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## **Proposal to Create Third Television Network Meets Resistance**

*by LADB Staff*

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The US-based Spanish-language television network Telemundo has filed an application to set up operations in Mexico, but the two existing broadcasting giants, Televisa and TV Azteca, are blocking the proposal to establish a third major network south of the border. The effort to create a new network in Mexico is led by Mexican billionaire Isaac Saba Raffoul, a partner in Telemundo. Joining Saba in the bid is US network NBC, which owns a major share of Telemundo. US corporate giant General Electric (GE) has a controlling interest in NBC and is ready to offer its resources.

Telemundo and Grupo Xtra, a textile company affiliated with the Saba family, filed the formal application to create a network in Mexico in September 2006. The Comision Federal de Telecomunicaciones (COFETEL) and the Secretaria de Comunicaciones y Transportes (SCT) have not acted on the application, but critics say Televisa and TV Azteca are doing whatever they can to thwart the creation of a competing network.

### ***Lucrative advertising market in play***

At stake is control of the lucrative television advertising market, about 75% of which is in the hands of Televisa. In recent years, broadcasters have obtained about 26 billion pesos (US\$2.37 billion) in advertising revenues annually from free television. The total was almost certainly higher in 2006 because of the tens of millions of pesos that the various political parties paid for television advertisements, the government's anti-monopoly agency (Comision Federal de Competencia, CFC) said in a report released in November 2006.

A study by Grupo Financiero Ixe said a third network could take away about 5% of the combined revenues for Televisa-TV Azteca in its first year. Still, the losses for Televisa and TV Azteca would not be as significant in the long run, with television advertising expected to grow steadily in the coming years.

The Mexican government has forecast expenditures on television advertising to grow by 3.5% annually through 2010. The private accounting company Price Waterhouse Coopers is even more optimistic, projecting a growth of 11% in each of the next three years. The latter study projects growth rates of 9.3% for expenditures on free television and 32.6% for cable, satellite, and other restricted media.

The optimistic projections are based on the growth potential for the advertising industry as a whole. In Mexico, advertising represents only 0.5% of GDP, compared with 1.59% in Brazil and 1.89% in the US, said a recent study by Global Entertainment and Media Outlook. "We do not know how many more television stations the Mexican market can accommodate," said Ricardo Rubio, president of the Confederacion de Industria de la Comunicacion Mercadotecnica (CICOM). "What we do know

is that Mexico invests relatively small amounts on commercial communications relative to other countries."

Televisa and TV Azteca have a history of using their influence to gain favorable treatment from the Congress and from federal regulators. This was especially evident during the debate on a new broadcast law (Ley Federal de Radio y Television, LEFERYT) in April 2006, when Congress approved an initiative that basically consolidated control of the airwaves to the two largest networks (see SourceMex, 2006-04-05). That law created a public uproar that has increased pressure on Congress to open up competition in the television and radio markets.

"There has to be at least one more open television channel," said CFC president Eduardo Perez Motta. Publicly, the two networks have declared that they are ready and willing to welcome a new competitor. "Televisa has competed historically and competes every day in all of its businesses," said Televisa official Manuel Compean.

### *Existing networks try to discredit possible competitor*

But critics say the two networks are engaging in a subtle campaign to discredit Grupo Saba and General Electric. In early December, both networks aired a series of investigative reports suggesting that Isaac Saba's pharmaceutical company Grupo Casa Saba manipulated the market to drive the price of medications higher. The reports emphasized how costly medications were hurting the poor.

Grupo Casa Saba denied that any price gouging existed, noting that profit margins were less than 10%. "What is notable about [the Televisa and TV Azteca reports] is that the distribution system for medicines in Mexico has not changed for decades," columnist Jose Manuel Suarez Mier said in the Mexico City business daily newspaper El Economista. "I think it is too much of a coincidence that the television networks 'discovered' that the pharmaceutical industry had problems at the time when Casa Saba had proposed to enter the television market."

Spokespersons for Televisa and TV Azteca said, however, that news judgment drove their coverage. "The high cost of medicines in a poor country with great health needs is a real issue, and it is not related to Saba and his other businesses," Televisa's Compean told The New York Times. GE also took issue with coverage of the company on TV Azteca around the time of the Telemundo application. In a news show in early December, the network described GE as "a transnational company accused of unfair and monopolistic practices, fraud, and everything you can imagine."

