

CREEL, GARCÍA-CUÉLLAR, AIZA Y ENRÍQUEZ

MEMORANDUM

July 16, 2014

To: Clients and Friends

Re: New Mexican Telecommunications and Broadcasting Law

In furtherance of certain amendments to the Mexican Constitution (*Constitución Política de los Estados Unidos Mexicanos*) which entered in effect in 2013, the Federal Congress of Mexico approved a new Federal Telecommunications and Broadcasting Law (*Ley Federal de Telecomunicaciones y Radiodifusión*; the “New Telecommunications Law”), which the President enacted on July 14, 2014, and which supersedes the former Federal Telecommunications Law (*Ley Federal de Telecomunicaciones*) and Federal Radio and Television Law (*Ley Federal de Radio y Televisión*).

Below is a brief summary highlighting the most significant features of the New Telecommunications Law, which will be enforced by the Federal Telecommunications Institute (*Instituto Federal de Telecomunicaciones*; “IFETEL”):

I. General Provisions.

- Preponderant Economic Agents (“Preponderant Agents”) and Economic Agents with Market Power (“Dominant Agents”): The New Telecommunications Law provides that a person may be declared by IFETEL to be a Preponderant Agent when such person has, directly or indirectly, more than 50% of the users, subscribers, audience, network traffic or used network capacity, measured on a national basis. In addition, IFETEL has the authority to declare a person to be a Dominant Agent considering, among other factors, such person’s market share, pricing and supply power, barriers to entry, and the existence and power of competitors.

IFETEL may impose asymmetric regulations and specific obligations upon Preponderant Agents and Dominant Agents, with respect to information, quality, rates, commercial terms and billing, among others.

Within the telecommunications sector, the Preponderant Agents and Dominant Agents may be subject to specific obligations regarding shared-use of infrastructure, rights of way and disaggregation of the local telecommunications network.

Preponderant Agents and Dominant Agents are prohibited from offering differentiated conditions in terms of quality and pricing for services originated and terminating on their own network as compared to the conditions afforded to those originated or terminating on a different concessionaire's network. Preponderant Agents and Dominant Agents may not enter into exclusive agreements with respect to the purchase or sale of devices or points of sale and distribution.

On March 6, 2014, IFETEL declared (i) América Móvil S.A.B. de C.V., (ii) Teléfonos de México, S.A.B. DE C.V., (iii) Teléfonos del Noroeste, S.A. de C.V., (iv) Radiomóvil Dipsa, S.A.B. de C.V., (v) Grupo Carso, S.A.B. de C.V. and (vi) Grupo Financiero Inbursa, S.A.B. to be a Preponderant Agent in the telecommunications sector, and Grupo Televisa, S.A.B. and other 34 broadcasters Preponderant Agents in the open broadcast television sector. IFETEL will review the effects of specific obligations imposed on Preponderant Agents every two years, at which time IFETEL may modify or cancel such obligations or cease to consider the foregoing agents as Preponderant Agents in their respective sectors.

Notwithstanding the foregoing, Preponderant Agents may at any time submit divestiture and restructuring plans before IFETEL in order for the regulator to reconsider their status as Preponderant Agents.

- Concession Titles and Authorizations: Concession titles are required for the use of spectrum and orbital resources, as well as to operate public telecommunications networks. Under the New Telecommunications Law, public telecommunications network concessions are granted as master concessions, and allow for the provision of all services that may be technically feasible from time to time without the need of amending the corresponding concession title to include additional services.
- Authorizations: Authorizations are required to (i) commercialize telecommunications services or capacity without being a concessionaire; (ii) install and operate earth-stations for the transmission of satellite signals; (iii) install international telecommunications equipment and transmission facilities; (iv) exploit satellite signals from foreign satellite systems covering Mexico; and (v) use of spectrum during diplomatic visits.

