



PRINCIPAL RESEARCHER:  
**GABRIEL ERNESTO  
LEVY BRAVO**

RESEARCHERS:  
**MARÍA CECILIA  
HERNÁNDEZ OCAMPO**

**MARÍA PAULA ÁNGEL  
BENAVIDES**

# **COLOMBIA**

## **GOVERNMENT, POLITICS AND REGULATION**



EDITOR:  
**MARIUS DRAGOMIR**

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## **Media and Journalism Research Center (MJRC)**

MJRC is an independent media research and policy think tank that seeks to improve the quality of media policymaking and the state of independent media and journalism through research, knowledge sharing and financial support. The center's main areas of research are regulation and policy, media ownership and funding, and the links between tech companies, politics and journalism.

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OBSERVACOM (Latin American Observatory of Regulation, Media and Convergence) is a regional think tank specializing in regulation and public policies related to the media, telecommunications, the internet and freedom of expression. OBSERVACOM addresses these issues from a rights perspective, focusing on access, diversity and pluralism. OBSERVACOM brings together experts and researchers committed to the protection and promotion of democracy, cultural diversity, human rights and freedom of expression in Latin America and the Caribbean.

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The University of Santiago de Compostela (USC), founded in 1495, is one of the world's oldest public universities and has two campuses in the cities of Santiago de Compostela and Lugo, in Galicia (Spain). The USC partner in this project is the research group Novos Medios, which is part of the USC's Department of Communication Sciences. Novos Medios specializes in studying the relationship between technology and media, as well as the changes that affect today's journalism in terms of audiences, funding, innovation and public service.

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# Authors

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## **Gabriel Ernesto Levy Bravo**

### **Principal Researcher**

A professional in the field of communications, with a postgraduate degree in digital communication, Levy is an advisor and consultant in ICT, communications, and digital transformation. He is a professor and researcher at the universities of Antioquia and Pontificia Universidad Javeriana, and works as an academic coordinator of Andinalink, one of the most prominent telecommunications fairs in Latin America.

## **María Cecilia Hernández Ocampo**

### **Researcher**

A social communicator and journalist, Hernández has a Master's degree in Communications in Digital Communication from the University of Antioquia (Medellin, Colombia). She has extensive experience in formulating, designing, and implementing 360° communication strategies, as well as editing. Hernández has experience in academic research in social sciences. She is a producer of digital and analog content and has carried out audience analysis and virtual community management. She has studied film and gender and feminism issues.

## **María Paula Ángel Benavides**

### **Researcher**

Ángel has a degree in social communications from the Pontificia Universidad Javeriana (Bogotá, Colombia). She is attending a Master's degree in Communication and Media at the Budapest-based university ELTE with the Stipendium Hungaricum scholarship. Ángel has experience working in media, higher education institutions, and non-governmental organizations.

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# Editor

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**Marius Dragomir** is the Founding Director of the Media and Journalism Research Center (MJRC). He previously worked as director of the Center for Media, Data and Society at CEU in Budapest. Before, he worked for the Open Society Foundations (OSF) for over a decade where he managed the research and policy portfolio of the Program on Independent Journalism (PIJ), formerly the Network Media Program (NMP), in London. He has also been one of the main editors for PIJ's flagship research and advocacy project, Mapping Digital Media, which covered 56 countries worldwide, and he was the main writer and editor of OSF's Television Across Europe, a comparative study of broadcast policies in 20 European countries.

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Author of the English adaptation from Spanish: **Norina Solomon**



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# Executive Summary

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Colombia is a presidential and secular republic with autonomy of its territories. The country is divided into 32 departments and one capital district, which is also treated as a department. The country is governed by its Constitution which was adopted in 1991 and has since been amended several times. The Constitution is the most important legal document, equal only with international agreements. All laws, agreements, decrees and regulations in Colombia derive from the Constitution[1].

As a democratic nation, the governing of Colombia is anchored in the principle of separation of powers:

1) The **Executive Power** is vested in the president, the ministers, the directors of centralized and decentralized entities, the department governors, the mayors of municipalities and local governors.

2) The **Legislative Branch** is represented by the Congress, a bicameral institution consisting of the Chamber of Representatives and the Senate. The legislative power in Colombia is centralized, as the country is a unitary, not federal, republic, meaning that only the Congress of the Republic can legislate. The Departmental Assemblies and Municipal Councils are legislative bodies subordinated to the Executive Branch. Therefore, their decrees are administrative acts, not laws.

3) The **Judiciary** consists of various institutions, including the Constitutional Court, the Council of State, the Supreme Court of Justice, departmental and local courts and the judges of the Republic.

The 1991 Constitution guarantees freedom of expression and information for the media and forbids media censorship in Colombia.

Colombia adheres in jurisprudential matters to the International Standards on Freedom of Expression promoted by the Inter-American Commission on Human Rights (IACHR), which the country is part of[2]. Colombia has public organizations such as the Ombudsman's Office[3] and many civil society organizations working to protect freedom of expression[4].

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[1] Political Constitution of Colombia, 1991.

[2] CIMA. (2017). International standards of freedom of expression: Basic guide for justice operators in Latin America. Available at <https://www.corteidh.or.cr/tablas/r37048.pdf>

[3] People's Ombudsman. Colombia. Available at <https://defensoria.gov.co/web/guest/que-hacemos>

[4] International Network of Journalists – Ijnet. (2018). Some organizations that fight for press freedom in Colombia. Available at <https://ijnet.org/es/story/algunas-organizaciones-que-luchan-por-la-libertad-de-prensa-en-colombia>

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But although the legal framework puts forward guarantees for free and pluralistic media, in practice these rights are often breached. Journalists are constantly faced with violence in Colombia[5]. Moreover, the media market has a high level of concentration of ownership[6] and state advertising is used by the government as a mechanism of editorial control[7], especially in the regional and local media.

The migration of advertising expenditure from traditional outlets to digital media (most of them international players), has triggered a significant financial decline among the national, regional and local media, increasing their dependence on state advertising.



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[5] Foundation for the Freedom of the Press – FLIP. Map of violations of press freedom. Available at <https://flip.org.co/index.php/es/atencion-a-periodistas/mapa-de-agresiones>

[6] See more at <http://www.monitoreodemedios.co/>.

