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COMMUNICATIONS OUTLOOK 1999

TELECOMMUNICATIONS: Regulatory Issues

Country: Mexico

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The attached questionnaire was undertaken in preparation for the biennial OECD *Communications Outlook*. The responses provided by countries on telecommunication regulation were used to provide information supporting the analytical sections published in association with data. A similar questionnaire with responses on broadcasting regulation is also available. In some cases, data for individual firms, used to compile OECD totals, have not been published at the request of the respondent. For further information, including data, see **OECD Communications Outlook 1999** and <http://www.oecd.org/dsti/sti/it/index.htm>

TELECOMMUNICATIONS

Market Structure and Regulatory Status (Questions 1 -13)

1. Please provide details of the regulation of communication infrastructure, including the public switched telecommunication network (PSTN), provision in your country.

| Infrastructure provision for following service | Regulatory Status (e.g. monopoly, duopoly, limited number, fully open to any applicant) | Number of licensed operators (1998) |
|---|---|--|
| Local PSTN | Fully open | 10 |
| National PSTN | Fully open | 14 |
| International PSTN | Fully open | 14 operators have been granted a license to operate but only 7 are offering international long distance service. |
| Analogue Cellular Mobile (e.g. NMT etc.) | Duopoly | 9 regions, 2 operators per region (1 is national) |
| Other Mobile Communication (e.g. PCS, PCN, CT-2 etc.) | Fully open | 8 PCS |
| Payphones | Fully open | 12 |

2. Please provide details for the major public telecommunication operator (PTO) of public switched telecommunication services in your country. (PTOs are state and privately owned entities providing public switched telecommunication services over their own infrastructure)

| Name of PTO | PTO Ownership Status (1998) (e.g. state owned/privately owned) If a balance of ownership exists please indicate the share (%) held by the government |
|---------------------|---|
| Telefonos de Mexico | Gruppo Carso South Western Bell France Cable et Radio |

3. Please provide details of market share for the largest PTO in the following categories.

| | The largest PTO's share (End 1997) |
|---|------------------------------------|
| Local Access (% of access lines) | 96.3% |
| National Long Distance (% of total minutes) | 81.2% |
| International (% of total outgoing MiTT) | 68.4% |

4. Please provide details of the number of subscribers by cellular and PCN mobile communication operators.

| Name of Operator | Number of Subscribers (End 1997) |
|---|----------------------------------|
| Baja Celular Mexicana Celular de Telefonía Comunicaciones Celulares de Occidente Movitel del Noroeste Portatel del Sureste Sistemas Telefonías Portátiles Celulares TELCEL Telecomunicaciones del Golfo Telefonía Celular del Norte | Not available. |
| Name of new PCS operators | |
| Radiomoviel Dipsa S.A. Grupo Hermes IUSCELL MIDICELL Pegaso Comunicaciones y sistemas S.A. de C.V. Telefonía Inalámbrica del Norte S.A.de C.V. Telfonos de Mexico S.A. de C.V. | |

5. Please provide a description of the most significant recent policy changes affecting the provision of telecommunications services, as well as any draft laws, or regulatory proposals to be implemented in 1998.

In early 1998 the Mexican Government published a new bidding program under which the following frequency bands will be auctioned during 1998:

- Trunking in 896-901/935-940 Mhz
- Complementary bands for Trunking
- PCS, and two ways of paging
- Point to point in 7 Ghz
- Complementary bands for MMDS

In Long Distance services, the second phase of the pre-subscription process was initiated on 1 January. In this second phase, 40 cities in the country will joint the liberalisation process. The introduction of a call-by-call selection process, which was scheduled for 1 April, will be postponed indefinitely in response to a petition made by long distance operators.

Competition in local telephony is regarded as the highest policy priority for the Mexican Government. Therefore, after having consulted with the interested parties, the rules for local service were published in the official gazette. These rules include the following points:

- Non-discriminatory access to numbering,
- Reciprocal interconnection fees for similar services,
- Bill and Keep arrangements,
- Obligation to offer transit functionality,
- Non-discriminatory fees for billing and collection,
- Calling party pays through dialling prefix,
- 195 interconnection points,
- Reduction form 1500 local areas to 485.