The coverage prompted GE to respond through full-page advertisements in several Mexican daily newspapers. "This use of the media only confirms the consensus about the need for more competition in Mexican television," said GE. The media wars have extended across the border into the US, primarily between Telemundo and TV Azteca. In late November, Telemundo's parent company NBC Universal asked the US Federal Communications Commission (FCC) to deny the renewal of the broadcasting license to KAZA, the Los Angeles affiliate of TV Azteca's growing US network Azteca America.

In making the request, NBC Universal invoked a seldom used "morals clause," claiming that TV Azteca was corrupt and thus lacked "the character qualifications" required by federal law. "In

Mexico, TV Azteca has used strong-arm tactics including armed raids against legitimate US business operations in Mexico to prevent them from competing lawfully against TV Azteca in its home country," NBC Universal wrote in its 34-page complaint. The complaint was referring to a raid on a studio in Mexico City where a show was being taped for Telemundo. The raid followed a court order to halt production because the host of the show had a contract with TV Azteca.

Officials at Azteca America responded that NBC Universal, and not TV Azteca, was the party engaged in abuse of power. "It's ridiculous for such a large company to try to prevent competition from such a small competitor," said Azteca America chair Luis Echarte. "We view this as a very simple ploy to damage our reputation. They came to Mexico and they violated our laws, and then they went back up to the states, and now this."

GE and NBC Universal also argue that the principle of reciprocity should come into play. They note that TV Azteca, through Azteca America, and Televisa, through a working agreement with US Spanish-language network Univision, have been able to introduce their programming into the US market. "The point is pretty basic," said Telemundo president Donald Browne. "We want to do the same thing in Mexico that Televisa and TV Azteca do in the United States. They are able to distribute in the United States, and we would like to have an opportunity to distribute our own product [in Mexico]."

### *Proposal finds some support among regulators, Congress*

There is some support among Mexican regulators for a third network. "Mexico's broadcast spectrum has the capacity to add a third and even a fourth network," said Gerardo Gonzalez Abarca, a commissioner for the communications regulating agency (Confederacion Federal de Telecomunicaciones, COFETEL). Gonzalez noted, however, that Mexico may not be ready for a full-scale opening of the television-broadcast market. He said this is not because of a lack of space on the broadcast spectrum, but because of "technical limitations" in some cities in Mexico.

Some members of Congress have also come out in support of a third network. "Mexico would benefit from having a diversity of options in broadcast communications," said Sen. Carlos Sotelo Garcia, chair of the radio, television, and cinema committee (Comision de Radio, Television y Cinematografia) in the upper house. Sotelo is a member of the center-left Partido de la Revolucion Democratica (PRD). Sen. Federico Doring, a member of the same committee, said creating a third network remains a very viable option. "There are frequencies available on the broadcast spectrum," he said.

Doring, who belongs to the governing Partido Accion Nacional (PAN), said Mexico would benefit from competition, particularly in broadcast news. "I wish that the broadcast media would have the same type of diversity as the print media," said Doring. Ultimately, President Felipe Calderon's administration will make the decision on whether to allow the creation of a third network. Communications and Transportation Secretary Luis Tellez Kuenzler said a decision would probably not come in the early part of 2007 because the government has just begun an inventory of the broadcast frequencies available across the country.

Still, Tellez, an advisor for Televisa until the end of November and also a managing director of the Carlyle Group, left some doubt on whether a further opening of Mexico's broadcast industry would involve a third network. In a press conference in mid-December, he said radio and television frequencies may be auctioned off in different cities, "but we are not talking about a third television network."

Some analysts expect the Calderon administration to proceed slowly on the issue. "It is clear that one of the more serious tasks inherited by the government of Felipe Calderon is to fight monopolies and other anti-competitive structures." said Suarez Mier. "But he is going to have to choose his battles very carefully because he may be facing some very powerful interests." If the administration decides not to place a priority on creating a third network, some legislators are ready to revise the LEFERYT. "We need to achieve a real regulation of the [Televisa and TV Azteca] duopoly," said PAN Sen. Marco Antonio Cortes. [Note: Peso-dollar conversions in this article are based on the Interbank rate in effect on Jan. 10, reported at 10.96 pesos per US\$1.00] (Sources: The New York Times, 12/06/06; Reforma, 12/11/06, 12/12/06; Reuters, 12/12/06; The Herald-Mexico City, 12/13/06; Milenio Diario, 10/16/06, 10/20/06, 12/16/06; Los Angeles Times, 12/01/06, 12/16/06; El Economista, 12/13/06, 12/15/06, 12/19/06; El Financiero, 12/14/06, 12/19/06; Cambio de Michocan, 12/22/06; El Siglo de Durango, 01/04/07; La Jornada, 12/13-15/06, 12/21/06, 01/05/07)

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