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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
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KYRGYZSTAN

DRAFT LAW ABOUT THE MEDIA

AND THE

EXPLANATORY NOTE

Unofficial translate

Draft

LAW OF THE KYRGYZ REPUBLIC

About the media

This Law is aimed at ensuring the implementation of the right of everyone established and guaranteed by the Constitution of the Kyrgyz Republic to freedom of expression of one's opinion, freedom of speech and press, receiving and disseminating information and regulates public relations related to these rights.

Chapter 1. General Provisions

Article 1

1. In the Kyrgyz Republic, everyone has the right to freedom of expression of their opinion, to freedom of speech and press, to receive and disseminate information, which is realized through:

- 1) free expression of one's opinion in any way not prohibited by the Constitution of the Kyrgyz Republic and the legislation of the Kyrgyz Republic;
- 2) free search, selection, receipt and dissemination of information in any way not prohibited by the legislation of the Kyrgyz Republic;
- 3) free access to information, with the exception of information containing state secrets and other secrets protected by law;
- 4) free creation and distribution of mass media products;
- 5) restrictions by the laws of the Kyrgyz Republic on the grounds for interference in the activities of the mass media;
- 6) protection of sources of information;
- 7) prohibition of censorship;
- 8) prohibition of monopoly on mass media.

2. In the Kyrgyz Republic, the right of everyone to freedom of expression of one's opinion, to freedom of speech and press, to receive and disseminate information is realized in oral, written, printed and other forms not prohibited by the legislation of the Kyrgyz Republic.

3. In the Kyrgyz Republic, search, receipt, production and distribution of mass media, establishment of printed and other mass media, possession, use and disposal of them, manufacture, acquisition, storage and operation of technical devices and equipment, raw materials and materials intended for the production and distribution of mass media products are not subject to restrictions, except for cases provided for by the legislation of the Kyrgyz Republic.

4. State bodies, local self-government bodies, officials, public associations, enterprises, organizations and institutions, regardless of the form of ownership, are obliged to ensure that every citizen has the right to familiarize himself with documents, decisions affecting his rights and interests, with the exception of information containing state secrets and other legally protected secret.

5. Restriction of freedom of expression of one's opinion, freedom of speech and press, receipt and dissemination of information is allowed in a state of emergency or martial law in accordance with constitutional law.

Article 2. Legislation of the Kyrgyz Republic on mass media

1. The legislation of the Kyrgyz Republic on mass media consists of the Constitution of the Kyrgyz Republic, this Law and other normative legal acts of the Kyrgyz Republic issued in accordance with them.

2. This Law shall apply to mass media established in the Kyrgyz Republic, and to those established outside it, only insofar as it relates to the distribution of their products on the territory of the Kyrgyz Republic.

3. Legal entities and citizens of other states, stateless persons enjoy the rights and bear the obligations provided for by this Law, on an equal basis with legal entities and citizens of the Kyrgyz Republic, unless otherwise provided by law.

4. If an international treaty that has entered into force in accordance with the legislation of the Kyrgyz Republic provides for the organization and activities of mass media other rules than those established by this Law, the rules of the international treaty shall apply.

Article 3. Basic concepts used in this Law

The following basic concepts are used in this Law:

1) mass information - printed, audio, audiovisual and other messages and materials intended for an unlimited circle of persons;

2) mass media - a periodical printed publication, a news agency, a TV channel, a radio channel, a television program, a radio program, a video program, a newsreel program, another form of periodic distribution of mass information under a permanent name (name), including websites in the telecommunications network Internet;

3) periodical printed publication - a newspaper, magazine, bulletin, other publication that has a permanent name (title), current number and is published at least once every 6 months;

4) radio, television, video, newsreel program - a set of periodic audio, audiovisual messages and materials (broadcasts), which has a permanent title (title) and is published (broadcast) at least once a year;

5) mass media products - a print run or part of a print run of a separate issue of a periodical printed publication, a separate issue of a TV channel, radio channel, radio program, TV program, newsreel program, a print run or a part of a print run of an audio or video recording of a program, a separate issue or update of an online publication, a separate issue of another mass media;

6) distribution of mass media products - sale, subscription, delivery, distribution of a periodical printed publication, audio or video recording of a program, broadcasting of a TV channel, radio channel (television broadcasting, radio broadcasting), broadcasting of a TV program, radio program as part of a TV channel, radio channel, respectively, demonstration of a newsreel program, providing access to the online publication, other methods of distribution;

7) editorial office of a mass media - an individual or legal entity engaged in the production and release of mass media;

8) editor - a person who carries out general coordination of the activities of the editorial office, compliance with the basic standards and rules in force in the editorial office, editing, literary editing of messages and materials in accordance with official authority;

9) journalist - a person engaged in editing, creating, collecting or preparing messages and materials for the editorial office of a registered mass media, associated with it by labor or other contractual relations, or engaged in such activities under its authorization;

10) publisher - an individual or legal entity that provides material and technical support for the production and release of mass media products;

11) distributor - a specialist who distributes mass media products under an agreement with the editorial office, publisher;

12) TV channel, radio channel - a set of television, radio programs and (or) other audiovisual, audio messages and materials, formed in accordance with the broadcasting grid (programme) and published (on the air) under a permanent name (name) and with a specified frequency. The rules established by this Law and the legislation of the Kyrgyz Republic for a TV program, radio program shall apply to a TV channel, radio channel, unless otherwise provided by this Law;

13) broadcaster - a legal entity that forms a TV channel or radio channel and distributes it in accordance with the established procedure on the basis of a license for television broadcasting, radio broadcasting;

14) network media - an electronic publication prepared with the help of special hardware and software and intended for the dissemination of mass information in electronic digital form through public telecommunication networks, having a permanent name, current number and updated at least once every six months;

15) authorized state body for mass media affairs - an executive body that carries out state regulation of the activities of the mass media;

16) editorial policy - internal standards and regulations for the activities of the editorial office of the mass media;

17) accreditation - the procedure for appointing a journalist and recognizing his powers by a state body, local government, public association and organization, institution;

18) a news agency is a legal entity registered in accordance with the legislation of the Kyrgyz Republic as a mass media, engaged in the collection and dissemination of mass information;

19) Website - an electronic representative page of an individual or legal entity of the Kyrgyz Republic prepared with the help of special technical and software tools, on which the owner places information for the purpose of mass distribution;

20) register of registered mass media - a data bank on registered mass media;

21) Internet - a global information and telecommunications network that connects information systems and telecommunication networks of various countries through a global address space based on the use of the Internet protocol (internet protocol-IP) and data transfer protocol (Transmission Control Protocol-TCP).