[7] See more at <https://pautavisible.org/>.

# Regulatory Overview

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## The 1991 Constitution

In 1989, a group of rebellious young people, students from both public and private universities, initiated a movement called The Seventh Ballot[8]. Taking up what was agreed upon as part of the peace talks between the authorities and the guerrillas of the time, they called for the adoption of a new political constitution through the formation of a National Constituent Assembly. Some 86% of voters were in favor of a new constitution at the time. On 9 December 1990, in elections organized by the Executive Power, Colombians elected 70 members of the Constituent Assembly to draft the text of the constitution. Its final version included 380 final articles and 60 pending ones.

One of the most important aspects of the 1991 Constitution, which is currently enforced in Colombia, was the legalization of fundamental economic, social and collective rights. In addition, it created mechanisms to protect and guarantee those rights such as the **guardianship action** and **popular actions**[9]. Guardianship action, a revolutionary legal protection for Latin America’s standards, is a mechanism of protection allowing any individual to ask judicial authorities to immediately protect their fundamental rights.

At the time of its adoption, the 1991 Constitution was considered progressive in many jurisprudential aspects including the transformation of the nation into a secular state, the freedom of worship, the right to free development of personality and the protection of freedom of expression and opinion.

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[8] See more at <https://www.latinno.net/es/case/5180/>.

[9] Armando Palau, “Acción de Tutela Vs. Acción Popular” (Guardianship Action Versus People’s Action” El Tiempo, 23 February 1993, available at <https://www.eltiempo.com/archivo/documento/MAM-70008>.



# Freedom of Expression

Colombia is a country with a long tradition of respect for freedom of media and expression with just a few exceptions in the second half of the 20th century, which is a paradox in a country where journalists were faced with merciless violence during the same period, falling victims to the armed conflict that ravaged the country[10].

The Decree 271 of 1957, adopted after the fall of the regime of General Gustavo Rojas Pinilla, during the regime of the political coalition National Front[11], established the basic rules that allow the media to operate freely in the country. As a result, not many significant cases of judicial censorship were documented during that period.

The Congress endorsed free media and the protection of rights through the promulgation of the magna carta of 1991. The document guarantees freedom of expression as an essential right. Article 20 states: “Every person is guaranteed the freedom to express and disseminate his thoughts and opinions, to inform and receive truthful and impartial information, and to establish mass communication media. [...] There will be no censorship[12].

The article also laid the foundations for jurisprudence on the free practice of journalism.

As it guarantees full protection for the right to inform, Article 20 of the Constitution prompted the Constitutional Court to scrap in 1998[13] the obligation to have a professional journalist card. That measure allows any citizen to act as a journalist, without having to graduate from specialized courses or academies. The court decision stirred at the time a heated public debate[14], which continues to this day. The rise of digital technologies significantly helped universalize this right as any citizen today can produce and distribute content on social media.

[10] “248 periodistas han sido asesinados en el marco del conflicto armado colombiano” (248 journalists have been assassinated in the armed conflict in Colombia, Centro de Memoria Historica, 9 February 2022, available at <https://centrodememoriahistorica.gov.co/248-periodistas-han-sido-asesinados-en-el-marco-del-conflicto-armado-colombiano/>

[11] See more about the National Front at [https://enciclopedia.banrepcultural.org/index.php/El\\_Frente\\_Nacional](https://enciclopedia.banrepcultural.org/index.php/El_Frente_Nacional)

[12] Political Constitution of Colombia [Const]. Art. 20. July 7, 1991. (Colombia). Available at <https://www.constitucioncolombia.com/titulo-2/capitulo-1/articulo-20>

[13] Colombian Constitutional Court. Decision C-087/98; 1998. Available at <https://www.corteconstitucional.gov.co/relatoria/1998/c-087-98.htm>

[14] Villegas, A. (2018). ¿Se necesita revivir la tarjeta profesional para comunicadores y periodistas? (Is a professional card needed for communicators and journalists?) in Communications and Humanities Magazine, University of Manizales. Available at <https://revistas.umanizales.edu.co/ojs/index.php/filodepalabra/article/download/2843/3545/15627#:~:text=Hace%20exactamente%2020%20a%C3%B1os%20la%20tarjeta%20profesional%20de%20periodista%20>

Any citizen who carries out journalistic work, in accordance with Article 73 of the Constitution, enjoys full protection of their freedom and independence[15].

Four years after the adoption of the Constitution, Law 182 of 1995, known as the Television Law, was introduced. The Television Law regulates issues of public communication and freedom of expression already covered by the Constitution[16].

During the following three decades, the Television Law has undergone a string of amendments. However, Article 29, which bans censorship, remains in force.

In conclusion, since the Colombian constitution forbids control of content production, there is no regulatory censorship in the country. However, in practice, these legal provisions are not properly implemented, especially at local levels.

## Access to Information

In addition to the constitutional provisions, Colombia has a robust system of regulations aimed at guaranteeing access to public information for all citizens. This right is enshrined in the Law on Transparency and the Right of Access to Information that was enforced by a decision of the Constitutional Court[17].

The law guarantees access by any citizen to public information through two specific mechanisms. One is via the web page of the public entity that is obliged by law to publish certain information of public interest. Secondly, information can be obtained by filing a request with a public entity. The request must be answered in a truthful and timely manner. On top of that, announcements about all public tenders in Colombia must be published on the portal of the national agency for public contracting, Colombia Compra Eficiente[18] (SECOP and SECOP II).

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[15] Political Constitution of Colombia [Const]. Art. 73. July 7, 1991. (Colombia). Available at <https://www.constitucioncolombia.com/titulo-2/capitulo-2/articulo-73>

[16] Law 182 of 1995. By which the television service is regulated and policies for its development are formulated, access to it is democratized, the National Television Commission is formed, the television industry and activities are promoted, standards are established for the contracting of services, entities of the sector are restructured and other provisions on telecommunications are issued. Available at <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=6738>

[17] Colombian Constitutional Court. Decision C-274; 2013. Available at <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=56882>

[18] See more <https://www.colombiacompra.gov.co/>

After the promulgation of the transparency law, access of citizens and especially of the media to public information has substantially improved, allowing journalists to uncover numerous corruption scandals. The law also boosted transparency and accountability, especially in matters of public contracting[19].

