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Congress Seeks Overhaul of 44-Year-Old Law Governing Broadcast Media

by LADB Staff

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The broadcast media is taking an increasingly prominent role in Mexican society, with the growing power of the major television and radio networks under increasing scrutiny. To address these concerns, the Congress has proposed an overhaul of the law governing the communications media (Ley Federal de Radio y Television, LEFERYT), in effect since 1960.

In revising this law, the Congress will have to walk a fine line between reducing the influence of monopolies such as Televisa and TV Azteca and ensuring that the legislation does not infringe on freedom of expression. "The common sentiment is that the communications media act as mechanisms to guarantee freedom of expression," said Lorenzo Cordova Vianello, an analyst at the Instituto de Investigaciones Juridicas. "But there is also a consensus that the media's performance has to be clearly regulated to establish limits, rights, and obligations."

Some legislators have promised that the rights of broadcasters will not be violated during the process of reforming the LEFERYT. "We will not pass any law that will limit or place at risk the investments, property, and operations of the communications media," said Senate majority leader Enrique Jackson Ramirez, a member of the former governing Partido Revolucionario Institucional (PRI).

Sen. Jackson made the comments to members of the Camara de la Industria de la Radio y Television (CIRT), which has supported in principle changing the LEFERYT but has also expressed concerns that reforms could infringe upon their rights. Other legislators have not been as accommodating as Jackson. "We will make substantive changes to the LEFERYT," said Sen. Jesus Orozco Alfaro, a member of the center-left Partido de la Revolucion Democratica (PRD).

Similarly, Sen. Javier Corral Jurado, a member of the governing Partido Accion Nacional (PAN), pledged to push for comprehensive regulatory changes in the communications media. "The current level of concentration in the television industry is very high," said Corral. The congressional leaders have promised to approve the reforms during the current session of Congress.

Fox government endorses changes

The effort has gained the support of President Vicente Fox's administration. "We can no longer continue to ignore the need to reformulate the laws governing the media," deputy interior secretary Ricardo Garcia Cervantes told the Mexico City daily newspaper El Universal.

Proponents of the LEFERYT reforms point to the duopoly that has developed in the Mexican television industry, in which Televisa and TV Azteca have tight control on every aspect of the industry, from the content of programming to advertising fees. In recent years, both networks have

attempted to expand their market position. In February 2003, the Secretaria de Comunicaciones y Transportes (SCT) fined TV Azteca 210,000 pesos (US\$18,600) for unauthorized use of the frequency of a smaller rival it forced off the air by taking over its transmission facilities.

The SCT ruled that TV Azteca, owned by powerful businessman Ricardo Salinas Pliego, violated broadcast codes by putting its programming on the frequency of Canal 40, a member of the Corporacion de Noticias e Informacion (CNI). TV Azteca insisted that its takeover of Canal 40 was legal, and it has filed a lawsuit against the smaller rival. CNI has countered with its own legal action.

Analysts expect the dispute to remain unresolved for as long as three years. Televisa also continues to expand its reach in the Mexican media, although in a quieter and less controversial manner than TV Azteca. The network, which was owned by the state before its privatization in the early 1990s, has continued to expand not only its on-air broadcast properties but also satellite and cable-based programming.

In October of this year, Televisa's subsidiary SkyTV became the country's sole provider of pay-television services through the acquisition of DirecTV's client base in Mexico. The US satellite operator abandoned operations in Mexico because of ongoing losses. Televisa, now in the hands of billionaire Emilio Azcarraga, also owns interest in the radio network Radiopolis.

The dominance that TV Azteca and Televisa have on the Mexican media has allowed the two networks to charge high prices for advertising. "The lack of competition has allowed the two networks to aggressively increase their fees," said a report from Grupo IXE. Proposed changes tied to campaign-finance reforms One of the proposals in Congress to reform the broadcast industry attempts to link the changes in LEFERYT to the long-stalled electoral reforms.