Article 4. Inadmissibility of interference in the activities of the mass media

Any illegal obstruction, interference by any individuals and legal entities, including state bodies, local governments and their officials, in the process of production of mass media products, including in relations between the manufacturer and the owner (founder) and (or) editorial office (editor) of the mass media, entails liability in accordance with the legislation of the Kyrgyz Republic.

Article 5

1. It is prohibited to use mass media:

1) to distribute materials containing public calls for a violent seizure of power or a violent change in the constitutional order of the Kyrgyz Republic;

2) for propaganda of war, incitement of national, racial, regional and religious hatred;

3) to distribute materials containing public calls for terrorist activities or publicly justifying terrorism, other extremist materials;

4) for the distribution of materials promoting pornography, same-sex marriages that are harmful to the health and morals of the population, the cult of violence and cruelty;

5) to disseminate materials that discriminate against citizens on the basis of gender, race, language, disability, ethnic and regional identity, religion, age, political or other opinions, education, origin, property or other status;

6) to interfere in the privacy of citizens, infringement on their honor and dignity, business reputation;

7) to disseminate information about the private life of a person without his consent, except in cases established by law or if it is necessary to protect public interests and / or measures have been taken against the possible identification of unauthorized persons;

8) for the disclosure of information constituting a state or other secret protected by law;

9) to promote and disseminate information about the ways, methods of development, manufacture and use, places of purchase of narcotic drugs, psychotropic substances and their precursors.

2. It is prohibited to distribute materials that violate the principle of the presumption of innocence of a citizen.

Article 6. Cases of non-disclosure of information

The media is not entitled to:

- 1) to disclose information provided to him by legal entities and individuals on the condition that it be kept secret;
- 2) name the person who provided him with information on the condition of non-disclosure of his name;
- 3) disclose the data of an inquiry, preliminary investigation, trial, if this may lead to the disclosure of information constituting state and other secrets protected by law;
- 4) to make public any information received concerning a minor offender or suspected of committing an offense without the consent of his legal representative.

Article 7. Language of mass media

1. Mass media are distributed in the state, official or other languages.
2. The state ensures the right of citizens of the Kyrgyz Republic to use their native language and other languages when receiving and disseminating mass information in accordance with the legislation of the Kyrgyz Republic.

Article 8. Prohibition of censorship of mass media

Censorship of the mass media, that is, the requirement from the editorial office of the mass media by officials, state bodies, local authorities, organizations, institutions or public associations to preliminarily coordinate messages and materials, as well as imposing a ban on the distribution of messages and materials, their individual parts, is prohibited.

Chapter 2. Media

Article 9. Types of mass media

1. The mass media include periodicals, television, radio broadcasting, websites on the telecommunications network Internet and other electronic media, as well as a news agency registered as a mass media, whose activities are aimed at collecting, processing and disseminating messages and information materials.

Article 10. The right to create a mass media

1. The right to create (establish) a mass media belongs to a citizen of the Kyrgyz Republic, an association of citizens, state bodies, local self-government bodies, other legal entities.
2. Cannot act as a founder (owner) of a mass media:
 - 1) a citizen who has not reached the age of eighteen or who has been recognized by a court as incompetent;
 - 2) a citizen serving a sentence in places of deprivation of liberty by a court verdict or having a criminal record for committing a crime using the mass media or the Internet information and telecommunication network;
 - 3) an association of citizens, a legal entity whose activities are prohibited in accordance with the legislation of the Kyrgyz Republic;
 - 4) a citizen of a foreign state or a stateless person.

Article 11. Owner (founder) of mass media

1. The owner (founder) of a mass media outlet may be a legal or natural person or an association of legal and (or) natural persons. On the basis of this Law, the owner is vested with the right to create, as well as manage (possession, use, disposal) of mass media.

2. The owner (founder) of a mass media outlet has the right to act as a founder of an editorial office, editorial office, journalist, broadcaster, producer of products, distributor both in relation to his own and other mass media on the basis of an appropriate agreement.

3. The owner (founder) of mass media has the right to:

- 1) the name of the mass media;
- 2) establishment of the editorial office of the mass media;
- 3) conclusion of an agreement with individuals regarding their assumption of the functions of the editorial office (editor) of the mass media;
- 4) transfer of their rights in relation to the mass media, established by this Law, to any legal entity and (or) individual, including the editorial office (editor) of the mass media;
- 5) making a decision to terminate the activities of the mass media.

4. The owner (founder), who is not the editorial office (editor) of the mass media, shall not have the right to interfere in the activities of the mass media (editorial policy, preparation and release of products), except for the cases established by this Law and (or) the agreement of the owner (founder) with the editors (editor).

5. For claims and lawsuits related to the message or material of the owner (founder) of the mass media, the owner (founder) is liable.

Article 12

1. The editorial office (editor) of the mass media, which carries out the production and preparation for the release (airing) of the mass media, is:

- 1) an individual involved by the owner (founder) of the mass media on the basis of an agreement;
- 2) creative team;
- 3) mass media on the basis of collective agreements.

2. Relations between the owner (founder) and the editorial office (editor) of the mass media are regulated by the editorial board's charter and (or) the contract and this Law.

The editorial office can also act as the owner (founder), broadcaster, producer of products, distributor of mass media.

3. The editorial office (editor) of a mass media outlet shall carry out its activities on the basis of this Law and the legislation of the Kyrgyz Republic, the charter of the editorial office and (or) an agreement with the owner (founder) of the mass media outlet.

4. No one has the right to oblige the editorial office of the mass media to publish and / or publish the material rejected by it, unless otherwise provided by the legislation of the Kyrgyz Republic.

Article 13. Editorial Board (Editorial Board)

The editorial board (editorial council) is an advisory, deliberative body of the mass media without forming a legal entity, authorized by the editorial board and the owner to determine the editorial policy of the mass media.