## Child and Adolescent Protection

Law 1098 of 2006 that established the Code of Childhood and Adolescence is the main legal tool that guarantees the rights of children and teenagers in Colombia. It has a very broad scope, applying to many fields, including the media[20]. Article 47 covers specifically the responsibilities of the media. They include promotion of the rights and freedoms of children and teenagers, refraining from transmitting discriminatory messages against children and teenagers and from broadcasting or publishing messages that threaten the moral, mental or physical integrity of minors. The code prohibits the media from broadcasting cigarette and alcohol advertising on television at times defined as children’s viewing slots by the regulatory body. The code also prohibits the media from interviewing, disclosing the name or data that identify or may lead to the identification of children and teenagers who have been victims, perpetrators, or witnesses of criminal acts.

The interests of children and teenagers need, according to international standards, to be guaranteed in legislation. Through the childhood code, Colombia complies with those standards. Nevertheless, the same legal provisions can limit the freedom to practice journalism as some information or data cannot be published and interviews are forbidden in some cases. That creates a legal tension with other fundamental rights such as freedom of expression for the media and journalists[21].

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[19] Fedesarrollo. (2019). Corruption risk index in the Colombian public procurement system based on a methodology developed by the Colombian Institute for Competitiveness. Authors: Zuleta, M.; Ospina, S., and Caro, C. Available at [https://www.fedesarrollo.org.co/sites/default/files/fedesarrollo\\_cpbd.pdf](https://www.fedesarrollo.org.co/sites/default/files/fedesarrollo_cpbd.pdf)

[20] See more [https://www.oas.org/dil/esp/codigo\\_de\\_la\\_infancia\\_y\\_la\\_adolescencia\\_colombia.pdf](https://www.oas.org/dil/esp/codigo_de_la_infancia_y_la_adolescencia_colombia.pdf)

[21] The childhood code, OAS, Op. Cit.

# General Regulations Affecting Freedom of Expression

As there is no legal censorship in Colombia, practically all legal attempts to stop the broadcast or publication of news content have thus far been declared unconstitutional by the country's Constitutional Court. Exceptions include a few cases where the rights of various ethnic minorities were protected against racist and xenophobic attacks and the integrity of minors was affected[22].

In Colombia there are no legal provisions allowing censorship in cases where the protection of the honor and good name of a person is involved. In such cases, which are handled by judges ex post facto, courts can request corrections and, in some cases, economic sanctions. Yet, custodial sentences for those responsible are ruled out[23].

Colombia also has restrictions on advertising and content that promotes or encourages consumption of alcoholic beverages, tobacco and psychoactive substances[24].

In terms of copyright and intellectual property, there are restrictions in Colombia, especially when it comes to photographic or moving images that are licensed or registered by an owner. They can demand compensation for their use if the content was not previously authorized for publication. Exceptions include cases where the citizens' right to information prevails[25].

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[22] See an example from the Constitutional Court, available at <https://www.corteconstitucional.gov.co/noticia.php?T-500/16-Programa-S%C3%A9ptimo-D%C3%ADa-de-Canal-Caracol-viol%C3%B3-derechos-de-ind%C3%ADgenas-6400>

[23] Colombian Constitutional Court. Decision T-145/19; 2019. Available at <https://www.corteconstitucional.gov.co/relatoria/2019/T-145-19.htm>

[24] Colombian Institute of Family Welfare – ICBF. Agreement 1 of 2006. By which the issuance of advertising for alcoholic beverages, cigarettes, and tobacco is regulated. Official Gazette No. 46,247 of April 22, 2006. Available at [https://www.icbf.gov.co/cargues/avance/docs/acuerdo\\_cntv\\_0001\\_2006.htm#:~:text=las%20siguientes%20reglas%3A-.\],de%20edad%20o%20mujeres%20embarazadas](https://www.icbf.gov.co/cargues/avance/docs/acuerdo_cntv_0001_2006.htm#:~:text=las%20siguientes%20reglas%3A-.],de%20edad%20o%20mujeres%20embarazadas)

[25] Law 23 of 1982 on copyright. Available at [https://propiedadintelectual.unal.edu.co/fileadmin/recursos/innovacion/docs/normatividad\\_pi/ley23\\_1982.pdf](https://propiedadintelectual.unal.edu.co/fileadmin/recursos/innovacion/docs/normatividad_pi/ley23_1982.pdf)

# Digital Platforms and Internet Services

Colombia does not have specific regulations for digital platforms with the exception of net neutrality. It does not have an authority with sufficient competence to regulate such issues either[26].

Companies and platforms that operate over the internet have the same constitutional guarantees as the media when it comes to freedom of expression.

Some laws and regulations are applicable to the internet too. One of them is the Child Protection Code. In cases of breaches of the code, the authorities may request the blocking of an IP address or a specific domain that is blacklisted. Internet Service Providers have to follow court orders to restrict traffic to blacklisted websites in coordination with the national police[27].

Illegal betting sites that are proved to have evaded paying taxes are included on this black list, according to Coljuegos, the regulator of the betting and gaming industry in Colombia[28]. Many international betting sites have been blocked in the country as part of these regulations.

To protect internet users, the Superintendence of Industry and Commerce (SIC) can order the blocking of websites that carry misleading ads. The SIC can also apply sanctions when the Habeas Data Law is breached and sensitive user data is compromised[29].

In terms of copyright and related rights referring to the intellectual property of the content, Laws 29 of 1944, 23 of 1982 and 44 of 1993 are applied to the internet, too. Thus, any person or entity that distributes content without the proper authorization of the owner can be prosecuted.

In electoral matters, the National Electoral Council (CNE) has the power to intervene when the electoral statute is not complied with. It can also intervene when the limits on political advertising spending are exceeded or in cases of irregularities in the content published by candidates on their official accounts on internet platforms as part of their electoral campaign.

[26] Communications Regulation Commission – CRC. (2022). How is net neutrality in Colombia? Available at <https://www.crcom.gov.co/es/noticias/estudios/como-esta-neutralidad-red-en-colombia>

[27] Law 1753 of 2015. Art. 93 and Law 679 of 2001. Art. 5.1

[28] See more <https://www.mintic.gov.co/portal/inicio/Sala-de-prensa/Noticias/150576:MinTIC-y-Coljuegos-firmaron-pacto-por-la-legalidad-en-juegos-en-linea>

[29] See more <https://www.sic.gov.co/informacion-enganosa>

# Print and Digital Media

The only law covering the written press still in force in Colombia is Law 29 of 1944. Its provisions neither limit the free practice of journalism nor regulate content production. The government has no sanctioning powers over the print media[30]. Colombia has no law that regulates digital media in particular.

