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FEATURED Q&A

What Will Broadcast & Telecom Reforms Mean for Mexico?

Q Mexican President Enrique Peña Nieto on July 14 approved an overhaul of the country's broadcast and telecommunications sectors. The reforms include tough new restrictions on companies deemed to be dominant. Did the final legislation meet the expectations of reform advocates? Which companies stand to gain or lose the most? Will the reforms lead to more competition, and will consumers see a difference? Will Mexico's economy grow as much as Peña Nieto has suggested as a result of these changes?

A Rogelio Ramírez de la O, president of Ecanal in Mexico City: "The telecommunications reform fulfilled some, but not all, of the expectations roused when President Peña Nieto announced the effort to limit monopoly powers and open this important sector to competition. The constitutional reform of 2013 left no doubt that dominant firms would be forced to abide by asymmetrical rules to foster competition. The secondary legislation is the one that really counts because it interprets, according to legislators, the letter and spirit of the constitutional reform. It delivered on those promises with regard to telephones and Internet, but not with regard to television. With the new law, America Móvil is forced to grant consumers tangible reductions in costs. Consumers will no longer have to pay domestic long-distance charges. Excessive charges and bad practices that limited consumers' choices have been eliminated. The asymmetric rule applied on America Móvil as a dominant player having more than 50 percent of the market compels it to provide interconnection free of charge to competitors. This will encourage new entrants and lead to an overdue reduction in tariffs. But the secondary legislation does not consider Televisa, which controls more than half of the pay TV market, as dominant by a deceiving use of wording by legislators. They considered it not dominant in the TV sector, though

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Aruba Releases Former Venezuelan General

Aruba on Sunday released former Venezuelan General Hugo Carvajal on a decision by the Netherlands' foreign minister. Carvajal had been detained on a warrant from the United States, which accuses him of conspiring with Colombian rebels. See story on page 2.

File Photo: Venezuelan Government.

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NEWS BRIEFS

Peña Nieto Signs Cooperation Accords With Japan's Abe

In his first official visit to Mexico, Japanese Prime Minister Shinzo Abe on Friday said he and Mexican President Enrique Peña Nieto had agreed to work toward wrapping up talks for the Trans-Pacific Partnership soon, EFE reported. The two also signed 14 cooperation agreements covering a range of sectors, including energy, education, health and agriculture. Peña Nieto told reporters that bilateral trade between the two countries has risen by 64 percent over the past decade to reach nearly $20 billion last year. Abe is scheduled to visit Trinidad and Tobago, Colombia, Chile and Brazil this week.

Hernan Weakens to Tropical Storm, Churns Away From Mexico

Hurricane Hernan has weakened to a tropical storm in the Pacific Ocean and is moving away from Mexico's coastline, posing no threat to land, the Associated Press reported late Sunday, citing the U.S. National Hurricane Center. As of 2 a.m. Pacific Time today, the storm had maximum sustained winds of 70 miles an hour and was located about 360 miles southwest of the southern tip of the Baja California peninsula, the Hurricane Center said.

Tyson Foods to Sell Mexico, Brazil Units to JBS

Arkansas-based **Tyson Foods** said today it had reached an agreement to sell its poultry businesses in Mexico and Brazil to competitor **JBS**. The transaction, which is expected to close by the end of this year, is valued at $575 million and will be paid for in cash, the company said. Brazil-based JBS has indicated it will maintain all the operations with existing workforces.