Article 14. Features of the state antimonopoly regulation of the mass media market

1. Monopolization of the mass media in the interests of any natural or legal person is inadmissible.

2. In order to prevent monopolization of the use of limited state resources of the television and radio frequency spectrum, the same individual or legal entity and (or) persons affiliated with them have the right to be the owner (founder):

1) no more than one television and (or) radio channel that has a license to broadcast throughout the territory of the Kyrgyz Republic;

2) no more than one television and (or) radio channel licensed to broadcast in the regions, cities of Bishkek and Osh.

3. An individual who is the sole owner (founder) of a broadcasting organization or whose contribution to a broadcasting organization ensures control over it, or the spouse of this person may not own more than 25 percent of shares (capital shares) in other broadcasting organizations.

Article 15

1. Each issue of a periodical printed publication must contain the following output data: the name of the publication, the owner (founder) - a legal entity, the surname and initials of the owner (founder) - an individual and the editor, the serial number of the issue, the date of issue, frequency, circulation, address of the editorial office .

2. All mass media and websites on the Internet telecommunication network have the right to indicate any other information of their choice in their imprint.

Chapter 3. State registration of mass media

Article 16. State registration of mass media

1. A mass media outlet shall carry out its activities after its state registration, with the exception of cases of exemption from registration provided for by this Law.

2. A website in the Internet information and telecommunications network is subject to registration by the Ministry of Digital Development of the Kyrgyz Republic (hereinafter - the Ministry of Digital Development) as a network mass media in the manner established by the Cabinet of Ministers of the Kyrgyz Republic.

3. An application for registration of a mass media outlet is submitted to the Ministry of Justice of the Kyrgyz Republic (hereinafter referred to as the Ministry of Justice) or to the Ministry of Digital Development.

4. The applicant (owner/founder) is issued a receipt confirming the acceptance of such an application and the necessary documents, indicating the date of their receipt. Consideration of an application for registration of a mass media outlet and the adoption of an appropriate decision are carried out by the Ministry of Justice within 5 working days from the specified date.

5. A mass medium is considered registered from the day the decision on registration is made by the Ministry of Justice or the Ministry of Digital Development.

6. On the basis of the decision to register a mass medium, the applicant shall be issued a certificate of registration of the mass medium. The certificate of state registration of the mass media is issued on a form that is a document of strict accountability and is protected from forgery by printing products, in the form established by the Ministry of Justice or the Ministry of Digital Development.

7. The Ministry of Justice and the Ministry of Digital Development maintain the Register of registered mass media in the manner established by the Cabinet of Ministers of the Kyrgyz Republic.

8. The information contained in the Register of Registered Mass Media is open and available for review by any individuals and legal entities.

9. Information about a specific mass media is provided by the Ministry of Justice, the Ministry of Digital Development free of charge within five working days from the date of receipt of an application for the provision of such information.

10. Information about a particular media outlet is sent in writing in the form of an extract from the Register of Registered Mass Media or a certificate of absence of the requested information, which is issued if there is no information about a particular media outlet in this register.

11. The owner (founder) reserves the right to start production of mass media products within six months from the date of issue of the certificate of state registration. If this period is missed, the certificate of state registration of the mass media shall be invalidated.

Article 17. Submission of an application for state registration of mass media

1. An application for registration of a mass media outlet must indicate:

- 1) information about the owner (founder, co-founders), last name, first name, patronymic of the founder, if it is an individual, or full company name, if the founder is a legal entity, address of the applicant;
- 2) the name (name) of the mass media;
- 3) language (languages) of dissemination of mass information;
- 4) address of the editorial office;
- 5) the form of periodic distribution of mass information;
- 6) the intended territory for the distribution of products;
- 7) approximate topics and (or) specialization;
- 8) the expected frequency of release, the maximum volume of the media;
- 9) sources of financing;
- 10) information about in relation to which other mass media the applicant is the founder, owner, editor (editor), publisher or distributor;
- 11) domain name of the website in the information and telecommunications network of the Internet.

The application shall be accompanied by a document certifying the payment of the state fee, as well as documents confirming that the applicant, when establishing a mass media outlet, complies with the requirements established by this Law.

2. Presentation of other requirements during the registration of mass media is prohibited.

Article 18. Re-registration of mass media

1. Change of the owner (founder), change of the composition of owners (co-founders), as well as the name (name) is allowed only on condition of re-registration of the mass media.

During the re-registration procedure, the activities of the mass media are not suspended.

2. Re-registration of mass media is carried out in the same manner as its registration.

3. Re-registration of a mass media outlet whose activity has been terminated by a court is prohibited.

4. When changing the location of the editorial office, the domain name of the website in the information and telecommunication network Internet for a network publication, the frequency of release and the maximum volume of the mass media, the founder is obliged to notify the authorized state body in writing within a month.

Article 19. Exemption from state registration of mass media

State registration is not required:

- 1) periodicals with a circulation of less than 100 (one hundred) copies;
- 2) radio and television programs distributed via cable networks limited to the premises or territory of one state body, local self-government body, educational institution or enterprise, organization, institution, regardless of the form of ownership.
- 3) mass media established by state authorities and local governments exclusively for the publication of their official messages and materials, regulatory legal acts.

Article 20. Denial of state registration of mass media

1. Denial of state registration of mass media is possible only on the following grounds, if:

1) the application is submitted on behalf of an individual, an association of citizens, a legal entity that does not have the right to establish a mass media in accordance with this Law;

2) incompleteness of the submitted information, provided for in paragraph 1 of Article 17 of this Law.

3) The Ministry of Justice, the Ministry of Digital Development previously registered a mass media outlet with the same name (name).

2. A notice of refusal of state registration shall be sent to the applicant in writing, indicating the grounds for refusal provided for by this Law, within two working days from the date of the adoption of the relevant decision by the Ministry of Justice.

3. An application for state registration of a mass media outlet is returned to the applicant without consideration within two working days from the date of the relevant decision by the Ministry of Justice, the Ministry of Digital Development, indicating the reason for the return, if:

1) the application was submitted in violation of the requirements of this Law;

2) the application on behalf of the founder is submitted by a person who does not have the authority to do so;

3) the state fee has not been paid.