Many politicians are holding TV Azteca, Televisa, and the large radio networks at least partially responsible for the increasingly hostile tone of political campaigns because the broadcast outlets agree to air commercials regardless of their content. Another criticism is that only the wealthier candidates are able to purchase the costly television or radio spots, giving them an advantage over rivals who do not have access to major financing.

One proposal offered by PAN Sen. Corral would prohibit the sale of advertising space to political parties or politicians. As an alternative, he proposed that the federal elections watchdog (Instituto Federal Electoral, IFE) would buy the spots and allocate them to the various candidates.

PRD Deputy Manuel Camacho Solis said, however, that he would rather have legislators and broadcasters work out a common solution instead of having Congress approve legislation unilaterally. "The communications media should be interested in finding a formula to make financing transparent, thus avoiding false or unwarranted criticisms," said Camacho, who chairs the special committee on electoral reforms (Comision para la Reforma del Estado).

The CIRT has come out strongly in opposition to any legislation that would impose limits on political advertising in the broadcast media. "The effort to reduce the amount of time and

expenditures for political advertisements is a step backward from the democratic reforms we have long fought for," said CIRT president Jorge Mendoza Garza.

Mendoza said, however, that CIRT does not want to be viewed as an obstacle to reforms. "We do not oppose reforms to the laws governing radio and television as long as the changes are not the result of resentments, revenge, or dishonest positions," said the CIRT president.

Syndicated columnist Miguel Angel Granados Chapa said reducing the increasingly high cost of elections is key to any electoral-reform proposal. He proposed that Congress impose safeguards that would reduce campaign costs, curtail the actual campaign period, and prohibit candidates from spending too much on television spots.

Granados said the networks, as recently as the 2000 presidential election, showed favoritism to some candidates. "Even in that election, there was evidence that the television networks favored the PRI, offering the party preferential fees," said the columnist. Granados said that the democratization of the Mexican political system has exacerbated, not fixed, the problem. "We are less able to correct the inclinations of the franchisees in elections, where the television and radio are able to construct victories and cause defeats."

Congress may also look at law governing print media Juan Francisco Ealy Ortiz, publisher of El Universal, acknowledged that the media including newspapers have contributed to discrediting elected officials, institutions, and political parties. "We often opt for the concept that conflict is news," said Ealy, one of several panelists in a four-day forum to examine democracy and governability.

Ealy urged Congress to consider comprehensive changes in the LEFERYT, including providing greater flexibility in awarding concessions of the airwaves and promoting greater transparency in the process by which politicians use the broadcast media.

Ealy and others have endorsed major reforms to the legislation that governs the print media (Ley de Imprenta), in place since 1917. He did not specify what changes he would seek in this law. Reforms to the print media are being considered separately from those for radio and television. The debate regarding changes to the 1917 law has not reached the contentiousness of the debate for the LEFERYT.

Print journalists face increasing violence

The print media, however, is facing a different kind of challenge: violence against reporters and columnists. This year alone, four journalists have been murdered because of their reports on local corruption and/or the drug trade. Three of the murders occurred in cities near the US border. The most recent casualty was newspaper columnist Francisco Arratia Salderna, who was kidnapped in Matamoros, Tamaulipas state, in late August. Authorities later discovered his body near the offices of the Red Cross. He had a fractured skull, broken hands, and burn marks. Arratia, whose column *Portavoz* was syndicated to many newspapers along the US-Mexico border region, often addressed controversial issues linked to political corruption, organized crime, and the drug trade.

Arratia's murder followed the kidnapping and subsequent murder of Leodegario Aguilera Lucas, editor of the Mundo Politico magazine in the resort city of Acapulco. Aguilera was kidnapped in May, but his body was not located until September. Two other journalists were murdered along the US-Mexico border earlier in the year, apparent victims of the drug trade and organized crime.

The first assassination was that of Roberto Javier Mora Garcia, editorial director of El Manana newspaper in Nuevo Laredo, Tamaulipas, in March. Mora's body was found outside his home; he had been stabbed more than 25 times. As the editorial director of Nuevo Laredo's El Manana newspaper, Mora often published front-page stories on the Gulf drug cartel.