Political News

Aruba Releases Former Venezuelan General

Aruba on Sunday released a former Venezuelan general who had been detained on the Dutch Caribbean island on U.S. drug charges, the Associated Press reported. Hugo Carvajal, who had been Venezuela's military intelligence chief under late President Hugo Chávez, was freed and sent back to the South American country with Venezuela's deputy foreign minister Calixto Ortega. In 2008, the U.S. Treasury blacklisted Carval and two other top military officers on allegations they provided weapons and a safe haven to members of the Revolutionary Armed Forces of Colombia, or FARC, rebel group in the neighboring country. Carvajal has denied the allegations. The former general was detained in Aruba last Wednesday. However, Aruba's justice minister told reporters Sunday that the Netherlands' foreign minister, Frans Timmermans, decided that Carvajal had immunity from arrest and also declared him "persona non grata." That declaration led to Carvajal being freed and returned to Venezuela. Carvajal had arrived in Aruba to serve as Venezuela's consul there, but the Netherlands had not accredited him to serve in the position. Aruban Justice Minister Arthur Dowers and Chief Prosecutor Peter Blanken said that Carvajal had been arrested last week after the island decided to comply with the U.S. detention request based on a U.S. treaty with the Netherlands. "But that information changed today based on what Minister Timmermans of the Netherlands said. And Aruba has to follow instructions," said Dowers. U.S. officials were "very disappointed" with the decision to release Carvajal, said Dowers. Carvajal was the highest-ranking Venezuelan official ever to be detained on a warrant from the

Timmermans

File Photo: Dutch Government.

Featured Q&A

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dominant in pay TV services, that is the market that matters for economic rents. This limits the reform gains mainly to what is pulled out of America Móvil. Television companies are also allowed to increase advertising time from 5 percent (which is expandable if they have national independent production) by an additional 2 percent."

A James R. Jones, member of the *Advisor* board and co-chair of Manatt Jones Global Strategies: "Most promising about the telecom and broadcasting reforms is the clear indication that the Mexican government intends to enforce these anti-trust statutes without delay. Otherwise, a very savvy business leader like Carlos Slim would not have taken the lead to divest some of his telecom holdings to meet the law's requirements. Mexico and other developing countries have been known to pass comprehensive laws without adequate enforcement. Mexico's actions to disallow any one business entity from dominating more than 50 percent of the market should indeed bring about more competition, and more competition should result in lower costs and better service for customers. That will indeed increase Mexico's economic competitiveness and growth. But more clarity is needed on the scope and specifics of America Móvil's divestments. Certainly global telecom companies will be interested in buying the divested assets including Telefónica which has been trying to increase market share for 20 years as well as Virgin Mobile, Vodafone, AT&T and possibly Verizon, which has had a couple of unsuccessful experiences of trying to penetrate Mexico's market. One thing is

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United States. His release could further damage the already strained ties between Washington and Caracas. Venezuelan President Nicolás Maduro had condemned Carvajal's arrest as a "kidnapping" and said the Netherlands' decision to free him was courageous.

Economic News

Default Looms as Talks Between Argentina, Creditors Deadlock

Talks between Argentine officials and creditors who refused to accept debt restructurings deadlocked Friday, just days before the South American country is to enter default if no deal is reached, the Associated Press reported. Daniel Pollack, a court-appointed mediator in New York, said there was no progress in the negotiations. Argentina has until Wednesday to resolve a dispute over $1.5 billion in unpaid debt before it defaults with the creditors who accepted restructurings. U.S. District Judge Thomas Griesa has barred Argentina from paying the holders of restructured bonds unless it also pays the holdouts. "Argentina is being attacked by speculative interests in a totally undeserved way," President Cristina Fernández de Kirchner said in a speech late Friday.

Brazil Eases Bank Reserve Requirements to Boost Economy

Brazil's central bank on Friday decided to ease bank reserve requirements as part of a move to inject an estimated 45 billion reais ($20.2 billion) into the economy, Bloomberg News reported. The central bank said it will allow as much as 50 percent of banks' deposit requirements, or 30 billion reais, to be used for new loans and to acquire loan portfolios. The central bank also altered the risk calculation for auto and payroll loans to release an additional 15 billion reais, said Sergio Odilon, the monetary authority's head of financial regulation. "The central bank is using an unusual instrument to increase credit, it's an effect similar to cutting interest rates," Andre Perfeito, chief economist at **Gradual Investimentos**, told Bloomberg News in a phone interview.

The Dialogue Continues

Has 'Operation Choke Point' Gone too Far?