After elimination of violations, the application is accepted for consideration.

Article 21

A mass media state registration certificate may be invalidated by the Ministry of Justice or the Ministry of Digital Development only if:

1) the registration certificate was obtained fraudulently;

2) the media outlet has not been published (on the air) for more than six months;

3) the charter of the editorial office or the agreement replacing it is not adopted and (or) not approved within two months from the date of the first publication (broadcast) of this mass medium;

4) re-registration of this mass media took place.

Chapter 4. Organization of mass media activities

Article 22. Emergence of rights and obligations of mass media

1. The rights and obligations of the owner (founder) and the editorial office, provided for by this Law, arise from the date of registration of the mass media, and those provided for by the editorial charter - from the day of its approval.

2. The owner (founder), editorial office (editor), publisher, distributor may additionally establish mutual rights and obligations on a contractual basis. The provisions of the charter and agreements should not contradict this Law and the legislation of the Kyrgyz Republic.

Article 23. Status of the owner (founder) of mass media

1. The owner (founder) approves the charter of the editorial office and (or) concludes an agreement with the editorial office of the mass media (editor).

2. The owner (founder) has the right to oblige the editorial office to place free of charge and within the specified period a message or material on his behalf (statement of the owner (founder). and claims related to the statement of the founder, the founder is responsible. If the ownership of the specified message or material to the founder is not specified by the editorial board, it acts as a co-defendant.

3. The owner (founder) is not entitled to interfere in the activities of the mass media, except for the cases provided for by this Law, the charter of the editorial office, the agreement between the owner (founder) and the editorial office (editor).

4. The owner (founder) may transfer his rights and obligations to a third party with the consent of the editorial board and co-founders. In the event of liquidation or reorganization of the founder - an association of citizens, enterprises, institutions, organizations, state bodies, his rights and obligations are transferred in full to the editorial office, unless otherwise provided by the editorial charter.

5. A citizen of the Kyrgyz Republic with dual citizenship, a citizen of a foreign state, a foreign legal entity, as well as a legal entity of the Kyrgyz Republic with foreign participation, the share (contribution) of foreign participation in the authorized capital of which is 50 percent or more, cannot act as founders of a television and radio channels, television, radio, video programs, a website in the information and telecommunication network Internet.

Article 24

1. The editorial office carries out its activities on the basis of professional independence.

2. The editorial office may be a legal entity, an independent economic entity, organized in any form permitted by law. If the editorial office of a registered mass media outlet is organized as an enterprise, then it is also subject to registration in accordance with the legislation of the Kyrgyz Republic on state registration of legal entities and, in addition to the production and release of the mass media outlet, has the right to carry out other activities not prohibited by law in accordance with the established procedure.

3. The editorial office may act as a founder of the mass media, publisher, distributor, owner of the property of the editorial office.

4. The editorial office is managed by the editor, who exercises his powers on the basis of this Law, the charter of the editorial office, the agreement between the owner (founder) and the editorial office (editor).

5. The editor represents the editorial office in relations with the founder, publisher, distributor, citizens, associations of citizens, enterprises, institutions, organizations, state bodies, as well as in court. He is responsible for fulfilling the requirements for the activities of the mass media by this Law and the legislation of the Kyrgyz Republic.

Article 25

1. The charter of the editorial office of a mass media outlet is adopted at a general meeting of a team of journalists who are full-time employees of the editorial office by a majority of votes in the presence of at least two-thirds of its composition and is approved by the founder.

2. The editorial charter must define:

1) mutual rights and obligations of the founder, editorial office, editor;

2) the powers of a team of journalists - full-time employees of the editorial office;

3) the procedure for the appointment (election) of the editor, the editorial board and (or) other editorial management bodies;

4) grounds for and procedure for terminating and suspending the activities of a mass media outlet;

5) transfer and (or) preservation of the right to the name (name), other legal consequences of the change of the founder, change in the composition of co-founders, termination of the activities of the mass media, liquidation or reorganization of the editorial office, change in its organizational and legal form;

6) the procedure for approving and changing the charter of the editorial office, as well as other provisions provided for by this Law and not contradicting the legislation of the Kyrgyz Republic.

3. The charter of the editorial office, organized as an enterprise, may be simultaneously the charter of this enterprise. In this case, the articles of association of the editorial office must also comply with the legislation on enterprises and entrepreneurial activity.

4. A copy of the statute of the editorial office or an agreement replacing it shall be sent to the authorized state body no later than two months from the date of the first publication (broadcast) of this mass medium. At the same time, the editorial office has the right to stipulate which information contained in its charter constitutes a commercial secret.

Article 26. Status of the publisher of mass media

The publisher exercises its rights and bears obligations on the basis of this Law and the legislation of the Kyrgyz Republic. A publisher may act as a founder of a mass media outlet, an editorial office, a distributor, and an owner of editorial property.

Article 27

1. An agreement between the owners (co-founders) of mass media determines their mutual rights, duties, responsibilities, procedure, conditions and legal consequences of changing the composition of owners (co-founders), the procedure for resolving disputes between them.

2. An agreement between the owner (founder) and the editorial office (editor) determines the production, property and financial relations between them: the procedure for allocating and using funds for the maintenance of the editorial office, distribution of profits, formation of funds and compensation for losses, the founder's obligations to ensure proper production and social living and working conditions of editorial staff. Each co-founder (owner) separately or all co-founders (owners) together can be a party to the agreement with the editorial office.

3. The agreement between the editorial office and the publisher determines the production, property and financial relations between them, the mutual distribution of publishing rights, the publisher's obligations for the material and technical support of the production of mass media products and the responsibility of the parties.

Article 28. Information agencies

1. With regard to news agencies, the status of the editorial office, publisher, distributor and the legal regime of the mass media are simultaneously extended.

2. A news agency shall be registered in accordance with the procedure established by this Law.

3. When distributing messages and materials of a news agency by another mass media, a reference to the news agency is obligatory.

Article 29. Termination and suspension of activities of mass media

1. The activities of a mass media outlet may be terminated or suspended only by decision of the owner (founder) or by a court in civil proceedings at the suit of an authorized state body.

