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New Telecommunications Law Almost a Reality

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In early May, the state legislature of México state voted to ratify the telecommunications law approved by the federal Chamber of Deputies and Senate earlier this year. The approval set in motion the last step of the process for Mexico to enact comprehensive reforms to the telecommunications sector. The approval of more than half the state legislatures is required because the measure involves changes to the Constitution. With strong support from all major parties in Congress, it now appears likely that the measure will be ratified by at least 16 of Mexico’s 32 state legislative bodies. Once a majority of states ratify the reforms, the initiative will land on President Enrique Peña Nieto’s desk for his signature and subsequent publication in the government’s daily record (Diario Oficial de la Federación).

Senate approves legislation overwhelmingly

The measure—which the Senate approved by an overwhelming vote of 108-3 at the end of April—is essentially the same initiative that the Chamber of Deputies approved in March (SourceMex, March 27, 2013). The initiative aims to boost competition in the television broadcast industry and increase investments and lower prices in the telephone and pay television sectors.

The new law, first and foremost, specifies that the Mexican government will guarantee greater access to all modes of communication, including broadband and Internet. This would be accomplished by breaking the monopolies that a handful of companies hold on the sector. Grupo Televisa and Grupo Azteca now control 80% of the broadcast television channels. In the telephone sector, América Móvil and TELMEX—owned by billionaire Carlos Slim—dominate about 70% of the mobile-phone market and 80% of the landlines.

As part of opening the telecommunications sector, the Congress voted to allow foreign interests to acquire majority shares in landline phone and cable networks. The influx of capital and the increased competition is intended to encourage a reduction in prices for telephone and for cable and satellite television service. And industry analysts believe there will be ample interest by foreign companies to participate in the Mexican telecommunications market. "Investment in the sector could double, fostering growth and productivity," Marco Oviedo, chief Mexico economist at Barclays Plc, told Bloomberg news service.

The initiative also encourages creating new television broadcast companies, with auctions handled by the Secretaría de Comunicaciones y Transportes (SCT). Grupo Televisa and Grupo Azteca will no longer be able to block new networks from forming, a common complaint in the past couple decades. The previous attempt in 2006 to open up the broadcast sector failed to curb the influence of the two giant networks (SourceMex, April 5, 2006).

Some center-left legislators said they voted for the reforms because they provide for stronger oversight of the broadcast sector. The initiative creates the Instituto Federal de Telecomunicaciones (IFETEL), a new independent regulatory agency with powers vested in the Constitution, to replace the Comisión Federal de Telecomunicaciones (COFETEL). The creation of IFETEL and restructuring the anti-monopoly commission into the Comisión Federal de Competencia Económica (CFCE) give
the state greater control of the telecommunications industry, even though oversight will be handled by independent agencies, said Sen. Alejandra Barrales, a member of the center-left Partido de la Revolución Democrática (PRD).

**Regulatory agencies have more teeth**

Under the bill, the two regulatory agencies would have the power to force companies that control more than 50% of the market to share or even sell assets. But one small change made by the Senate to the original bill allows concessionaires to file appeals in cases where one of the regulatory agencies imposes a fine or orders the sale of assets.

Both agencies will comprise seven commissioners proposed by the president and ratified by the Senate, in a process similar to the selection of members of Mexico’s high court (Suprema Corte de Justicia de la Nación, SCJN). The difference is that the commissioners of IFETEL and the CFCE are appointed for nine years, while the SCJN justices serve for a single term of 15 years.

The CFCE replaces the Comisión Federal de Competencia (CFC), basically performing some of the same regulatory functions. A major difference is that the CFCE will enjoy a greater level of independence than the agency it is replacing. And, like IFETEL, the new anti-monopoly agency will have its powers rooted in the Mexican Constitution.

"[The CFCE] will have as its main objective to guarantee free competition as well as to prevent, investigate, and fight monopolies, monopolistic practices, market concentrations, and any other restrictions that impede the efficient functioning of the markets," said a description of the new regulatory agency.

Some legislators pointed out that the telecommunications and anti-monopoly reforms were necessary to attempt to create a more level playing field in Mexico. "Six of the 10 richest men in Mexico had received concessions from the government," said Sen. Jorge Luis Preciado, a member of the conservative Partido Acción Nacional (PAN). "The state has created millionaires and it our responsibility to respond to 80 million consumers and not to six concessionaires."

-- End --