Laws 29 of 1944, 23 of 1982 and 44 of 1993 address copyright issues that can affect journalistic content, especially when it comes to use of photographs.

Although there are no legal mechanisms that allow the government to exert any pressure on the media in general, authorities have been increasingly using state advertising as a mechanism to put pressure or manipulate the media. State advertising has thus led to the rise of self-censorship among journalists given the difficult economic situation many Colombian traditional media have been faced with in recent years. Regional media have been particularly affected by these economic trends, according to the Visible Pattern project[31].

# Habeas Data, Data Protection and Privacy

The right of habeas data is the right that every person has to know, update and rectify the information that has been collected about them in files and data banks of a public or private nature[32]. The Constitutional Court defined it as “the right that grants the power to the owner of personal data to demand from the administrators of said data the access, inclusion, exclusion, correction, addition, update and certification of the data, as well as the limitation in the possibilities of its disclosure, publication or transfer, in accordance with the principles that regulate the process of personal data management.”

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[30] Law 29 of 1944. By which provisions on the press are issued. Available at <https://www.suin-juriscol.gov.co/viewDocument.asp?id=1585447#:~:text=Queda%20prohibida%20la%20propaganda%20oficial,que%20impondr%C3%A1%20su%20respectivo%20superior>.

[31] See more at <https://pautavisible.org/>.

[32] See more at <https://www.sic.gov.co/manejo-de-informacion-personal#:~:text=El%20derecho%20de%20h%C3%A1beas%20data%20es%20aquel%20que%20tiene%20toda,de%20naturaleza%20p%C3%BAblica%20o%20privada>.

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Personal data is any piece of information linked to one or several people or that can be associated with an individual or legal entity. Personal data can be **public, semi-private** or **private**.

The data becomes **public** if declared so by law or Constitution, and when it is not classified as having a semi-private or private nature. The data contained in public documents such as duly executed judicial sentences and those related to people's civil status are public. **Semi-private** data is data that is not of an intimate or public nature and its knowledge or disclosure may be of interest not only to its owner but also to a certain sector, people, or society in general, such as financial and credit data. **Private** data is data that, due to its intimate or reserved nature, is only relevant to its owner.

The law in Colombia establishes the principle of purpose, which requires that personal data can be collected only if it has a legitimate purpose in accordance with the Constitution and the law. The purpose must be communicated to the owner of the data prior to or at the same time with the granting of the authorization to collect the data, when it is necessary or, in general, whenever the owner requests information in this regard.

Similarly, the law provides for the principle of restricted circulation, which means that, if the information is not public, personal data may not be accessible via the internet or by other means of dissemination or mass communication unless said access can be technically controlled to provide the data only to the owners or users authorized to have it.

Another fundamental principle established in the Colombian legislation is the principle of confidentiality of information, which means that all individuals or legal entities involved in the administration of personal data that are not of public interest, are obliged at all times to guarantee the confidentiality of information, even after the completion of any tasks that were related to the use of the respective data.



# Regulatory Authorities

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## The Regulatory System

In the first two decades of the 21st century, Colombian media and communication regulatory infrastructure underwent numerous institutional changes. In 2009, Law 1341, known as the ICT Law, was introduced. It dissolved the Ministry of Communications and created the legal space for a new portfolio that was named the Ministry of Information Technology and Communications (MinTIC). The new ministry brings together and regulates all the communications submarkets under the umbrella of the ICT (Information and Communications Technology) Sector[33].

Later on, through the abolition of article 76 and amendment of article 77 of the Constitution, the National Television Commission (CNTV), the country’s broadcast regulator, was dissolved. CNTV was considered by international experts at the time as a model of media regulation. The institution was in charge of audiovisual regulation until 2012 when Law 1507 was adopted. Its functions were as a result spread among three regulatory authorities, namely the National Spectrum Agency, the Communication Regulation Commission (CRC) and the National Television Authority[34].

In 2019, the government adopted the Law 1978, known as the ICT Modernization Law. An amendment of a previous law (Law 1349 of 2009), the newly introduced act aimed at simplifying and modernizing the regulatory system of the communication industry. The law folded the National Television Authority, transferring its monitoring functions to the MinTIC and its regulatory powers to the CRC.

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[33] Law 1341 of 2009 available at <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=36913#:~:text=Por%20la%20cual%20se%20definen,y%20se%20dicton%20otras%20disposiciones>

[34] Law 1507 de 2012 available at <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=45327>



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The law also dissolved the Fund for the Development of Television and Public Content (FonTV). It folded it under the Information and Communication Technology (TIC) sector, which led to the creation of the Unique ICT Fund (FUTIC), managed by the Ministry[35].

The ICT Modernization Law generated much controversy among media outlets and civil society organizations as its first version did not guarantee funding for public media. The government thus had to make a series of changes to the original bill before it was finally approved by the Congress. However, various civil society groups continued to express concern as the government remains in charge of both regulating and approving funds for the public media. Before the ICT Modernization Law was adopted, those tasks were carried out by independent regulators (CNTV and ANTV).

## Ministry of Information and Communication Technologies (MinTIC)

### Remit

The Ministry of Information and Communication Technologies (MinTIC), in line with a series of legal provisions (Law 1341 of 2009 amended by Law 1978 of 2019, and Decree 1064 of 2020), is in charge of designing and adopting policies and programs in the ICT sector. The Constitution and other laws require the government to promote investment and work towards closing the digital divide. The ministry's powers extend to free-to-air television and radio broadcasting services. Monitoring powers are the responsibility of the Communications Regulation Commission (CRC) and the National Spectrum Agency. MinTIC is also in charge of managing the country's radio spectrum.

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[35] Law 1978 de 2019 available at <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=98210>.

## Funding

Although the MinTIC receives funds from the state budget to cover some of its operational expenses, its main source of financing is the FUTIC, a Special Administrative Unit endowed with legal status and having its own assets.