2. The owner (founder) has the right to terminate or suspend the activities of the mass media solely in the cases and in the manner provided for by the editorial board's charter or the agreement between the owner (founder) and the editorial office (editor).

3. The grounds for the court to terminate the activities of the mass media are repeated violations by the editorial office of the requirements of this Law within twelve months, in respect of which the Ministry of Justice, the Ministry of Digital Development or the General Prosecutor's Office of the Kyrgyz Republic issued written warnings to the founder and (or) editorial office (editor), as well as non-execution of the court act on the suspension of the activities of the mass media.

4. The following may serve as grounds for suspending the activities of a mass media outlet:

- 1) the need to secure the claim provided for by paragraph one of this article;
- 2) violation of the Constitution and legislation of the Kyrgyz Republic.

5. Termination of the activities of a mass media outlet entails the invalidity of the certificate of its state registration and the charter of the editorial office.

Chapter 5. Rights and obligations of a journalist

Article 30. Status of a journalist

1. The professional status of a journalist established by this Law shall apply to:

1) staff members of editorial offices engaged in editing, creating, collecting or preparing messages and materials for large-circulation newspapers and other mass media, the products of which are distributed exclusively within the limits of one enterprise (association), organization, institution;

2) on authors who are not connected with the editorial office of the mass media by labor or other contractual relations, but recognized by it as their freelance authors or correspondents, when they fulfill the instructions of the editorial office.

Article 31. Rights of a journalist

1. A journalist has the right:

1) seek, request, receive and disseminate information;

2) visit state bodies, local self-government bodies, organizations, enterprises and institutions, bodies of public associations or their press services;

3) be received by officials in connection with the request for information;

4) get access to documents and materials, with the exception of their fragments, containing information constituting a state, commercial or other secret specially protected by law;

5) copy, publish, disclose or otherwise reproduce documents and materials, subject to the requirements of this Law;

6) make recordings, including using audio and video equipment, film and photography, except as otherwise provided by law;

7) visit specially protected places of natural disasters, accidents and catastrophes, riots and mass gatherings of citizens, as well as areas where a state of emergency has been declared, attend meetings, rallies, kurultais in the manner prescribed by the legislation of the Kyrgyz Republic;

8) verify the accuracy of the information communicated to him;

9) express their personal judgments and assessments in messages and materials intended for distribution under his signature;

10) refuse to prepare a message or material under his signature that contradicts his convictions;

11) remove his signature from a message or material, the content of which, in his opinion, was distorted in the process of editorial preparation, or prohibit or otherwise stipulate the conditions and nature of the use of this message or material in accordance with the requirements of this Law;

12) distribute messages and materials prepared by him with his signature, under a pseudonym or without a signature.

2. A journalist also enjoys other rights granted to him by the legislation of the Kyrgyz Republic.

Article 32. Accreditation of mass media journalists

1. The editorial office of a mass media outlet, registered in accordance with the procedure established by this Law, has the right to apply to a state body, a local self-government body for accreditation of its journalists with them.

2. State bodies, local self-government bodies, accredit declared journalists, provided that the editorial offices comply with the accreditation rules established by these bodies.

Only journalists of mass media registered in accordance with the procedure established by this Law are subject to accreditation.

3. State bodies and local self-government bodies that have accredited journalists are obliged to notify them in advance of meetings, conferences and other events, provide them with transcripts, minutes and other documents, and create favorable conditions for recording.

4. An accredited journalist has the right to attend meetings, meetings and other events held by the bodies that accredited him, except in cases where decisions have been made to hold a closed event.

5. A journalist may be deprived of accreditation if he or the editorial office of the media violates the established rules for accreditation or disseminates untrue information discrediting the honor and dignity, business reputation of the state body, local government body that accredited the journalist, which is confirmed by a decision that has entered into legal force court.

6. Accreditation of own correspondents of media editorial offices is carried out in accordance with the requirements of this article.

Article 33. Obligations of a journalist

1. A journalist must:

- 1) comply with the charter of the editorial office with which he has labor relations;
- 2) verify the accuracy of the information provided by him;
- 3) satisfy the requests of the persons who provided the information to indicate its source, as well as to authorize the quoted statement, if it is announced for the first time;
- 4) maintain confidentiality of information and (or) its source;
- 5) obtain consent (except when it is necessary to protect public interests) for the dissemination in the media of information about the personal life of a citizen from the citizen himself or his legal representatives;
- 6) upon receipt of information from citizens and officials, notify them of the conduct of audio and video recording, filming and photography;
- 7) notify the editor of possible claims and other claims provided for by law in connection with the dissemination of a message or material prepared by him;
- 8) refuse the assignment given to him by the editor or the editorial office, if it or its performance is connected with a violation of the law;
- 9) when exercising professional activities, upon first request, present an editorial certificate or other document proving the identity and credentials of a journalist;
- 10) to comply with the ban on conducting election campaigning, campaigning on referendum issues while exercising professional activities.

2. The journalist also bears other obligations established by the legislation of the Kyrgyz Republic.

3. When carrying out professional activities, a journalist is obliged to comply with the Constitution and laws of the Kyrgyz Republic, respect the rights, legitimate interests, business reputation, honor and dignity of citizens, officials and legal entities.

4. The state guarantees to a journalist, in connection with his professional activities, the protection of his honor, dignity, health, life and property as a person fulfilling a public duty.

Article 34. Inadmissibility of abuse of the rights of a journalist

1. It is not allowed to use the rights of a journalist established by this Law for the purpose of concealing or falsifying publicly significant information, spreading rumors under the guise of reliable messages (fake news), collecting information in favor of an outside legal entity or organization that is not a mass media.

2. It is prohibited to use the right of a journalist to disseminate information in order to discredit a citizen or certain categories of citizens solely on the basis of gender, age, racial, regional or national origin, language, attitude to religion, profession, place of residence and work, as well as in connection with their position or political opinion.

Chapter 6

Article 35. Dissemination of mass information

1. Messages and materials of a news agency must be accompanied by its name (title).
2. A registered mass media outlet is obliged to indicate in the imprint the authorized state body that registered it and the registration number.

Article 36. Circulation

1. The circulation of a printed periodical, audio, video, newsreel program is determined by the editor in agreement with the publisher.
2. Withdrawal, as well as destruction of the circulation or part of it, is allowed only by a court decision that has entered into force.

