

COMMITMENT WITH FREEDOM OF EXPRESSION MEXICO 2009

PREAMBLE

- > Whereas the transcendence of freedom of expression is a fundamental human right which extends beyond an individual sphere of influence to build freer, more plural, democratic and respectful societies,
- > Whereas freedom of expression is essential for public participation and the proper functioning of democracy,
- > Whereas effective enjoyment of freedom of expression is impossible whenever there is fear, darkness and silence, and this fundamental right enables people to develop their capabilities and intelligence in such a way that individually their personality becomes fully developed, and they collectively reach a permanent state of peace,
- > Whereas the different social actors are called upon to make freedom of expression the cornerstone of respect and tolerance,
- > Whereas citizens are jointly responsible for the exercise of this freedom, and they must demand from governments the fulfillment of their obligation to protect it as a substantial ingredient of all other liberties,
- > Whereas diffusion of public information and access to the sources thereof incentivizes a more responsible, documented and deeper participation level with which the quality of our democracies and public administrations is improved,
- > Whereas any form of restraint on freedom of expression becomes a powerful motivator for the use of force or violence in social conflict resolution,
- > Whereas article 19 of the Universal Declaration of Human Rights, articles 13 and 14 of the Inter-American Convention of Human Rights, and other agreements of like nature clearly state the importance and assurance of freedom of expression in the development of nations, nothing in this Commitment may be interpreted as a limitation to or the curtailment of the scope of freedom of expression as stated in such declarations and conventions,
- > Whereas the media and journalists play a transcendental role in promoting the free flow of information and ideas that enable individuals to make adequate decisions, hold proper discussions and build stronger democracies,
- > Whereas development of a Society of Information and Knowledge, access to the Internet, new technologies and convergence should strive to serve the full exercise of fundamental rights, including freedom of expression and the right to information,
- > Whereas the obligations of international organizations and States towards freedom of expression and the right to information should include the executive, legislative and judicial powers and autonomous constitutional bodies at all government levels according to each country's political subdivisions,

Now, Therefore, in acceptance of the need for freedom of expression in Latin America, the signatories below and everyone who was involved in drawing up this COMMITMENT WITH

FREEDOM OF EXPRESSION, MEXICO 2009, do hereby state our understanding of and duties towards the following

PRINCIPLES:

I. THE RIGHT TO FREEDOM OF EXPRESSION

1. Freedom of expression comprises the freedom of seeking, receiving and spreading all kinds of information and ideas, irrespective of borders, whether verbally, in writing, in printed or artistic form, or by any other procedure of one's choice, and by any other means, the new technologies included. Freedom of expression is a fundamental human right and indispensable for peaceful and democratic coexistence.
2. Everyone has the same opportunity to exercise his right to freedom of expression, and to seek, obtain and receive information without restrictions.
3. Societies and their States are responsible for taking the necessary measures so that the handicapped may exercise their freedom of expression and right to information under equal conditions. To do this, information must be provided in an accessible format at no additional cost, taking into account the needs of different groups and various types of capabilities.
4. It is the duty of society and its States to promote legislative, executive and judicial initiatives to ban all measures and practices that favor discretionary and/or arbitrary use of official publicity.
5. An active role of civil society is acknowledged and encouraged in the promotion, defense, claim and expansion of freedom of expression as a value through which the population may cohere into solid and demandable democratic values. To this end, society as a whole shall promote such freedom in its amplest sense and value, and supervise that such right is complied with by the government.

II. PROTECTION OF FREEDOM OF EXPRESSION

1. No one should be subjected to limitation or interference regarding his freedom of expression.
2. No restriction outside the law shall be applicable to freedom of expression; and if any should exist therein, it must be based on a legitimate premise, justifiable by a democratic society as a necessary and indispensable measure for subsistence of the State or the people of such State. All procedures shall be transparent, objective, and with ample participation and debate mechanisms.

III. PLURALISM AND DIVERSITY

Freedom of expression requires that the authorities be responsible for and society committed to:

1. Promoting plural ideas and opinions for increased participation and understanding in public debates.

2. Facilitating access to mass media, including the new technologies, particularly fostering the participation of minority, vulnerable or marginated groups, such as indigenous peoples, the handicapped, women, youngsters and children, and linguistic or cultural minorities.

IV. THE RIGHT OF ACCESS TO INFORMATION

1. Public institutions are depositories of information which the public must be allowed to know, by means of legislation providing and facilitating citizen access to such key information, for the exercise of a responsible freedom of expression.

2. The right to information must be guaranteed by law, in accordance with the following principles:

Everyone has the right of access to information from public agencies without further documentation or requirement.

