



**Declaration of the Committee of Ministers
on the protection of freedom of expression and freedom of assembly and association
with regard to privately operated Internet platforms and online service providers**

*(Adopted by the Committee of Ministers on 7 December 2011
at the 1129th meeting of the Ministers' Deputies)*

1. Freedom of expression and the right to receive and impart information and its corollary, freedom of the media, are indispensable for genuine democracy and democratic processes. Through their scrutiny and in the exercise of their watchdog role, the media provide checks and balances to the exercise of authority. The right to freedom of expression and information as well as freedom of the media must be guaranteed in full respect of Article 10 of the European Convention on Human Rights (ETS No. 5, hereinafter "the Convention"). The right to freedom of assembly and association is equally essential for people's participation in the public debate and their exercise of democratic citizenship, and it must be guaranteed in full respect of Article 11 of the Convention. All Council of Europe member States have undertaken, in Article 1 of the Convention, to "secure to everyone within their jurisdiction the rights and freedoms" protected by the Convention (without any online/offline distinction).
2. People, notably civil society representatives, whistleblowers and human rights defenders, increasingly rely on social networks, blogging websites and other means of mass communication in aggregate to access and exchange information, publish content, interact, communicate and associate with each other. These platforms are becoming an integral part of the new media ecosystem. Although privately operated, they are a significant part of the public sphere through facilitating debate on issues of public interest; in some cases, they can fulfil, similar to traditional media, the role of a social "watchdog" and have demonstrated their usefulness in bringing positive real-life change.
3. In addition to opportunities, there are challenges to the effective exercise of freedom of expression and to the right to impart and receive information in the new media ecosystem. Direct or indirect political influence or pressure on new media actors may lead to interference with the exercise of freedom of expression, access to information and transparency, not only at a national level but, given their global reach, also in a broader international context. Decisions concerning content can also impinge on the right to freedom of assembly and association.
4. Distributed denial-of-service attacks against websites of independent media, human rights defenders, dissidents, whistleblowers and other new media actors are also a matter of growing concern. These attacks represent an interference with freedom of expression and the right to impart and receive information and, in certain cases, with the right to freedom of association. Companies that provide web hosting services lack the incentive to continue hosting those websites if they fear that the latter will come under attack or if their content may be regarded as sensitive. Furthermore, the companies concerned are not immune to undue interference; their decisions sometimes stem from direct political pressure or from politically motivated economic compulsion, invoking justification on the basis of compliance with their terms of service.
5. These developments illustrate that free speech online is challenged in new ways and may fall victim to action taken by privately owned Internet platforms and online service providers. It is therefore necessary to affirm the role of these actors as facilitators of the exercise of the right to freedom of expression and the right to freedom of assembly and association.

6. Interference with content that is released into the public domain through these means or attempts to make entire websites inaccessible should be judged against international standards designed to secure the protection of freedom of expression and the right to impart and receive information, in particular the provisions of Article 10 of the Convention and the related case law of the European Court of Human Rights. Furthermore, impediments to interactions of specific interest communities should be measured against international standards on the right to freedom of assembly and association, in particular the provisions of Article 11 of the Convention and the related case law of the European Court of Human Rights.

7. The Committee of Ministers, therefore:

- alerts member States to the gravity of violations of Articles 10 and 11 of the European Convention on Human Rights which might result from politically motivated pressure exerted on privately operated Internet platforms and online service providers, and of other attacks against websites of independent media, human rights defenders, dissidents, whistleblowers and new media actors;

- underlines, in this context, the necessity to reinforce policies that uphold freedom of expression and the right to impart and receive information, as well as the right to freedom of assembly and association, having regard to the provisions of Articles 10 and 11 of the Convention and the related case law of the European Court of Human Rights;

- confirms its commitment to continue to work to address the challenges that these matters pose for the protection of freedom of expression and access to information.