Article 37. Mandatory media reports

1. The editorial office of a mass medium is obliged to publish free of charge and within the prescribed period:
 - 1) a court decision that has entered into legal force, containing a requirement to publish such a decision through this mass media;
 - 2) a message received from the body that registered this mass media, regarding the activities of the editorial office.
2. Editorial offices of mass media, the founders (co-founders) of which are state bodies, local governments are obliged to publish their official messages in the manner regulated by the editorial board's charter or an agreement replacing it, as well as other materials, the publication of which in these mass media is provided for by the legislation of the Kyrgyz Republic.
3. State mass media are obliged to publish messages and materials of state authorities of the Kyrgyz Republic in the manner prescribed by law.
4. The editorial offices of the mass media, regardless of the form of ownership, are obliged to immediately and free of charge publish (on the air) at the request of the authorized state bodies operational information on fire safety and other emergencies.

Article 38. Distribution of advertising in mass media

Distribution of advertising in the media is carried out in accordance with the procedure established by the legislation of the Kyrgyz Republic on advertising.

Chapter 7

Article 39. Right to receive information

1. Citizens have the right to promptly receive reliable information about the activities of state bodies, local self-government bodies, organizations, public associations, and their officials through the mass media.
2. State bodies, local self-government bodies, public associations, enterprises, organizations, institutions, regardless of the form of ownership, their officials, provide information about their activities to the media at the request of the editors, as well as through press conferences, distribution of reference and statistical materials and in other forms.
3. Provision by state bodies, local self-government bodies of information about their activities at the request of editorial offices, if such relations are not regulated by the legislation of the Kyrgyz Republic on the mass media, is carried out in accordance with the legislation of the Kyrgyz Republic regulating issues of ensuring access to information about the activities of state bodies and bodies local government.

Article 40. Request for information

The editorial board of a mass media outlet has the right to request information about the activities of state bodies, local self-government bodies, organizations, public associations, and their officials. Request for information is possible both orally and in writing. The requested information must be provided by the heads of these bodies, organizations and associations, their deputies, employees of the press services or other authorized persons within their competence.

Article 41. Refusal to provide information

Refusal to provide the editorial office of the mass media with the requested information is possible only if it contains information constituting a state, commercial or other secret specially protected by law. The notice of refusal is handed over to the representative of the editorial office within five days from the date of receipt of the written request for information. The notice must include:

- 1) the reasons why the requested information cannot be provided;
- 2) an official who refuses to provide information;
- 3) the date of the decision to refuse.

Article 42. Ensuring the confidentiality of information

1. The editorial office of the mass media is not entitled to disclose in the disseminated messages and materials information provided by individuals or legal entities on condition that they be kept secret.

2. The editorial office of the mass media is obliged to keep the source of information secret and is not entitled to name the person who provided the information on the condition of not disclosing his name, except for the case when the corresponding request was received from the court in connection with the case being processed by it.

3. The editorial office of the mass media is not entitled to disclose in disseminated messages and materials information that directly or indirectly indicates the identity of a minor who has committed a crime or is suspected of committing it, as well as who has committed an administrative offense or an antisocial act, without the consent of the minor himself and his legal representative.

Article 43. Author's works and letters

1. The editorial office of a mass media is obliged to respect the rights to the works used, including copyright, publishing rights, and other intellectual property rights. The author or other person who owns the rights to the work may specifically stipulate the conditions and nature of the use of the provided edition of the work.

2. A letter addressed to the editorial office of a mass media outlet may be used in messages and materials of this mass media outlet, provided that the meaning of the letter is not distorted and the provisions of this Law are not violated. The editorial office is not obliged to respond to letters from citizens and forward these letters to those bodies, organizations and officials whose competence includes their consideration.

3. No one has the right to oblige the editorial office to publish a work, letter, other message or material rejected by it, unless otherwise provided by law.

Article 44. Right to refutation

1. A citizen, an association of citizens, a state body, a local self-government body, an official, an enterprise, an organization, an institution, regardless of the form of ownership, have the right to demand from the editorial office of the mass media that information that is not true and discredits their honor, dignity and business reputation, which was distributed in this media. The legal representatives of the citizen also have this right, if the citizen himself does not have

the opportunity to demand a refutation. If the editorial board of the mass media does not have evidence that the information disseminated by it is true, it is obliged to refute them in the same mass media.

2. If a citizen, an association of citizens, a state body, a local self-government body, an official, an enterprise, an organization, an institution have submitted a text of a refutation, then this text shall be subject to distribution provided that it complies with the requirements of this Law.

Article 45

1. The refutation must indicate what information is not true, when and how it was disseminated by this mass media.

2. A refutation in a printed periodical should be typed in the same font and placed under the heading "Refutation", as a rule, in the same place on the page as the refuted message or material. On radio and television, a refutation must be broadcast at the same time of day and, as a rule, in the same program as the message or material being refuted.

3. The volume of the refutation cannot exceed twice the volume of the refuted fragment of the disseminated message or material. A rebuttal cannot be required to be shorter than one standard typewritten page. A rebuttal on radio and television should not take up less air time than it takes for an announcer to read a standard page of typewritten text.

4. Refutation must follow:

1) in the mass media that are published (on the air) at least once a week - within ten days from the date of receipt of the request for refutation or its text;

2) in other mass media - in the issue being prepared or in the nearest planned issue.

5. Within ten days from the date of receipt of the request for a refutation or its text, the editorial office is obliged to notify the interested citizen or organization in writing of the expected timeframe for the dissemination of the refutation or the refusal to distribute it, indicating the reasons for the refusal.

Article 46

1. A refutation may be refused if this requirement or the submitted text of the refutation:

1) is an abuse of freedom of the mass media under this Law;

2) contradicts the decision or other act of the court that has entered into legal force;

3) is anonymous.

2. A refutation may be refused:

1) if information is refuted that has already been refuted in this mass media;

2) if the request for a refutation or the submitted text of it was received by the editorial office after one year from the date of dissemination of the refuted information in this mass media.

3. Refusal to refute or violation of the refutation procedure established by this Law may be appealed to the court within 6 months from the date of dissemination of refuted information in accordance with the civil and civil procedural legislation of the Kyrgyz Republic.

