local public can be assigned to other state organs by Union and autonomous republics' legislative acts.

Mass information media aimed at the public abroad are registered with the USSR Council of Ministers or with Union republic Councils of Ministers.

The right to embark on the production of mass information remains valid for one year from the date of receipt of the certificate of registration. In the event of this time limit being exceeded, the certificate of registration is deemed to have expired.

Article 9. Application for registration of mass information media

The application for registration of mass information media must indicate:

- 1) the founder;
- 2) the title, language (languages), and location of the mass information medium;
- 3) the intended public;
- 4) the program objectives and tasks;
- 5) the mass information medium's proposed frequency of publication, maximum size, and sources of finance.

It is prohibited to make other demands in the process of registration of mass information media.

Article 10. Cases of dissemination of information without registration

The right to publicly disseminate information without registration belongs to organs of state power and management and other state organs for the publication of official normative and other acts and bulletins of judicial and arbitration practice.

Enterprises, organizations, and academic and scientific institutions have the right to produce and disseminate any information material and documentation necessary to their activity without registration. No registration is required for the production, by the use of technical means, of printed, audio, and audiovisual matter not intended for public dissemination or reproduced in manuscript form. No registration is required for mass information media producing printed matter in print runs of less than 1,000 copies.

Article 11. Refusal to register a mass information medium

Refusal to issue a certificate of registration of a mass information medium is possible only on the following grounds:

- 1) if the title of the mass information medium or its program objective and tasks are contrary to the provisions of the first paragraph of Article 5 of the present law;
- 2) if the registering organ has previously issued a certificate to a mass information medium with the same title;

3) if the application is submitted within one year of the date when a decision on cessation of the mass information medium's activity came into force.

A refusal to effect registration is notified to the applicant in writing, indicating the grounds for refusal as stipulated by the present Law.

Article 12. Registration fee

A registration fee is charged for the issuing of a certificate of registration of a mass information medium according to procedures and size set by USSR or Union or autonomous republic legislation.

Article 13. Cessation of the production or publication of a mass information medium

Cessation of the production or publication of a mass information medium is possible following a decision by the founder, or the organ which registered the mass information medium, or the court.

The organ which registered the mass information medium or the court can stop its production or publication in the event of a second violation of the demands by the first paragraph of Article 5 of the present Law in any one year.

If a mass information medium is not produced or published for more than one year, a resumption of its activity requires a new registration certificate.

In the event that the founder decides to cease production or publication of a mass information medium, its editorial office labor collective or its editor (chief editor) has a preferential right to found a mass information medium with the same title.

Article 14. Appeal procedure against refusal to register a mass information medium or a decision to cease its activity

An appeal may be made to the court by the founder or the editorial office against a refusal to register a mass information medium, against a breach by a state organ of the one-month limit set for registration, or against a decision to cease the activity of a mass information medium, and the court will hear such appeals, including any property disputes, as provided by civil procedural legislation.

If the refusal to register a mass information medium or the decision to stop its activity is deemed to be contrary to the law, this entails the revocation of the contested decision. A revocation of a decision to cease a mass information medium's activity entails compensation for losses sustained by the founder, the editorial office, and the publisher, including loss of revenue.

Article 15. Founder, editor, editorial office, and publisher of a mass information medium

The founder determines the mass information medium's program (basic principles) of activity. The editorial office or other institution engaged in the production of mass information implements the program on the basis of professional autonomy.

The editor (chief editor) is appointed and dismissed by the founder of the mass information medium or is elected and dismissed under the procedure stipulated in the editorial statutes. The editor (chief editor) leads the work of the mass information medium's editorial collegium and editorial office and represents the mass information medium in relations with the founder, publisher, authors, state organs, social organizations, other associations of citizens, and citizens, and also in court.

The editor (chief editor) is responsible for ensuring that the mass information medium's activity complies with the requirements of the present law and other legislative acts.

The editorial collegium is composed according to the procedure stipulated by the editorial statutes. The chairman of the editorial collegium is the editor (chief editor).

The mass information medium's publisher may be the founder or may equally be a publishing house or other legal entity offering guarantees of material and technical backing for the production (printing, publication) or mass information.

Article 16. The editorial statutes of mass information media

The editorial statutes of mass information media are adopted at a general meeting of the editorial office's collective of journalists by a majority of votes in the presence of at least two-thirds of the collective, and are approved by the founder.

The editorial statutes regulate relations between the founder, editor (chief editor), and the editorial office, and the powers of the journalists' collective. The statutes include provisions on the procedure for the distribution and utilization of revenue earned through the mass information medium's activity, and other provisions.

The editorial statutes must not contravene the law.