- *Spectrum Caps, Spectrum Leasing and Spectrum Swapping*: The New Telecommunications Law specifically grants IFETEL the authority to set spectrum caps, and regulates and provides a framework for spectrum leasing and spectrum swapping arrangements, as well as transactions involving assignment of rights and change of control of concessionaires.
- *Cross-Media Ownership Restrictions*: As a means of promoting the diversity and variety of contents, IFETEL may impose specific obligations upon pay-tv providers when there exist related-party telecommunications and broadcasting concessionaires within the same coverage area.

II. Telecommunications.

- *New Obligations on all Concessionaires of Telecommunications Services*: Holders of public network concessions must offer and ensure an open-architecture network, interconnection, number portability within 24 hours, and the provision of services to other concessionaires on non-discriminatory terms.
- *Interconnection Rates*: As long as there is a Preponderant Agent in the telecommunications sector, such agent is barred from charging termination rates to other concessionaires, while other concessionaires are free to negotiate and set the terms of termination services. Should concessionaires fail to reach an agreement on the terms and conditions for termination, IFETEL will set the applicable rates. Once IFETEL determines that there is effective competition in the telecommunications market and no Preponderant Agent exists, all concessionaires must cease charging termination rates.
- *Domestic Long Distance Fees*: No later than January 1, 2015, concessionaires will cease charging for domestic long distance.
- *Roaming*: Preponderant Agents and Dominant Agents must provide roaming services on a temporary basis. Roaming rates charged by Preponderant Agents and Dominant Agents will be determined by IFETEL and will not exceed the lowest rate offered, charged or applied by the Preponderant Agent or Dominant Agent, as the case may be, to its own users and subscribers.

- Sharing of Infrastructure: In cases in where the co-location or sharing of infrastructure is essential due to the lack of substitutes, IFETEL has the authority to mandate and establish the terms of applicable co-location and sharing arrangements among service providers.
- Users' Rights: IFETEL will determine specific standards for access to billing, information, directory services, emergency, collect calls and operator services, among other things, and users are entitled to discounts or reimbursements for service outages or disruptions or undue charges attributable to the service provider. Users may also request unblocking of their devices when purchasing no-contract devices or when the initial term of their contract has expired.
- Value Added Services: Under the New Telecommunications Law the provision of value added services has been de-regulated and the applicable service providers are no longer required to obtain or hold any form of license or registration.

III. Open Broadcast Television.

- Must-Carry and Must-Offer: Under the New Telecommunications Law, open broadcast networks must offer their signal to pay-tv providers, and pay-tv providers must carry their signal at no charge to subscribers, except in the case of Preponderant Agents and Dominant Agents, which may not benefit from the no-charge rule. Must-carry obligations will also apply to DTH service providers in the cases provided for in the New Telecommunications Law.
- Audiovisual Contents: IFETEL will monitor compliance with advertising time and contents addressed to children. The Ministry of Interior (*Secretaría de Gobernación*) will impose and manage official broadcasting time, the Ministry of Health (*Secretaría de Salud*) will authorize health-related publicity, the Ministry of Education (*Secretaría de Educación Pública*) will promote cultural and civic contents, as well as produce and distribute educational and recreational contents for children, and the National Elections Institute (*Instituto Nacional electoral*) will have the authority granted in the General Electoral Institutions and Elections Law (*Ley General de Instituciones y Procedimientos Electorales*) regarding campaigns.

- Advertising: Broadcasting concessionaires that offer as part of their programming at least 20% of national contents will be allowed to increase advertising air-time up to an additional 2%. This will also apply upon the inclusion of at least 20% national independent contents (i.e., contents produced by a third party that is not a telecommunications' concessionaire or broadcaster or controlled by one), which will allow such concessionaire to increase advertising air-time up to an additional 5%.

IV. Fines and Penalties.

- The New Telecommunications Law provides for significantly increased fines and sanctions, which may equal to 10% of the income of the offender.

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Should you have any questions or require further information, please do not hesitate to contact Samuel García-Cuellar Santa Cruz (s.garcia-cuellar@creel.mx), Jean Michel Enríquez Dahlhaus (jean.michel.enriquez@creel.mx) and Luis Gerardo García Santos Coy (luis.garcia@creel.mx).

Sincerely,