FUTIC's main purpose is to finance programs and projects to facilitate access and universal service for all the inhabitants of the country to information and communication technologies. It works to strengthen public television and promote content of public and cultural interest, among other things. FUTIC also supports activities carried out by MinTIC and the National Spectrum Agency. FUTIC draws on revenues generated through a regular fee paid by telecommunications service operators, including radio and television broadcasters, internet providers, fixed and mobile telephony companies, and providers of data and interconnection. The fee is on average the equivalent of 1.9% of the gross income invoiced for the provision of said services.

MinTIC determines the value of the fee every four years[36]. FUTIC's budget for 2022 was COP 2.04bn (US\$ 409m). Of that amount, COP 1.6bn (US\$ 320m) accounted for current income, and the remainder, COP 446bn (US\$ 89.2) for capital resources.



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[36] MinTIC. (2019). Definition for the FUTIC of the single periodic consideration rate for the period 2020-2023. Available at [https://www.mintic.gov.co/portal/715/articles-125658\\_propuesta\\_tasa\\_contraprestacion.pdf](https://www.mintic.gov.co/portal/715/articles-125658_propuesta_tasa_contraprestacion.pdf)

# Communications Regulation Commission (CRC)

## Remit

The Communications Regulation Commission (CRC) is a state regulatory body that promotes competition and regulates the market for communications networks and services in Colombia. It was created as an independent Special Administrative Unit, without legal status. It is attached to the MinTIC.

The regulator was originally established as the Telecommunications Regulation Commission (CRT) through Law 142 of 1992. Law 1341 of 2009, or ICT Law, changed its name to CRC and assigned new functions to it. Law 1507 of 2012 transferred to the CRC some functions of the then defunct National Television Commission. Law 1978 of 2019 assigned additional functions that were previously performed by the National Television Authority (ANTV).

Following heated public debates prompted by the ICT Modernization Law, the CRC was administratively divided into two collegiate bodies: the Communications Council, made up of five commissioners, including the representative of MinTIC. The council is responsible for all regulatory aspects of the telecommunications and postal sectors; and the Audiovisual Content Council, made up of three commissioners, where the Ministry does not have a seat, which is responsible for content-related issues.

CRC's functions include promotion and regulation of free competition and prevention of unfair conduct and restrictive business practices. The regulator can propose rules depending on the economic position of the providers if it determines market failure situations<sup>[37]</sup>.

CRC issues general and specific regulations in matters related to communications, telecommunications and competition. It regulates technical and economic aspects related to interconnection such as access and use of facilities as well as the physical resources and software necessary for interconnection.

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[37] See more <https://www.crc.com.gov.co/es/preguntas-frecuentes/cuales-son-las-funciones-generales-crc-como-regulador-unico#:~:text=Como%20regulador%20%C3%BAnico%20la%20CRC,los%20derechos%20de%20los%20televidentes>

CRC also regulates the regime of fees for access and use of networks and infrastructure, wholesale prices, billing and collection conditions, the access regime and use of networks, quality parameters of services, efficiency criteria for the sector and measurement of sectoral indicators.

CRC is also responsible for regulating access and use of all networks and access to the markets for telecommunications services, free-to-air television broadcasting and radio broadcasting. It defines the conditions under which infrastructures and networks can be used by other telecommunications services, under an efficient cost scheme.

Additionally, the CRC, through the Audiovisual Content Council, is responsible for guaranteeing pluralism and impartiality of news content. It works to protect the interests of television consumers and the general public. In doing so, it can impose fines on broadcasters that breach pluralism and competition rights, and the rights of viewers.

## Board of Directors

The CRC is organically composed of two boards of directors. The main one also has regulatory and administrative powers. The second one is responsible for regulating issues related to audiovisual content.

## Composition of the Communications Council

### Óscar Mauricio Lizcano Arango, ICT Minister

Óscar Mauricio Lizcano Arango is a politician and lawyer with a degree from the Faculty of Jurisprudence of the University of the Rosario. He was elected member of the House of Representatives in 2006, and then served as a senator for two mandates. He is the son of a former politician, Óscar Tulio Lizcano who was kidnapped in 2000 by members of the FARC guerrilla. Óscar Mauricio Lizcano Arango has served as ICT minister since May 2023.



### **Paola Andrea Bonilla Castaño, President**

Bonilla graduated from the University of Ibagué and has a Master's in Economics from the Universidad del Rosario. She has more than 14 years of experience in the ICT sector. She worked with the CRC from 2007 to 2014 where she served as a senior economic advisor and as coordinator of market regulation. She worked at the National Planning Department (DNP) from 2014 to 2020. There she served as an advisor to the Telecommunications Subdirectorates and the Digital Development Directorate (DDD), deputy director of Digital Foresight and director of Digital Development.

### **Nicolás Mauricio Silva Cortés, Commissioner**

He is an electronic Engineer with a degree from the Pontificia Javeriana University. Silva has a Master's in Business Administration and a degree in Marketing Management from Del Rosario University. With more than 20 years of experience in regulatory affairs and public policies in the telecommunications sector, Silva was the director of the Communications Industry of the MinTIC between 2016 and 2018. At the CRC, he served as an advisor, coordinating work in various areas. Since February 2020, he has been an expert commissioner of the Communications Commission Council and a professor at the Externado Colombia University.

### **Lina Maria Duque del Vecchio, Commissioner**

Duque is a lawyer from the Pontificia Javeriana University, with a specialization in Business Law and a master's in law degree from the Externado Colombia University. She previously held different positions at the CRC including coordinator of Legal Advice and Dispute Resolution, executive coordinator (General Secretary), commissioner in charge of the Communications Commission Session, and legal advisor. She has vast experience of more than 23 years in the information and communications technology sector.

At the time of writing, the President of the Republic, Gustavo Petro, did not appoint the fifth Commissioner of the Communications Council.

## Composition of the Audiovisual Content Council

### **José Fernando Parada Rodríguez, Commissioner**

A film and television director with a degree from the National University of Colombia, Parada is a specialist in Telecommunications Law and Digital Ecosystems with studies at the Externado Colombia University. He also got a Master of Business Administration (MBA) degree from the Inalde Business School and a certificate in Mastering European Audiovisual Regulation from Cullen International, a privately owned consultancy in Belgium. He has been a consultant, lecturer, author of case studies, director of the Television Unit of the National University of Colombia (UNAL), member of the National Film Council of Colombia (CNACC), director of the National Film School of Colombia.