Article 47. Right of reply

1. A citizen, an association of citizens, a state body, a local self-government body, an official, an enterprise, an organization, an institution, regardless of the form of ownership, in respect of which information is disseminated in the mass media that does not correspond to reality or infringes on the rights and legitimate interests of a citizen, have the right to the answer (comment, remark) in the same mass media.

2. The answer is placed no earlier than in the next issue of the media. This rule does not apply to editorial comments.

Chapter 8. International cooperation in the field of mass media

Article 48. International Treaties and Agreements

1. International cooperation in the field of mass media is carried out on the basis of agreements concluded by the Kyrgyz Republic.

2. Editorial offices, professional associations of journalists participate in international cooperation in the field of mass media on the basis of agreements with citizens and legal entities of foreign states, as well as international organizations.

Article 49. Dissemination of information by foreign mass media

1. Citizens of the Kyrgyz Republic are guaranteed unimpeded access to messages and materials of foreign mass media.

2. Restriction of reception of programs of direct television broadcasting is allowed only in cases provided for by the legislation of the Kyrgyz Republic.

3. Distribution of a foreign TV channel or a foreign radio channel on the territory of the Kyrgyz Republic is allowed after its registration in accordance with the requirements of this Law.

4. In order to distribute the products of a foreign periodical printed publication that is not registered in the Kyrgyz Republic and has a permanent residence of the founder or editorial office outside its borders, as well as financed by foreign states, legal entities or citizens, it is necessary to obtain permission from the Ministry of Justice of the Kyrgyz Republic.

5. Permission to distribute products of a foreign periodical printed publication is issued on a form, which is a document of strict accountability and protected from forgery printing products, in the form established by the Cabinet of Ministers of the Kyrgyz Republic.

Article 50. Correspondents of foreign mass media

1. Representative offices of foreign mass media in the Kyrgyz Republic are established with the permission of the Ministry of Foreign Affairs of the Kyrgyz Republic, unless otherwise provided by an interstate agreement concluded by the Kyrgyz Republic, which entered into force in accordance with the legislation of the Kyrgyz Republic.

2. Foreign representative offices of mass media registered in the Kyrgyz Republic are established in accordance with the procedure established by the legislation of the Kyrgyz Republic, unless otherwise provided by an interstate agreement that has entered into force in accordance with the legislation of the Kyrgyz Republic.

3. Accreditation of correspondents of foreign mass media in the Kyrgyz Republic is carried out by the Ministry of Foreign Affairs of the Kyrgyz Republic in accordance with the requirements of this Law.

4. Correspondents of foreign mass media accredited in the Kyrgyz Republic, regardless of their citizenship, are subject to the professional status of a journalist established by this Law.

5. The Cabinet of Ministers of the Kyrgyz Republic may establish retaliatory restrictions on media correspondents of those states that have special restrictions on the professional activities of mass media journalists registered in the Kyrgyz Republic.

Chapter 9. Responsibility for Violation of Legislation on Mass Media

Article 51. Responsibility for violation of the legislation of the Kyrgyz Republic on mass media

1. Owners (founders), editorial offices, editors, publishers, distributors, state bodies, local governments, officials, journalists, authors of disseminated messages and materials are liable for violations of the legislation of the Kyrgyz Republic on mass media.

2. The broadcaster is responsible for the compliance of the disseminated information and materials of the TV channel, radio channel with the requirements of the legislation of the Kyrgyz Republic.

Article 52. Exemption from liability

1. The editorial office, editor, journalist are not responsible for the dissemination of information that does not correspond to reality and discredits the honor and dignity, business reputation of citizens and legal entities, or infringes on the rights and legitimate interests of citizens, or harms the health and (or) development of children and minors or representing an abuse of freedom of the media and (or) the rights of a journalist in the event of:

- 1) if this information is present in the mandatory messages;
- 2) if they are received from news agencies;
- 3) if they are contained in a response to a request for information or in the materials of the press services of state bodies, local governments, organizations, institutions, enterprises, bodies of public associations;
- 4) if they are verbatim reproduction of fragments of speeches of deputies of the Jogorku Kenesh of the Kyrgyz Republic and deputies of local keneshes at meetings of committees, temporary commissions, deputy factions, plenary meetings of the Jogorku Kenesh of the Kyrgyz Republic and local keneshes, delegates of congresses, conferences, plenums of political parties, non-profit organizations, as well as official speeches, including at press conferences, by officials of state bodies, local governments, political parties, non-profit organizations, legal entities;
- 5) if they are contained in author's works broadcast without prior recording, or in texts that are not subject to editing in accordance with this Law;
- 6) if they are verbatim reproduction of messages and materials or their fragments distributed by another mass media, which can be established and held liable for this violation of the legislation of the Kyrgyz Republic on mass media.

Article 53

Infringement of freedom to express one's opinion, freedom of speech and press, receipt and dissemination of information, that is, obstruction in any form by citizens, officials of state bodies and organizations, public associations of the legitimate activities of founders, editorial offices, publishers and distributors of products the media, as well as journalists, including through:

- 1) implementation of censorship;
- 2) interference in the activities and violation of the professional independence of the editorial board;
- 3) illegal termination or suspension of the activities of the mass media;
- 4) violation of the right of the editorial office to request and receive information;
- 5) illegal seizure, as well as destruction of the circulation or its part;
- 6) forcing a journalist to disseminate or refuse to disseminate information;
- 7) establishing restrictions on contacts with a journalist and the transfer of information to him, with the exception of information constituting a state, commercial or other secret specially protected by law;
- 8) violation of the rights of a journalist established by this Law - entails liability in accordance with the legislation of the Kyrgyz Republic.

Article 54. Liability for abuse of freedom of speech and press

1. Abuse of freedom of speech and press, expressed in violation of the requirements of this Law - entails liability in accordance with the legislation of the Kyrgyz Republic.

2. Abuse of the rights of a journalist, expressed in violation of the requirements of this Law, or failure to comply with the duties of a journalist, - entails liability in accordance with the legislation of the Kyrgyz Republic.