Everyone has the right to obtain information from decentralized corporations or organizations, political institutes or parties, educational institutions, and even private companies or unions, when such are operated with public funds or property provided by the State.

Everyone has the right of access to information from private companies as required for the protection of a fundamental human right, through a judicial order from an authority of relevant jurisdiction.

In the event of unreasonable refusal, deficient or insufficient, manipulated or false information, the right to seek recourse from an independent organization and/or administrative court shall exist.

Government agencies shall be required, by statute, to make periodic and systematic publication of important or relevant information for society as a whole, and by subjects for specific audiences.

3. Everyone has the right of access to information and to update such information, to amend one's personal record if it is inaccurate; or in the case of sensitive data, delete it when irrelevant for the subject matter, whether it is filed by a public or private organization, and applicable measures shall be issued by governments for such purpose.

V. EDUCATION

SOCIETIES AND THEIR STATES SHALL:

1. Require that educational institutions exercise freedom of expression at all levels of academic life for the development of responsible citizens; and to hold such freedom as the path to knowledge and development for social coexistence.

2. Ensure that their people receive education, from elementary schooling to all subsequent levels of learning, with which sufficient reading and writing skills may be acquired to achieve a culture where full freedom of expression prevails.

3. Encourage university communication program updates for improved professional development, particularly on the subjects of Freedom of Expression, Transparency, the Right to Information, New Technologies, and Civil Rights.
4. Promote the development of freedom of expression studies, research and publications addressed to the communications, academic, and student sectors and to society in general.

VI. PRIVATE MEDIA

1. Society and its States shall promote the widest possible participation in national debates and media broadcasts.
2. Use of radio frequency bands of the electromagnetic spectrum must be totally democratic and transparent, without State restrictions or limitations in favor of monopolies or oligopolies, public and/or private.
3. Private, citizen, and community media shall be promoted through broadcasting regulations according to the following principles:

An independent and autonomous regulating institution will be responsible for the issuance of radio frequency transmission licenses or grants, and supervise that no restrictions in such allocation shall apply.

The licensing process must be fair, transparent, objective and impartial, promoting the diversity and plurality of broadcasters at all times.

Development of community broadcasts shall be fostered for wider access by the poor or rural communities through use of radio frequency bands of the electromagnetic spectrum.

VII. PUBLIC MEDIA

Broadcasting stations managed with public funds must become public broadcasters, subject to audits and rendition of accounts, according to the following principles:

1. Public broadcasters must be protected by legislation that ensures freedom from interference of private, political or economic origin, so that their goals can be met.
2. The editorial independence of public broadcasters must be assured.
3. All inhabitants of a country's national territory have the right to access and participate in public media broadcasts and contents.
4. The scope of public broadcasters must be clearly defined and shall include the obligation to provide audiences with complete, impartial and politically plural information, especially during election campaigns.

VIII. MASS MEDIA

1. No mass media register system may impose restrictions on the right to freedom of expression.

2. The media shall:

Foster self-regulation and promote ethics codes and media audience defenders.

Make efforts to increase the average daily circulation of print media, particularly in culturally unattended communities.

Incentivize observance of the conscience clause, the right of reply, and professional secrecy.

3. Lack of transparency in the media provokes mistrust among society and lowers the quality of debates, therefore the media shall agree to:

Have their respective audience levels and number of copies printed, distributed, sold or given away, if any, certified with absolute truthfulness and ethics.

Report the amounts of advertising and promotion that are billed to the State, so as to prevent unfair privileges or inequitable allocation of government advertising.

Maintain transparency in their internal management whenever the forming of public opinion, the right to information and freedom of expression are involved.

4. The information company and its communicators shall be encouraged to reach agreements that ensure independent editions.

5. No media advertiser will be allowed to withdraw publicity for information-related reasons, nor seek to hide information due to economic pressure.

6. The media and private entities that provide information, including the Internet, shall make sure that accessible formats and services for everyone, particularly the handicapped, are used.

IX. NEW TECHNOLOGIES

Access to new technologies, the Internet in particular, as a tool for the full enjoyment of fundamental rights such as freedom of expression and the right to information, must include:

1. Network and equipment access for use of the new technologies.

2. Education for use of the new technologies.

3. Promoting the development of information capabilities for the largest possible quantity of users.

4. Promoting the creation of contents concerning the population as a whole.

X. BROADCASTING AND TELECOMMUNICATIONS REGULATORS

Any authority having broadcasting and telecommunications attributions shall:

1. Be independent, autonomous and properly protected against all kinds of interference, whether private, political or economic.
2. Be formally responsible to society and provided with ideal mechanisms for such purpose.
3. Be transparent and open to the public in deliberation meetings and look for citizen participation therein.
4. Ensure that no conflicts of interest or government links exist between government board members or the authority's collegiate body and regulated agents or political parties, so that impartial decision making is assured.