Article 17. Production, property, and financial relations between the founder, the editorial office, and the publisher of mass information media

Production, property, and financial relations between the founder, the editorial office, and the publisher of mass information media are based on current legislation and contracts.

The contract specifies:

- the funds for the maintenance of the editorial office;
- the proportion of revenue (profit) from the activity of the mass information medium that is placed at the disposal of the editorial office, the founder, and the publisher;
- the commitments of the founder and the publisher in providing appropriate production, social, and living conditions for the life and work of employees of the editorial office;
- other conditions.

Article 18. Publication data

Each issue of a periodical printed publication must contain the following information:

- 1) title of the publication;
- 2) founder;
- 3) surname and initials of the editor (chief editor);
- 4) serial number of the issue and date of publication for periodical publications, as well as the signed-to-press time for newspapers;
- 5) index number of periodical publications distributed through circulation enterprises;
- 6) print run;
- 7) price (where a publication is commercially distributed);
- 8) address of the editorial office, publisher, and printing house.

On each occasion of going on the air or, where broadcasting is continuous, not less than four times every 24 hours, the television or radio broadcasting editorial office is obliged to announce the name of the television or radio broadcasting editorial office.

Article 19. Copyright and mandatory copies

Free copyright copies of periodical printed publications are sent immediately on printing to the All-Union Book Chamber, the USSR V.I. Lenin State Library, the M. Ye. Saltykov-Shehedrin State Public Library, the founder, and the organ issuing the registration certificate for the publication in question.

Copyright and mandatory copies of printed matter are also sent to other institutions and organizations according to procedures stipulated by the USSR Council of Ministers and the Councils of Ministers of Union and autonomous republics.

Article 20. Retention of television and radio program material

Television or radio broadcasting editorial offices must retain program material for one month after it is broadcast on the air, and must keep a registration log of programs going on the air without prior recording which shows the program's topic, its date and its start and end times,

and the anchorman's surname and name. The registration log of such programs is retained for one year from the date of the last entry in it.

Chapter III. Dissemination of Mass Information

Article 21. Procedure for dissemination of mass information media output

The dissemination of the output of mass information media is carried out by the publisher directly or on a contractual or other legal basis by circulation enterprises, other organizations, or by citizens.

The dissemination of the output of mass information media without publication data is prohibited.

Article 22. Authorization of the dissemination of mass information

The dissemination of each individual issue (with its own publication data) produced by a mass information medium is permitted only after the editor (chief editor) has given authorization for its publication (broadcast).

The print run of a press publication is determined by the editor (chief editor) by agreement with the publisher.

The hindrance of the dissemination of mass information media output when done in compliance with the law or the confiscation of a print run or a part thereof are not permitted otherwise than on the basis of a legally binding court decision.

Article 23. Official announcements

The publication of official announcements by organs of state power and management is mandatory for mass information media founded by the organs.

The editorial office is obliged to publish free of charge and within a specified time legally valid decisions by a court or state arbitration organ that contain instructions stipulating the publication of such decisions through the said mass information medium in question.

Chapter IV. Relations Between Mass Information Media and Citizens and Organizations

Article 24. The right to receive information through mass information media

Citizens have the right to receive promptly through the mass information media reliable reports on the activity of state organs, social organizations, and officials.

The mass information media have the right to receive such information from state organs, social organizations, and officials. State organs,

social organizations, and officials provide the mass information media with available reports and an opportunity to inspect documents.

An appeal against refusal to provide information that has been requested may be made by mass information media representatives to a higher-level organ or official, and afterwards to the court according to procedures laid down by the law on appeals against unlawful actions by organs of state management and officials which infringe citizens' rights.

Article 25. Use of copyright materials and letters

The use of works of journalism, literature, art, and science by the mass information media is permitted provided that copyrights are complied with.

No one has the right to oblige a mass information medium to publish materials rejected by the editorial office, unless the law stipulates otherwise.

In the publication of readers' letters, the abridgement and editing of their text is permitted, provided that the sense of the letters is not distorted.

Article 26. Right to refutation and reply

A citizen or an organization has the right to request a mass information medium's editorial office to refute published reports that do not conform with reality or defame their honor and dignity.

The citizen or organization whose rights and legitimate interests have been infringed by reports published in mass information media has the right to have his or its reply published in the same mass information medium.

The refutation or reply is published, either under a special rubric or on the same page and in the same typeface as the report being refuted, as follows: Not later than one month following receipt of the demand in the case of newspapers, or in the next issue under preparation in the case of other periodical publications.

The refutation or reply is read out by the radio or television announcer in the same program or series of programs and at the same time, not later than one month following receipt of the demand. The right to read out the reply can also be exercised by the citizen himself or a representative of the organization demanding that a reply be published.