Article 55. Compensation for moral damage

Moral (non-property) harm caused to a citizen as a result of the dissemination by the mass media of information that does not correspond to reality, discrediting the honor, dignity and business reputation of a citizen or causing him other non-property harm, is compensated by a court decision by the mass media, a journalist, as well as guilty officials and citizens in the amount determined by the court.

Chapter 10. Final and transitional provisions

Article 56. Entry into force of this Law

1. This Law shall enter into force on the day of its official publication.

2. From the date of entry into force of this Law, recognize as invalid the Law of the Republic of Kyrgyzstan "On the Mass Media" dated July 2, 1992 No. 938-XII (as amended by the Law of the Kyrgyz Republic "On Amendments and Additions to the Law of the Kyrgyz Republic

"On the mass media of May 8, 1993 No. 1228-XII - Gazette of the Jogorku Kenesh of the Kyrgyz Republic, 1993, No. 6, Art. 169).

3. To the Cabinet of Ministers of the Kyrgyz Republic within three months:

- bring its regulatory legal acts in line with this Law;
- submit to the Jogorku Kenesh of the Kyrgyz Republic draft laws arising from this Law.

**The President of the
Kyrgyz Republic**

Unofficial translate

EXPLANATORY NOTE

to the draft Law of the Kyrgyz Republic "On Mass Media"

The draft law "On Mass Media" is designed to review the current Mass Media Law taking into account changes in information and communication environment in order to promote social responsibility of journalists and legal culture in the media sphere.

We would like to inform you that the submitted draft law was reviewed by a working group established by Decree #230 of the President of the Kyrgyz Republic S.N. Japarov of 7 December 2022 to finalize the draft law "On Mass Media".

It should be noted that the working group included 15 representatives of independent mass media and public organizations interested in finalizing the draft law.

The need to adopt this draft law was caused by obsolescence of the current Mass Media Act of 2 July 1992.

It should be noted that under Article 6 (3) of the Constitution of the Kyrgyz Republic, universally recognized principles and norms of international law as well as international agreements entered into force in accordance with the legislation of the Kyrgyz Republic are part of the legal system of the Kyrgyz Republic. The procedure and conditions for the application of international treaties and generally recognized principles and norms of international law shall be determined by law.

The Constitution of the Kyrgyz Republic guarantees everyone the right to express his opinion, freedom of speech and press, as well as the right to freely receive and disseminate information by any means not prohibited by law, except for information that constitutes state secrets. Censorship is prohibited.

These internationally consistent formulations mean that the international law principle of presumption in favour of the right should apply when drafting and applying legislation on the right to freedom of expression, opinion and the media. That is, the existence of a positive obligation on the state to ensure freedom of speech, expression and the media and only in certain cases impose restrictions to protect national security, public order, public health and morals and the rights and freedoms of others.

As a comparative analysis of the constitutional norms and provisions of international acts in the area of freedom of expression shows, they are almost identical.

However, today one can observe numerous contradictions of legislative acts to the norms of the Constitution, sub-legislative normative acts to laws, as well as their internal inconsistency and numerous duplication of legal norms in the information legislation. All together this creates a rather confusing system and considerable difficulties.

The current law explicitly binds all rights and responsibilities for creating and disseminating information to mass media, while the Constitution of the Kyrgyz Republic guarantees freedom of expression, freedom of speech and press to everyone, i.e. to all citizens of the country, not only journalists. As a result, only mass media editorial boards are subject to restrictions and prohibitions that should be extended to everyone. In this connection, the proposed draft Law proposes to regulate the issues of

- Freedom of expression, freedom of speech and of the press, and freedom to receive and impart information;

- Inadmissibility of interference in the activities of the mass media;
- Inadmissibility of abuse of freedom of expression, freedom of speech, freedom of the press, receipt and dissemination of information;
- Non-disclosure of information;
- types of the mass media; - diversity of the mass media;
- Specifics of State anti-monopoly regulation of the mass media market; - State registration of the mass media.

Thus, the draft law stipulates that in the Kyrgyz Republic everyone has the right to freedom of expression, to freedom of speech and the press, to receive and disseminate information, which is realized by

- 1) free expression of his opinion by any means not prohibited by the Constitution of the Kyrgyz Republic and the legislation of the Kyrgyz Republic;
- 2) Free search, selection, reception and dissemination of information by any means not prohibited by the legislation of the Kyrgyz Republic
- 3) Free access to information, except for information containing state secrets and other secrets protected by law
- 4) free creation and distribution of mass media products
- 5) limitation by the laws of the Kyrgyz Republic of the grounds for interference in the activities of mass media
- 6) protection of sources of information;
- 7) prohibition of censorship;

It is proposed that periodical print media, television and radio broadcasting, websites in the Internet telecommunications network and other electronic media, as well as an information agency registered as a media whose activities are aimed at collecting, processing and disseminating messages and materials of an informational nature, would be included among the types of mass media. Also, according to the provisions of the submitted draft Law, a mass media outlet shall carry out its activities after its state registration, except in cases of exemption from registration as provided for in this Law.

A website on the information and telecommunication network Internet is subject to registration by the Ministry of Digital Development of the Kyrgyz Republic as a network media outlet in accordance with the procedure established by the Cabinet of Ministers of the Kyrgyz Republic.

It should be noted that the draft Law relies on universally recognised principles and norms of international law declaring that it is permissible to restrict by law the freedom to receive and impart information and ideas if this is necessary for national security or public order, for the prevention of crime, for the protection of health or morals or for the protection of the reputation or rights of others:

European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 10; Universal Declaration of Human Rights, Article 29 par 2; International Covenant on Civil and Political Rights, Article 19 par 3 and Article 20; International Covenant on Economic, Social and Cultural Rights, Article 10; Council of Europe Declaration on Media and Human Rights (1970); CIS Convention on Human Rights and Fundamental Freedoms, Article 10; etc.

The following must be emphasised.

The preamble to the Universal Declaration of Human Rights of 8 December 1948 states that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Pursuant to Article 19(3) of the International Covenant on Civil and Political Rights of 19 December 1966 (the Kyrgyz Republic acceded to the Covenant by Resolution No. 1406-XII of the Parliament of the Kyrgyz Republic dated 12 January 1994), "the exercise of the right to freedom of expression carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) for respect of the rights or reputations of others; (b) for the protection of national security or of public order, or of public health or morals.