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Senate Delays Approval of New Law Governing Broadcast Media

by LADB Staff
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The Mexican Senate has encountered unexpected complications in its effort to overhaul an outdated law governing the broadcast media. The upper house officially committed to the changes in late 2004, when senators approved an initiative to modernize the Ley Federal de Radio y Television (LEFERYT), which has been in place since 1960. At that time, legislators promised to craft legislation that would reduce the influence of the two major networks, Televisa and TV Azteca, but not infringe on freedom of expression in Mexico (see SourceMex, 2004-10-13).

Senate supporters had hoped to bring a bill to the floor for debate sometime during the regular 45-day spring session between mid-March and the end of April, but the effort stalled because of disagreements regarding a scheme developed by a special subcommittee (subcomision de radio y TV) in December. The plan came under fire immediately after it was presented to committees dealing with communications and transportation (Comision de Comunicaciones y Transportes), domestic affairs (Comision de Gobernacion), and legislative affairs (Estudios Legislativos) in January.

The ambitious plan proposed two significant changes to the structure of the Mexican broadcast industry: to foster greater competition in radio and television by reducing the power of a handful of broadcast companies that control each of those industries and to remove the regulatory tasks for the broadcast industry from the Secretaria de Comunicaciones y Transportes (SCT) and transfer them to a new, independent agency. The agency, which would be called the Consejo Nacional de Radio y Television (CNRT), would have similar functions as the US Federal Communications Commission (FCC).

Plan would curb power of major broadcast companies
The subcommittee's proposal to boost competition in the broadcast industry was directed at Televisa, TV Azteca, and a handful of radio conglomerates, which together account for almost all television and radio programming in Mexico. Televisa and TV Azteca control more than 95% of Mexico's television stations.

Independent stations like UHF Canal 40 in Mexico City account for the remaining 5% of the market, but these operations frequently have financial problems. In 2003, Canal 40 survived a takeover attempt by TV Azteca, but it has been unable to make ends meet on its own. In mid-May of this year, the station was forced to suspend operations after 300 workers went on strike because the company owed them the equivalent of US$3.6 million in salaries.

The radio industry is controlled by a handful of media conglomerates such as Radio Centro, Grupo MVS Radio, and Radio Formula. Together, these radio and television giants obtain most of the...
country's advertising dollars and generally determine the content of entertainment and news programming. The subcommittee attempted to break the monopoly of these media giants through regulations prohibiting any one company from controlling more than 35% of a geographic market. The plan also contained incentives for local broadcast outlets to produce their own programs rather than rely entirely on the national programs supplied by the large broadcast networks.

Media analysts said this proposal was especially important for the television industry because more than 85% of Mexicans own a television set. Because few people in Mexico have cable or satellite TV, a vast majority of viewers rely on the free programming supplied by Televisa and TV Azteca. Raul Trejo Delabre, who specializes in media studies at the Universidad Nacional Autonoma de Mexico (UNAM), said the current system has given two men, Emilio Azcarraga of Televisa and Raul Salinas Pliego of TV Azteca, considerable power to shape public opinion in Mexico. "They can establish their own agenda," said Trejo.

The most important change in the structure of radio would be to open the door for eventually easing restrictions on the creation of community radio stations. The federal government has awarded a handful of formal permits for community radio stations this year but has been slow in processing other requests.

Several nongovernmental organizations are pushing the Senate to include a clause in the new law to ease restrictions on community stations. A government survey shows that more than 120 radio stations are operating without a formal permit. Almost all of these small broadcast operations are located in isolated rural areas, serving a limited population.

Some legislators, including members of the radio and television committee (Comision de Radio y Television) in the lower house, are urging the federal government to crack down on these illegal stations until clearer rules are established. "The most prudent step now is for the government to shut down the illegal operations until we are able to agree on a norm for community radio stations," said Deputy Javier Orozco, a member of the Partido Verde Ecologista Mexicano (PVEM).

**Proposed independent regulator draws opposition**

Proponents of a greater democratization of the airwaves in Mexico also see great merit in the Senate subcommittee's proposal to create a regulatory agency that would be independent from the SCT. The change, they say, would result in more transparency in the awarding of concessions and permits for use of the airwaves.

At present, the SCT offers little information about the criteria used to grant concessions. "Can you imagine not being able to find out even basic information, such as who owns a concession or when it expires?" Trejo told the Los Angeles Times. "This is what we have been living with in Mexico." Media researcher Alma Rosa Alva de la Selva, also affiliated with UNAM, said the current system promotes corruption and amounts to "a relationship of mutual favors between the government and the owners of the mass media."

The major media companies have made few comments on the proposal, but the plan has come under strong criticism from the main organization representing the broadcast industry, the Camara
de la Industria de la Radio y Television (CIRT). The CIRT has been especially vocal about the move to create the CNRT on the grounds that the new agency would violate Article 28 of the Mexican Constitution, which gives the executive branch the exclusive right to determine media concessions.

Ironically, CIRT officials raised the same concerns as critics of the current law. "The new law proposes discretionary powers for the new agency, which would result in a lack of transparency," said CIRT director Alejandro Garcia Gamboa. The question regarding the Constitution is one of the major reasons that some senators have been reluctant to embrace the proposal crafted by the Senate subcommittee. "If we take up this proposal, we would also have to enact constitutional reforms," said Sen. Jose Eulogio Bonilla, a member of the former governing Partido Revolucionario Institucional (PRI). Bonilla said he was especially concerned about the proposal to create the CNRT, which he said would be a sort of "super council" with "exaggerated" and "discretionary" powers.