The editorial office is obliged to publish a reply running to not more than one page of standard typewritten text. No editing of the reply's text is permitted.

Article 27. Court hearing of an application to publish a refutation or reply

In the event that publication of the refutation or reply is refused or the mass information medium is in breach of the one-month time limit set for such publication, the citizen or organization in question is entitled to appeal to the court within one year of the date of publication.

The court hears the application to have a refutation or reply published by a mass information medium's editorial office according to procedures laid down by civil procedural legislation.

Article 28. Special cases of nonpublication of information

A mass information medium's editorial office or a journalist is not entitled:

- 1) to name a person who has provided information on condition that his name is not revealed, except when requested to do so by the court;
- 2) to publish information from a preliminary investigation without the written permission of the prosecutor, investigator, or person conducting the inquiry;
- 3) to publicize any information which could result in revealing the identity of a juvenile offender without his own consent and the consent of his lawful representative;
- 4) to prejudice in their reports the results of a judicial hearing of a specific case or otherwise to influence the court prior to its decision or sentence coming legally into force.

Chapter V. Rights and Duties of the Journalist

Article 29. The journalist

In the present law, journalist means a person engaged in the gathering, creation, editing, or preparation of material for a mass information medium and associated with the said medium through labor or other contractual relations or engaged in such activity with its authorization.

Article 30. The journalist's rights

- 1) to seek, obtain, and disseminate information;
- 2) to be received by officials in connection with the exercise of his professional duties as a journalist;
- 3) to make any recordings, including recordings made using audiovisual equipment and movie and still photography, except when otherwise provided by law;
- 4) on presentation of his credentials as a journalist, to be present in natural disaster areas and at rallies and demonstrations;
- 5) to ask for specialist assistance in checking facts and circumstances in connection with material available to him;
- 6) to refuse to put his name to material contrary to his convictions;

- 7) to remove his signature from materials whose content, in his opinion, was distorted in the process of editorial preparation;
- 8) to stipulate anonymity.

A journalist also enjoys other rights granted to him in accordance with the present law.

Article 31. Accreditation of journalists

The mass information media may, by agreement with state organs and organs of social organizations, accredit their own journalists to those organs and organizations.

Organs that have given a journalist accreditation are obliged to notify him beforehand of sittings, conferences, and other events and to provide him with stenographic transcripts, protocols, and other documents.

Article 32. The journalist's duties

A journalist has the duty:

- 1) to implement the program of activity of the mass information medium with which he has a labor relationship and to take guidance from the editorial statutes;
- 2) to check the authenticity of the information he reports;
- 3) to satisfy requests by persons providing information that they be identified as authors if such information is being published for the first time;
- 4) to refuse an instruction given to him by the editor (chief editor) or editorial office if it entails an infringement of the law;
- 5) to respect the rights, legitimate interests, and national dignity of citizens and the rights and legitimate interests of organizations.

A journalist also takes on other duties stemming from the present law.

Chapter VI. International Cooperation in the Sphere of Mass Information

Article 33. International treaties and agreements

International cooperation in the sphere of mass information is carried out on the basis of international treaties concluded by the USSR and the Union republics.

If an international treaty by the USSR lays down norms different from those contained in the present Law, the norms of the international treaty apply.

The mass information media, journalists' professional organizations, and other creative unions participate in international cooperation in the mass information sphere and, for this purpose, can conclude agreements with foreign citizens and organizations.

USSR citizens have the right to access to information from foreign

sources, including direct television broadcasting, radio broadcasting, and press.

Article 34. Activity of representatives of foreign mass information media and diplomatic and other missions of foreign states in the USSR

The legal position and professional activity of foreign correspondents and other representatives of foreign mass information media accredited to the USSR, as well as the information activity of diplomatic, consular, and other official missions of foreign states in the USSR, are regulated by USSR and Union republic legislation in conformity with international treaties of the USSR and the Union republics.

Chapter VII. Liability for Infringement of legislation on the Press and Other Mass Information Media

Article 35. Grounds for liability in respect to breaches of legislation on the press and other mass information media

Abuse of the freedom of speech, dissemination of information which does not correspond with reality and defames the honor and dignity of a citizen or organization, and pressure on the courts by journalists, entail criminal, administrative, or other liability in accordance with USSR and Union republic legislation.

USSR and Union republic legislation can institute liability for other breaches of legislation on the press and other mass information media.

Liability for infringement of legislation on the press and other mass information media falls on officials of state and social organizations, as well as on the editorial office and editor (chief editor) or a mass information medium and the authors of disseminated reports and materials.

Article 36. Impermissibility of interference in the activity of mass information media

Any hindrance by officials of state and public organs of journalists' professional activity or coercion of journalists to disseminate or to refuse the dissemination of information entails criminal liability and is punishable with a fine of up to 500 rubles [R].