XI. COMPLAINTS

1. A system for handling public and private media management complaints is needed. Such system must be available and widely accessible, and ensure the right of reply. To this end, there shall be pre-established rules and behavior codes indicating a simple procedure to be followed for filing complaints, recommendations and solutions.
2. Any institution that processes media broadcast content complaints must be protected from political, economic, or other types of interference. The powers of such institution shall remain administrative and conciliatory and may not arrogate the power of the courts.

XII. PROMOTING PROFESSIONALISM

1. The mission of informing necessarily implies professional responsibility. A communicator must assume responsibility for his professional work and consider that slander, defamation, offense, altering proof, deformation of facts, unfounded accusations, and lying are serious professional transgressions, with legal consequences.
2. Media professionals shall be free to organize themselves into associations or unions, national or international.
3. Newspaper companies must agree to provide continuous staff training.
4. Society and government shall promote, from their professional and academic fields, reflections on journalistic ethics and the media's social responsibility and transcendence, so as to foster the creation of self-regulatory mechanisms intended to improve the quality of information which in turn may reflect on further and better freedom of expression.

XIII. MEASURES AGAINST THOSE AIRING THEIR OPINION THROUGH THE MEDIA

1. Any attack on the freedom of expression of individuals in the media and on the media themselves, such as threats, physical injury, kidnapping or murder, and the physical destruction of facilities, decimation of independent journalism, curtailed freedom of expression and free flow of public information is severely condemned.
2. Society and its States are under the obligation of adopting effective measures against any kind of attacks, and if any should take place, an investigation shall be conducted, the perpetrators punished and the victims assured access to effective recourse and repair of damages.
3. The States and civil society shall build supportive, promotional, broadcasting and legal counseling networks to address actions against freedom of expression; networks in which journalists, universities, the media, law firms, NGOs, trade unions and society as a whole will come together.

XIV. THE RIGHT TO PRIVACY, HONOR, AND SELF IMAGE

1. No one has the right to defame or attempt against the privacy, honor, intimacy, or right to self image of other people.
2. Public personalities shall understand that for the sheer practice of their position, they are more exposed to sustained critique and controversy.
3. States must make sure the sanctions imposed by their laws against defamation or attacks on privacy, honor, intimacy or the right to self image are never so severe as to inhibit the practice of freedom of expression and the right to information. Imprisonment is considered severe, as well as excessive monetary sanctions.

XV. EMERGENCY SITUATIONS

In emergency situations or natural disasters, the people's right to information and responsible freedom of expression shall be respected according to high ethical standards, without giving room for unnecessary alarm or panic situations.

XVI. ADDITIONAL MEASURES

1. Legal frameworks must be revised and adapted by societies and their States so that no provisions limiting or jeopardizing public interest in freedom of expression may exist.
2. The concepts "national security, public interest reserved for the State and public order" are not to inhibit freedom of expression or the right to information, unless a legitimate interest for temporary restriction thereof exists.

XVII. ECONOMIC MEASURES

1. An overall economic and tax policy environment favorable for media development must be promoted by societies and their States.
2. Societies must demand State-promoted legislation for transparent, regulated and equitable advertising. Distribution of public advertising that interferes with media contents must be avoided.
3. Societies must demand that their States adopt effective measures against monopolistic or oligopolistic media concentration into one sole owner or a few owner groups, without limiting the development of the communications sector or its technologies.

XVIII. PROTECTION OF JOURNALIST SOURCES AND MATERIALS

1. Society must demand government legislation to ensure the secrecy of information sources for those practicing freedom of information professionally.
2. Professional secrecy regulations must include both the sources and working materials and tools the knowledge of which might lead to revealing the origin of information which is of public interest.
3. Professional secrecy regulations must be absolute where administrative bodies are concerned, allowing for exceptions supported by duly founded and motivated court orders only when there is no reasonable way of knowing the information source, and if this should imply a true and imminent threat to democratic security.

XIX. IMPLEMENTATION

The signatories of this Commitment with Freedom of Expression shall undertake every effort, action and activity by way of promotion, information, denunciation, academic, research, broadcasting and law-making towards fulfillment of the principles herein set forth.

Mexico, D.F., this 17th day of August of the year 2009.

I hereby certify that the foregoing is a true and correct translation of the original in Spanish given to me.

Mexico, D.F., this 20th day of October, 2009.

Patricia Haas
Expert Translator