Mora's murder was followed by the assassination of Francisco Ortiz Franco, an investigative reporter and editor at the Semanario Zeta newspaper in Tijuana. Ortiz was gunned down in June as he sat in his vehicle with his two youngest children (see SourceMex, 2004-06-30).

Journalists seek laws to protect them from violence

The four deaths bring to 29 the number of Mexican journalists killed during the performance of their duties since 1994, said the Inter American Press Association (IAPA), which began keeping records of journalist murders in the western hemisphere in 1988. This year's murders brought protests from reporters and editors from around the country.

In mid-October, more than 100 journalists gathered at the Benito Juarez monument in Nuevo Laredo to protest the violent deaths of their colleagues. The protesters demanded that authorities fully investigate the crimes and ensure an atmosphere in which reporters can carry out their work without fear for their safety. This was the second time in less than two months that journalists banded together to protest aggressions.

In early September, 250 reporters and editors from 19 states wrote letters to Tamaulipas Gov. Tomas Yarrington and the federal Congress to demand that action be taken to ensure their safety. The letter urged legislators to pass a bill on human rights that would place crimes against journalists under federal jurisdiction. "So long as attacks on journalists continue and those who murder them remain unpunished, freedom of expression in Mexico is called into question," the letter said.

Individual journalists also publicly denounced the killings. "Arratia's death is disturbing because it is like a red light against freedom of expression," said Hector Jimenez, editor of the biweekly newspaper Hora Cero in Reynosa. "The risks for border reporters are much greater and unfortunately I don't think it will be the last killing."

In late September, authorities arrested Raul Castelan Cruz in connection with Arratia's murder. Castelan is reported to have links to the powerful Gulf cartel, which was run for many years by notorious drug lord Osiel Cardenas Guillen. The cartel has remained a force in northwest Mexico despite Cardenas' arrest in 2003 (see SourceMex, 2003-03-26).

Some accounts say Castelan may be part of a gang of assassins known as the Zetas, which is also suspected of having carried out the murder of Ortiz Franco in Tijuana. Tamaulipas state investigators arrested Castelan after he used a cellular phone that was stolen from Arratia.

The Mexican Congress, at the initiative of the Partido Verde Ecologista Mexicano (PVEM), is considering legislation to require a minimum five-to-10-year jail sentence for anyone who makes a serious threat against a journalist. The PVEM-sponsored initiative also considers steps to strengthen freedom of expression for journalists "to ensure their independence when dealing with political or economic powers."

The legislation was introduced just as reports emerged that a radio reporter and a newspaper columnist in Chiapas state had received death threats on their cell phones for their coverage of the municipal and state legislative elections in early October. [Note: Peso-dollar conversions in this article are based on the Interbank rate in effect on Oct. 13, reported at 11.25 pesos per US\$1.00] (Sources: Los Angeles Times, 02/06/03; Milenio Diario, 04/29/03, 05/15/03; The Dallas Morning News, 09/01/04; Spanish news service EFE, 09/09/04, 09/30/04; El Financiero, 09/10/04, 10/05/04, 10/07/04, 10/08/04; Notimex, 09/30/04, 10/07/04, 10/10/04; Agencia de noticias Proceso, 10/06/04, 10/07/04, 10/11/04; Reuters, Dow Jones Newswires, 10/11/04; Associated Press, 02/10/03, 08/31/04, 09/02/04, 09/30/04, 10/11/04, 10/12/04; La Cronica de Hoy, 05/15/03, 10/01/04, 10/11/04, 10/12/04; The Herald-Mexico City, 09/02/04, 09/07/04, 09/27/04, 10/12/04; La Jornada, 10/01/04, 10/04/04, 10/12/04; El Universal, 10/01/04, 10/06/04, 10/07/04, 10/08/04, 10/12/04; Inter American Press Association 2004 report)

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