Article 37. Liability for illegal compilation and dissemination of mass information

The compilation and dissemination of output by a mass information medium, either without it being registered in accordance with the present law or following a decision to cease its production or publication, entail administrative liability punishable by a fine of up to R500 imposed by a people's judge and confiscation of the print run of printed or other output.

The commission of a second infringement of the first paragraph of this article within any one year entails criminal liability and is punishable with a fine of up to R1,000 with or without confiscation of technical facilities belonging to the culprit and used for the compilation and dissemination of information.

Article 38. Cases when liability for the dissemination of information which does not conform with reality is lifted

The editor (chief editor) and equally a journalist, is not liable for the dissemination of information which does not conform with reality by a mass information medium:

- 1) if this information was contained in official reports;
- 2) if it was received from news agencies or the press services of state and public organs;
- 3) if it is a verbatim reproduction of speeches by people's deputies at congresses and soviet session or by delegates at congresses, conferences, and plenums of social organizations, or of official statements by officials of state and public organs;
- 4) if it was contained in authors' statements which have gone on the air without being prerecorded, or in texts not allowed to be edited in conformity with the present law.

Article 39. Payment of moral damages

Moral (nonmaterial) damages suffered by a citizen as a result of the dissemination by a mass information medium of reports that do not conform with reality and that defame the honor and dignity of a citizen or inflict other nonmaterial damage on a citizen are paid by a court decision by the mass information medium and also by guilty officials and citizens. The size of payments for moral (nonmaterial) damages is determined by the court.

APPENDIX 3

**DECREE ISSUED BY PRESIDENT MIKHAIL GORBACHEV IN MOSCOW
ON 8 FEBRUARY "ON THE CREATION OF AN ALL-UNION
STATE TELEVISION AND RADIO BROADCASTING
COMPANY"**

Moscow, 8 Feb (TASS)-We are transmitting the decree signed today by Mikhail Gorbachev, president of the USSR, "On the creation of an All-Union State Television and Radio Broadcasting Company":

"To further perfect the system of administration of television and radio in the country, I resolve:

1. That an All-Union State Television and Radio Broadcasting Company be created, having transferred to it the fixed assets and other state property in the possession on 1 January 1991 of the USSR State Committee for Television and Radio Broadcasting and of the associations, enterprises, and organizations within its jurisdiction.

That the television and radio company being created retain the functions, rights, and duties of the USSR State Committee for Television and Radio Broadcasting and that the overall numbers and levels of budgetary allocations and conditions of the economic mechanism currently in operation be preserved.

2. That Comrade Leonid Petrovich Kravchenko be appointed chairman of the All-Union State Television and Radio Broadcasting Company, and that he be released from the duties of chairman of the USSR State Committee for Television and Radio Broadcasting.

"That Comrade L.P. Kravchenko be instructed within two weeks:

"To present for approval by the president of the USSR draft regulations on the All-Union State Television and Radio Broadcasting Company, envisioning that the chairman of the All-Union State Television and Radio Broadcasting Company will possess the rights of a leader of a central body of the USSR state administration:

To present to the Cabinet of Ministers of the USSR proposals on financial provision and other questions concerning the activity of the All-Union State Television and Radio Broadcasting Company.

3. That for the purpose of improving coordination of scientific and technical and program policy in the sphere of television and radio broadcasting and expansion of the opportunities of the republics for developing international links in this sphere. An All-Union council for Television and Radio Broadcasting be set up. That Comrade L.P. Kravchenko, chairman of the All-Union State Television and Radio Broadcasting Company, be invested with the leadership of this Council.

That it be established that the leaders of the republics' television and radio organizations are members of the Council being part of its composition on a voluntary basis.

That Comrade L.P. Kravchenko be charged with putting forward within two weeks proposals on the regulations and working apparatus of the All-Union Council for Television and Radio Broadcasting.

4. That it be established that the force of Article 3 of the decree of the USSR president of 2 November 1990 'On special procedures for the use of foreign currency resources in 1991' concerning the obligatory sale to the Bank for Foreign Economic Activity of the USSR of a portion of foreign currency proceeds does not extend to the foreign economic activity of the All-Union State Television and Radio Broadcasting Company.

5. That the USSR Cabinet of Ministers deal with matters emanating from the present decree.

6. That the present decree be put into effect from the moment of its publication.

Moscow TASS International Service in Russian at 1731 GMT on 8 February transmits an abridged version of the above decree, adding the following comment at the end: This decree was expected in journalistic circles, and is regarded as an important step toward the decentralization of the radio broadcasting and television system in the country."