The senator, who has received a federal concession to operate a radio station in Zacatecas state, said the existing LEFERYT, even if considered obsolete by some critics, continues to fulfill its function. "This is not a bad law," said Bonilla. "It has not done anything to halt the growth of the [broadcast] industry." Proposal would also regulate political advertising

A third proposal of the plan drafted by the Senate subcommittee would impose strict regulations on political advertising during electoral campaigns. Under the plan, the independent Instituto Federal Electoral (IFE) would be given the power to buy and allocate paid political spots during the campaign season, with the goal of ensuring equitable cost and air time for all candidates. Advocates of the plan say the change is necessary to regulate the electoral media blitz, which they say is out of control and increasingly manifests the same characteristics as the US campaigns. "Electoral marketing has taken a greater role in Mexican political campaigns, with short segments known as spots," said Ulises Beltran Ugarte, a political analyst at the Centro de Investigacion y Docencia Economica (CIDE).

Sen. Javier Corral Jurado of the governing Partido Accion Nacional (PAN), one of the champions of the reforms to the broadcast laws, said television and radio advertising has increased the cost of campaigns significantly. "We could see a savings of about 1.5 billion pesos (US$137 million)," said Corral, who sits on the Senate communications and transportation committee and chairs the rules committee (Comision de Reglamentos y Practicas Parlamentarias). "We will also ensure that money spent on media during the electoral campaign does not go exclusively to the largest television enterprises."

Some economists say the lack of competition in the Mexican media has made the cost of buying advertising, political or otherwise, more expensive proportionally than in the US. "There are only two options in Mexico," said CIDE economist Javier Aparicio. "In the US, the competition among many networks has the effect of lowering costs."

Debate may be delayed until September

Corral, a former broadcast journalist in Chihuahua, has found an unlikely ally in Sen. Manuel Bartlett Diaz, who has stood up to fellow PRI members who oppose the LEFERYT changes. "This isn't about political parties," said Bartlett. "This is about confronting a monopoly." During a Senate
session in mid-January, Bartlett became involved in a shouting match with fellow PRI member Sen. Emilio Gamboa Patron regarding the proposed broadcast reforms. Gamboa is a major opponent of an independent CNRT, proposing instead strengthening the Comision Federal de Comunicaciones (COFETEL), a unit of the SCT.

The subcommittee's proposal has found strong support among a cross section of senators, including Cesar Raul Ojeda of the PRD, Jorge Abel Lopez of the PRI, and Felipe Vicencio of the PAN. Proponents in the Senate had hoped to approve the changes to the LEFERYT by the summer of 2005, when the major candidates for the 2006 presidential election are expected to launch their campaigns. PRI president Roberto Madrazo, Mexico City Mayor Andres Manuel Lopez Obrador of the center-left Partido de la Revolucion Democratica (PRD), and Interior Secretary Santiago Creel of the PAN have either announced or hinted that they would resign their posts soon to begin to campaign for the 2006 election. Each is considered a front-runner for his respective party but is also expected to meet a strong challenge in the primary.

The opposition from key senators like Gamboa, Erick Rubio, and Hector Osuna of the PRI and Diego Fernandez de Cevallos and Fauzi Hamdan of the PAN has kept the measure from moving forward. Fernandez de Cevallos, currently president of the Senate, ignored requests by Corral to move debate on the broadcast initiative to the floor during the spring session, which ended April 30.

Corral is now advocating that the LEFERYT reforms be part of the agenda during a special session this summer, when the upper house will consider important business left unfinished at the end of the regular session. This seems unlikely without the support of the PRI. In late May, the PRI delegation in the Senate agreed to postpone any discussion on LEFERYT reforms until the fall session in September to allow a "period of consultation among the various sectors of society" that would be affected by the changes. [Note: Peso-dollar conversions in this article are based on the Interbank rate in effect on May 25, reported at 10.93 pesos per US$1.00] (Sources: Los Angeles Times, 01/18/05; Agencia de noticias Proceso, 02/02/05, 02/16/05, 02/28/05, 03/02/05, 03/15/05, 04/04/05, 04/06/05; El Financiero, 01/28/05, 04/19/05, 05/02/05; La Jornada, 01/03/05, 01/05/05, 01/06/05, 01/17/05, 01/19/05, 01/20/05, 02/10/05, 02/11/05, 02/17/05, 03/02/05, 03/09/05, 03/23/05, 03/31/05, 04/04/05, 04/06/05, 04/07/05, 04/13/05, 04/29/05, 05/09/05, 05/10/05; El Universal, 01/03-06/05, 01/18/05, 01/20/05, 02/03/05, 02/09-11/05, 02/16/05, 02/17/05, 02/28/05, 03/02/05, 03/04/05, 03/10/05, 03/16/05, 04/05-07/05, 04/20/05, 05/03/05, 05/06/05, 05/17/05; Associated Press, 05/19/05; Notimex, 01/05/05, 01/19/05, 01/20/05, 02/02/05, 02/09/05, 03/08/05, 03/15/05, 03/16/05, 04/04/05, 04/06/05, 04/20/05, 05/20/05; La Cronica de Hoy, 01/10/05, 01/19/05, 01/20/05, 01/28/05, 02/07/05, 02/10/05, 02/11/05, 02/17/05, 02/28/05, 04/07/05, 04/13/05, 05/20/05, 05/25/05; La Crisis, 04/26/05, 05/03/05, 05/25/05)