### **Ernesto Paulo Orozco Orozco, Commissioner**

With a degree in Electrical Engineering and a Minor in Project Management from the Universidad del Norte, Orozco is also a specialist in Engineering Management Systems with studies at the Pontificia Javeriana University. He also has a degree in Regulation and Management of Telecommunications and New Technologies from the Universidad Externado de Colombia and an MBA from the Inalde Business School. He has more than 25 years of professional experience in the management, operation and regulation of television broadcasting in Colombia. He was a member of the board of the National Television Authority 2015–2019 and vice president of the Platform of Audiovisual Regulators of Ibero-America (PRAI) in 2018–2019

### **Luis Clemente Martín Castro, Commissioner**

A Telecommunications Engineer who graduated from the University of Pamplona, Martin has a specialization in Project Management and Telecommunications Companies from the Del Rosario University and Master's degrees in Business Administration and Management from the European School of Management and Business (Spain) and in Government and Public Administration from the Higher Institute of Education and Sciences (Portugal). Castro has more than 12 years of experience in the audiovisual and information and communication technologies sector, developing projects, and carrying out supervision, monitoring and oversight of activities in national government entities such as the MinTIC, the National Television Commission and Radio Televisión Nacional de Colombia (RTVC).

## Funding

CRC is financed with revenue raised through a fee, equivalent to a maximum of 0.15% of the gross income earned in the preceding year by market providers. In line with the Law 1341 of 2009, CRC is responsible for setting the annual rate of the fee, according to criteria established by law. In the case of free-to-air television and radio broadcasters that are waiting for their license to operate, FUTIC will transfer to the CRC an equivalent value of their annual fee. Colombia's public broadcasters are exempt from paying the CRC fee. The CRC budget for 2022 reached COP 44bn (US\$ 8.8m).

## National Spectrum Agency (ANE)

### Remit

The National Spectrum Agency (ANE) is the state entity in charge of planning, assignment, monitoring and managing the broadcasting spectrum, which is considered a public good subject to State control, according to the Constitution. ANE is also in charge of providing specialized technical support for spectrum proper administration to the MinTIC. ANE was created by Law 1341 of 2009, and later, its statute was changed to a Special Administrative Unit of national order, with legal status, with its own administration and budget. It is attached to the MinTIC.

### Board of Directors

According to Article 27 of Law 1341 of 2009, ANE has a Board of Directors, which is its highest management authority. The management board is chaired by the MinTIC minister. It also comprises the Vice Minister and the Coordinator of the Information and Communication Technologies Fund. ANE's director and the head of the Directorate of Communications of the MinTIC are also part of the board, yet the two can express their opinions, but do not have a vote. The Board of Directors ordinarily meets six times a year and extraordinarily when summoned by its president.

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## ANE's Director

Miguel Felipe Anzola Espinosa, ANE's Director, is a BA graduate in Physics and Electrical Engineering from the Universidad de Los Andes. He has a Master's Degree in Electrical Engineering from the same university and a Master's Degree in Economic Sciences from the National University of Colombia.

During his professional career, Anzola has led projects on methodology and implementation of regulation and national and regional public policy in the ICT sector. He was part of development projects in the sector, including planning, management and administration of the radio spectrum, the implementation of mechanisms for financing and management of the ICT Fund.

Among other roles, in his professional activity he held the position of vice president of Network Planning and Management at ETB, he was advisor to the CRC and director of the Communications Industry at MinTIC where he managed the structuring, development and execution of the tenders for the radio spectrum in 3G and 4G bands. He worked as Business and Technological Development Manager for prominent telecommunications operators.

In addition to all that, Espinosa has worked as a professor in highly reputed academic institutions such as Universidad de Los Andes, Universidad Externado de Colombia and the Colombian School of Engineering. He also acted as a consultant to the International Telecommunications Union (ITU) for several Latin American countries on issues related to planning telecommunications networks, cost models and access charges for fixed and mobile telecommunications networks.

## Funding

As stipulated by Law 1341 of 2019, ANE's main source of funding is the national budget. The institution gets financing through state budget allocations and the ICT Fund. ANE had a total budget of COP 34bn (US\$ 6.8m) in 2022.



# Superintendence of Industry and Commerce (SIC)

## Remit

The Superintendence of Industry and Commerce (SIC) is Colombia's competition regulator. It is in charge of protecting personal data and legislation and the rights of consumers. It also acts as the Colombian patent and registration office. The SIC has the right to penalize communications or telecommunications companies that violate the consumers rights, including through fines or other administrative sanctions. One of the most relevant functions of the SIC in the field of public communication is monitoring of compliance with access to information, which in Colombia is regulated through the Law 1581 of 2012 (amended by Law 2157 of 2021).

## Director of SIC

### **Juan Camilo Durán Téllez, Acting Superintendent of Industry and Commerce**

A lawyer who graduated from the Faculty of Legal Sciences of the Pontifical Javeriana University, specializing in Commercial Law and holding a Master's degree in Economic Law from the same university, Durán also has an LL.M. from the London School of Economics and Political Sciences in London (LSE) in England. In the private sector, he has worked for various law firms and has served as a member of several boards of directors within several companies. He has also been a university professor. Within academia, he has worked as a professor at universities such as Universidad of Los Andes, Externado University of Colombia, and the Colombian School of Engineering. Finally, he has been a consultant for the ITU for several Latin American countries on issues related to planning telecommunications networks and fixed and mobile telecommunications network cost and access charge models.

## Funding

The budget for the SIC in 2022 was COP 260bn (US\$ 52m). The funding comes from industrial property service fees, business integration fees, revenue from fines, services provided to companies, state budget allocations and financial returns.

## Press Regulator

In Colombia, there is no organization responsible for regulating the press, nor are there any entities with the authority to sanction or intervene in the print media sector. Only courts can intervene in the print media field, yet their scope of intervention is limited to the criminal field in very specific circumstances.

The only existing law on the print media that still has validity in some articles is Law 29 of 1944; however, it does not grant regulatory powers to the government nor does it limit the free practice of journalism.