Q Attorney General Eric Holder said last month that the U.S. Justice Department is preparing to bring more cases against banks and payment-processing companies as part of "Operation Choke Point," a federal probe into financial firms that handle payments illegally, *The Washington Post* reported. The program, which critics claim unfairly hinders legal businesses and especially targets the payday lending industry, has attracted the ire of House legislators, who recently attempted to amend a spending bill to cut off funding for the probe, *The Wall Street Journal* reported. What's behind the controversy over Operation Choke Point? With payday lending and short-term loans a big industry in Latin America and the Caribbean, what should regulators and businesses in the region take away from the U.S. debate and experience?

A Amy Cantu, director of communications at the Community Financial Services Association of America (CFSA): "Operation Choke Point is a coordinated interagency initiative ostensibly underway for the stated purpose of limiting fraudulent activity in the U.S. financial system. However, there are clear examples of this program adversely affecting legal businesses, including those that are members of CFSA. There is an enormous amount of evidence that Operation Choke Point is not properly distinguishing between criminal actors and legitimate businesses, such as licensed payday lenders, that are operating legally and in compliance with all applicable state and federal laws and regulations. While CFSA certainly supports attempts to prevent criminals and fraudulent operators from accessing the U.S. financial system, Operation Choke Point has proven to be an overly broad initiative that goes far beyond its stated purpose and is harming legitimate, law-abiding businesses. Operation Choke Point is particularly troubling due to the secret, non-transparent way in which it operates. Our organization objects to federal regulatory agencies identifying industries that they disfavor

> "There are clear examples of this program adversely affecting legal businesses."
>
> — *Amy Cantu*

and their attempts to shut down those industries by using back-room pressure to choke off access to banking services. The government should not bully or threaten banks for doing business with legal, regulated entities. In our view, this unwarranted extension of regulatory authority must end. Regretfully, after many failed attempts to resolve this issue, CFSA was forced to take legal action to protect our members' businesses. In June, CFSA—along with our largest member Advance America—filed suit against the FDIC, the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency. The suit was filed in the U.S. District Court for the District of Columbia. Despite outreach efforts to communicate with prudential banking regulators and others involved in Operation Choke Point about the overly broad consequences of the initiative, the program continues to harm legitimate and law-abiding businesses, and it was necessary to protect our members through legal action."

Editor's note: The above is a continuation of a Q&A published in the July 23 issue of the Advisor.

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Featured Q&A

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certain. Carlos Slim will come out a winner. It will be interesting to see where he deploys the billions from the America Móvil divestment. Wherever it is, his horizons will be limited by the law of economic dominance. Mexico will also be the winner."

Amy Glover, director at McLarty Associates: "The reform is a step in the right direction and will increase competition in a highly concentrated sector. President Enrique Peña Nieto has said it will provide the public greater access to telephone and Internet services. A poll conducted by Imagen shows that 81 percent of the population approves of the measure, making it one of the more popular issues on Peña Nieto's reform agenda. The entity to watch will be the Federal Telecommunications Institute (IFT), the new regulatory body that will be responsible for implementing the law and devising further regulations. In March, both America Móvil and Televisa were deemed economically dominant actors and will be required to take specific actions as a consequence of that ruling. Carlos Slim has already announced that his company will study how to comply and will take actions to divest within the next six months. The need to invest more in the physical telecom infrastructure presents very interesting opportunities for foreign investors, who can own as much as 100 percent, whereas investments in radio and television broadcasting are limited to 49 percent. Experts believe the details related to broadcasting are less clear and give Televisa wiggle room to legally challenge the assertion that it is a dominant player. Televisa can be expected to push back on these regulatory measures, but regardless, a public bid for two new television channels will go forward soon and will inevitably create more competition over time. While ensuring greater competition in the telecommunications sector in Mexico will remain a challenge and require continual vigilance, there is no doubt that this overhaul is an important advance that will attract investment and eventually provide higher quality and less-expensive services to the consumer. As with the other reforms, however, we should not expect an immediate impact on economic growth, as most of these investments will take time to consolidate."

The Advisor *welcomes reactions to the Q&A above. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org with comments.*

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