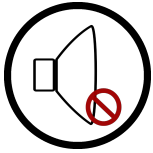


PEN Declaration on Digital Freedom



1. All persons have the right to express themselves freely through digital media without fear of reprisal or persecution.

- a. Individuals who use digital media enjoy full freedom of expression protections under international laws and standards.
- b. Governments must not prosecute individuals or exact reprisals upon individuals who convey information, opinions, or ideas through digital media.
- c. Governments must actively protect freedom of expression on digital media by enacting and enforcing effective laws and standards.



2. All persons have the right to seek and receive information through digital media.

- a. Governments should not censor, restrict, or control the content of digital media, including content from domestic and international sources.
- b. In exceptional circumstances, any limitations on the content of digital media must adhere to international laws and standards that govern the limits of freedom of expression, such as incitement to violence.
- c. Governments should not block access to or restrict the use of digital media, even during periods of unrest or crisis. Controlling access to digital media, especially on a broad scale, inherently violates the right to freedom of expression.
- d. Governments should foster and promote full access to digital media for all persons.



3. All persons have the right to be free from government surveillance of digital media.

- a. Surveillance, whether or not known by the specific intended target, chills speech by establishing the potential for persecution and the fear of reprisals. When known, surveillance fosters a climate of self-censorship that further harms free expression.
- b. As a general rule, governments should not seek to access digital communications between or among private individuals, nor should they monitor individual use of digital media, track the movements of individuals through digital media, alter the expression of individuals, or generally surveil individuals.
- c. When governments do conduct surveillance—in exceptional circumstances and in connection with legitimate law enforcement or national security investigations—any surveillance of individuals and monitoring of communications via digital media must meet international due process laws and standards that apply to lawful searches, such as obtaining a warrant by a court order.
- d. Full freedom of expression entails a right to privacy; all existing international laws and standards of privacy apply to digital media, and new laws and standards and protections may be required.
- e. Government gathering and retention of data and other information generated by digital media, including data mining, should meet international laws and standards of privacy, such as requirements that the data retention be time-limited, proportionate, and provide effective notice to persons affected.



4. The private sector, and technology companies in particular, are bound by the right to freedom of expression and human rights.

- a. The principles stated in this declaration equally apply to the private sector.
- b. Companies must respect human rights, including the right to freedom of expression, and must uphold these rights even when national laws and regulations do not protect them.
- c. Technology companies have a duty to determine how their products, services, and policies impact human rights in the countries in which they intend to operate. If violations are likely, or violations may be inextricably linked to the use of products or services, the companies should modify or withdraw their proposed plans in order to respect human rights.
- d. Technology companies should incorporate freedom of expression principles into core operations, such as product designs with built-in privacy protections.
- e. If their operations are found to have violated the right to freedom of expression, technology companies should provide restitution to those whose rights were violated, even when governments do not provide remedies.

Founded in 1922, PEN American Center defends freedom of expression wherever it is threatened, and promotes literature and international cultural exchange. To find out more, visit www.pen.org.