Laws 29 of 1944, 23 of 1982, and 44 of 1993 address copyright issues that limit the ownership of journalistic content, granting powers to the Copyright Directorate of the Ministry of the Interior to intervene in these issues; however, those limitations are framed in line with international standards on intellectual property as put forward by the World Intellectual Property Organization (WIPO) and do not constitute a direct threat to free journalism in the country.

## Radio Regulator

Just like with print media, there is no regulatory body in Colombia responsible for issues related to radio broadcasting, nor is there a specific law on the matter. MinTIC is responsible for assigning licenses or frequencies for broadcasting companies and the ANE is responsible for assigning frequencies. Other than that, there is no specific regulation for the radio sector in Colombia.

## Internet Regulator

Although there is no regulator in Colombia with concrete competencies in the internet field, in the absence of legislation, other regulatory bodies can intervene.

## Data Regulator

The Habeas Data Law empowered the Superintendence of Industry and Commerce (SIC) to extend its competencies to the internet. For example, SIC has the power to sanction mass sending of unauthorized emails by individuals or companies based in Colombia.



## Competition and User Protection

The SIC has legal powers to intervene in cases where rules on the protection of users and free market are breached. For example, in 2014 a travel agency was ordered by the SIC to change the domain *Lostiquetesmásbaratos.com* (*TheCheapestTickets.com*) as they could not demonstrate that they could always offer the lowest price on the market. The SIC adopted a series of other similar decisions that led to the provisional suspension of various websites.

## Net Neutrality

Colombia began to regulate net neutrality in 2011 through Law 1450. It granted a series of competencies to the CRC in this matter. The same year, the CRC promulgated Resolution CRC 3502 that put forward the principles of user free choice, non-discrimination of content, transparency, and traffic management information.

The rules on net neutrality in Colombia protect the right of internet users to access and use any lawful content or application, which they can choose freely and in an informed manner. In turn, Internet Service Providers (ISPs) must enable online traffic without discrimination based on origin, destination, application, content, or data type. In cases of non-compliance with these principles, the CRC can impose sanctions.



# Decision-Making and Transparency

MinTIC is responsible for designing public policies in the ICT sector. It extends its authority to other regulators as the minister has a seat on the boards of various regulatory bodies.

To some extent, that gives the government control over the regulatory process. As the MinTIC, for example, has a seat on the CRC's Communications Council, and another commissioner is appointed by the president of the Republic, authorities exert influence over the CRC in spite of the fact that the other three commissioners who make up this board are selected through a public, merit-based competition to meet the standards required by the OECD, a club of rich countries, on the independence of regulatory bodies.

In the lawmaking area, it is the Congress of the Republic, composed of two chambers, the House of Representatives and the Senate, that is responsible for issuing laws on communications. However, according to established legislative procedures, there is always the possibility that government bodies, including the MinTIC, participate directly in discussions about new laws before they are presented to the Congress.

Because of technological convergence, the line between various policymaking bodies gets blurry. The Ministry of Culture, for example, which has regulatory and public policy competencies in the film industry, also exerts significant influence in the decision-making process that influences the communication field.



# Local Influencers

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## Institutional Influencers

### Colombian Chamber of Information Technology and Telecommunications (CCIT)

The Colombian Chamber of Information Technology and Telecommunications (CCIT) is the entity that brings together the major telecommunications service operators. At the same time, it is the organization with the greatest lobbying capacity in the Congress, able to influence and shape sectoral regulations. It also has great capacity to exert pressure on influencing policies adopted by the MinTIC and the regulatory work carried out by the CRC.

The chamber was founded in 1993. It has since grown into an organization that represents the private sector in its relations with the state and the civil society.

During the debates surrounding the adoption of Law 1978 of 2019 by the Congress, CCIT's president, **Alberto Samuel Yohai**, led the lobbying efforts in both congress chambers, exerting strong pressure for the approval of the law. The efforts clearly favored the CCIT's members.

Yohai's leadership at CCIT has been questioned by some players not only because of the methods used in lobbying, but also for the excessive power he accumulated. He was known to be close to the previous government of President Iván Duque and to some of his officials. Yohai is an economist with a degree from Georgetown University and has studied negotiation programs at Harvard. He was the founder and president of SAY Solutions, a management consultancy. Yohai has been sitting on the boards of various companies in the past few years.

## National Association of Media (ASOMEDIOS)

The National Association of Media (ASOMEDIOS) is a non-profit corporation with a civil union character. Its mission is to represent the interests of its members before public authorities, industry organizations, and, in general, before national and international public and private entities. It works to protect the interests of the industry, and defend freedom of expression and information.

ASOMEDIOS' executive president, **Tulio Ángel Arbeláez**, is a lawyer with studies at the Universidad de los Andes. He has worked for several media outlets in Colombia including Consorcio de Canales Nacionales Privados (RCN TV and Caracol TV). Arbeláez is known as a strong lobbyist with influence among both government officials and lawmakers thanks to his professional career but also for his innate socializing skills. Arbeláez is present in practically all relevant parliamentary discussions on communication-related issues in Colombia.

## ASOTIC

ASOTIC is an industry association that represents small operators of information and communication technologies in Colombia. It has a strong presence in the political, regulatory, and educational circles. Yet, its lobbying capacity is lower than that of Asomedios and CCTI. ASOTIC's director **Galé Mallol Agudelo** has played a leading role in various public debates, effectively representing the interests of ASOTIC's members.

## Proimágenes Colombia

The Mixed Fund for the Promotion of Cinematography Proimágenes Colombia is a non-profit, civil corporation created under Law 397 of 1997, known as the General Law on Culture. The Law 814 of 2003 tasked Proimágenes to manage the Cinematographic Development Fund (FDC) in line with guidelines from the National Council of Arts and Culture in Cinematography (CNACC). Proimágenes Colombia collects a percentage of industry revenues that feed into the fund. Under the management of **Claudia Triana Vargas**, Proimágenes has significantly influenced the decision-making process, especially when it comes to audiovisual-related matters.

## Foundation for Press Freedom (FLIP)

The Foundation for Press Freedom (FLIP) is a non-governmental organization that works to defend freedom of expression and promote an optimal environment for journalists to work independently. FLIP provides advice and support to journalists. Its work is aimed to ensure that freedom of expression is guaranteed by the state and recognized by citizens as an important societal value.

FLIP is a very dynamic and influential actor in the public debate, actively monitoring the state of freedom of expression in the country. It participates in regulatory, legislative, parliamentary, and public debates. They are in a direct and permanent dialogue with key decision-makers.

FLIP's current director, **Jonathan Bock Ruíz**, actively participates in regulatory and parliamentary debates and has great knowledge of the realities in the communications sector. The Foundation has a network of 31 correspondents across the country. They report cases of violations of press freedom in their regions. Additionally, the organization regularly disseminates reports about attacks on press freedom in Colombia.

## Colombian American Chamber of Commerce (AmCham Colombia)

The Colombian American Chamber of Commerce (AmCham Colombia) is an organization responsible for representing and promoting the interests of American companies in Colombia. They include large corporations in the communications and telecommunications sector. AmCham plays an active role in national debates on regulatory and legislative issues related to communications. The organization was key in promoting the Free Trade Agreement with the United States, which had a substantial impact on media in Colombia. AmCham constantly lobbies the Congress and regulatory entities to defend and promote the interests of its members.

**María Claudia Lacouture Pinedo** is the executive president of the Chamber. She is a professional in Finance and International Relations and served as president of ProColombia, the country's government agency in charge of promoting Colombia. Lacouture was Minister of Commerce, Industry and Tourism. In October 2017, she was appointed AmCham Colombia's executive director. She is a public relations expert with great lobbying skills in both the public and private sectors.



# Other Influencers

## Saúl Kattan Cohen

Saúl Kattan Cohen is a business consultant with strong influence in the current government of Gustavo Petro. He is one of his main advisors on communications and telecommunications issues. Cohen was president of the Bogotá Telecommunications Company (ETB), appointed by Mayor Gustavo Petro in 2012. In October 2022, he was elected president of the board of directors of Ecopetrol.

## Gustavo Bolívar Moreno

Bolívar is a Colombian writer, entrepreneur, journalist, screenwriter and politician, popular for his novels adapted to television. In 2018, Bolívar entered politics, joining the Colombia Humana movement of former Bogotá Mayor Gustavo Petro. Bolívar was elected senator in the left-wing coalition named the List of Decency. In 2022, he was re-elected as a senator. He headed the list of politicians presented in the elections by the Pacto Histórico coalition that achieved the highest vote and led Gustavo Petro to the presidency. Bolívar accompanies and permanently advises the president on issues related to communication, media, and content, hence his capacity of influence on regulatory and public policy issues is very significant.

# FOREIGN INFLUENCERS

## Inter-American Commission on Human Rights (IACHR)

The Inter-American Commission on Human Rights (IACHR) is an autonomous body of the Organization of American States (OAS) whose purpose is to promote and protect human rights on the American continent. Along with the Inter-American Court of Human Rights, the IACHR forms part of the Inter-American System for the Protection of Human Rights. Among its activities, the IACHR runs a petition system, monitors the human rights situation in member states, and addresses priority thematic areas.

Currently, the Special Rapporteur for Freedom of Expression, **Pedro Vaca**, in addition to being Colombian, is a renowned expert in communications. Previously, he served as FLIP's executive director. In that position, he actively participated in the most relevant debates on communications-related matters in Colombia. Thanks to his knowledge about the risks that journalists are faced with and about the state of freedom of expression, protection mechanisms for journalists have been strengthened in Colombia.



## Latin American Observatory of Regulation, Media and Convergence (OBSERVACOM)

OBSERVACOM is a professional and independent organization specialized in regulation and media policy, telecommunications, internet and freedom of expression, with an emphasis on rights, access, diversity and pluralism[38]. It is made up of expert researchers from Latin America and the Caribbean who generate information, analysis and proposals, as well as connections with various actors involved in communications-related issues including NGOs, academic organizations, private businesses and state bodies. Its director, **Gustavo Gómez**, although based in the city of Montevideo, has participated in a spate of debates on regulatory issues in Colombia during the past decade. He made significant contributions, influencing the debates.

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[38] OBSERVACOM is a partner in the Media Influence Matrix project where this report is published. OBSERVACOM has not participated in any way in the editorial process or the research carried out for drafting this report.

# Conclusions

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From a legal and normative viewpoint, Colombia has a long republican tradition of respect for freedom of expression. In fact, freedom of expression was declared a fundamental right by Article 20 of the 1991 Constitution. The act not only guarantees its protection, but also laid the foundations for a jurisprudence of respect for the free practice of journalism. The legal provision is so universal and protective of the right to inform that in 1998 the Constitutional Court decided to abolish the requirement of a professional journalist card to carry out journalistic reporting. Since then, any citizen can create media content without the need to study journalism in an academic institution.

Although those changes have led to an overall process of deprofessionalization of journalism, which was widely criticized and debated, those who practice journalism enjoy full legal protection of their freedom and independence.

In practice, however, the situation is not that rosy. The constant violence suffered by journalists, the high levels of concentration in media ownership, and the use of official advertising as a mechanism of editorial control by the government, especially at the local level, darken the picture. Despite strong constitutional protection, there are many ways to pressure, intimidate, control, or manipulate journalists.

It is true that censorship is legally prohibited. Nonetheless, there are other factors, such as those mentioned above, that can limit the freedom of expression and thus result in some degree of censorship or self-censorship. Although the normative and legal framework governing media in Colombia is robust and in line with international standards, the state has not created mechanisms to protect the freedom of expression. That has prompted civil society groups to establish NGOs with a mission to safeguard freedom of expression.



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On the other hand, in the media regulation area, Colombia has experienced a slew of institutional changes aimed at restructuring the regulatory structures. Colombia has regulators in the areas of ICTs, networks and communication services, the electromagnetic spectrum, access to information, privacy protection, among others. It does not have regulators for the press, radio and the internet. On internet-related issues, Colombia regulates net neutrality (principles of user free choice, non-discrimination of content, transparency, and traffic management information).

The number of influencers, both local and foreign, who seek to influence the policymaking process in Colombia, has increased. They also became more diverse, hence their influence is likely to grow in the coming years.



More about the project Media Influence Matrix at  
<http://journalismresearch.org>

## **Media and Journalism Research Center**

Postal address: Plaza Peregrina 4, 36001, Spain  
Email: [mjrc@journalismresearch.org](mailto:mjrc@journalismresearch.org)

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