Another important change that will affect the provision of telecommunication services is the privatisation of the Mexican satellite system. In October, 60% of the share representing the capital stock of the state-owned enterprise, Satellites Mexicanos (SATMEX) was granted to Telfonica Autrey after a bidding process. The remaining 40% was kept by the Federal Government and will be disposed of through a public offer in the securities market.

In October 1997, the Mexican and American Governments signed a protocol for the transmission and reception of fixed satellite services.

In April 1998, the Federal Telecommunications Commission published a methodology for accounting separation per service. According to the law, operators and their affiliates that provide different services would have to follow this methodology.

During the same month, there was a change in organisation of the government bodies responsible for telecommunication. At this time it was decided that all the functions related to telecommunications previously done by the Ministry of Communications will be transferred to the Federal Telecommunication Commission to strengthen its position as regulator.

6. Please provide a brief description of the responsibilities of the national regulatory authorities for public telecommunication services.

Promote competition.
Provide legal security to investors.
Ensuring non-discriminatory access to service providers.
To plan and administer fundamental technical plans.
Advise on the licensee and concession granting.
Supervise the performance of the concessionaires.
Manage the spectrum and carry out auctions.
Promote and supervise efficient interconnection.

7. Are there any foreign ownership, size of shareholding or other ownership restrictions on individuals and corporations investing in the incumbent PTO(s) in your country? Yes/ No

According to Article 12 of the Federal Telecommunications Law, foreign investment participation in no case shall exceed 49 per cent, except in cases of cellular telephone services. In this case, a favourable resolution of the National Commission of Foreign Investment is required for the foreign investor to participate with a greater percentage.

8. Are there any communication infrastructures or services (e.g. cable television, terrestrial broadcasting, satellite broadcasting) PTOs in your country are not permitted to directly provide? In addition, please specify any restrictions on PTOs investing in companies that such infrastructure or services.

According to the law there are no limits as to what services PTOs are permitted to provide except for broadcasting. According to the law 100% of broadcasting ownership should be Mexican.

9. Is the incumbent PTO(s) in your country allowed to provide mobile communication services? Yes/No

If 'yes', is there a requirement for accounting separation between the PTO's mobile and fixed operations?

Concessionaires of public telecommunications networks shall:

Carry separate service accounting, ascribing to themselves and to their subsidiaries and affiliates, segregated and non-discriminatory rates for different interconnection services.

10. What selection procedures are used to determine licenses for new PTOs (e.g. calls for tenders, government appointments, license on request)?

Licences for concessions to operate a frequency band, according to Article 14 of the Law will be granted through a public bid. The basic requirements to participate in a bid are:

- a) Commitments and investment programmes, coverage and the quality of the services that are to be offered,
- b) the business plan,
- c) the technical specifications of the project,
- d) a favourable opinion from the Federal Telecommunications Commission.

Candidates for a concession to operate, install or exploit a public telecommunication network, shall present a request with at least the following:

1. Name and address of the applicant.
2. the services that they wish to provide.
3. technical specifications of the project.
4. commitments and investment programmes, coverage and quality of the services that they wish to offer.
5. a business plan.
6. the appropriate documents that certify its financial, technical, legal and administrative viability.

However, in both cases companies requiring any type of concession shall submit their business plan in order for it to be subject to an economic evaluation, a technical evaluation and a legal evaluation before the concession can be granted.

11. Please specify any restrictions or obligations imposed on new competitive network suppliers?

There are none.

12. Are there any restrictions on the use of leased lines nationally or internationally (including resale)?

Yes

13. Under the communication regulation existing in your country how would national and international voice telephony services provided over the Internet, by entities other than a PTO, be defined and treated? Please mention any restrictions or obligations that may apply.

Voice over the Internet has not been regulated yet. Internet service providers are considered to be offering value added services. A value added service cannot provide telephony services to the public.

Pricing (Questions 14 -15)

14. What, if any, conditions are applied to the tariffs set by PTOs? (Please include any price control information such as price caps and specify for which service they apply).

The Federal Telecommunication Law establishes that Concessionaires and licensees shall freely determine the rates for telecommunication services, in terms that will allow the rendering of such services and satisfy conditions of quality, competitiveness, safety and permanence. Moreover, the Secretariat is authorised to assign to the licensee of public telecommunication networks, with substantial power in the relevant market according to the Federal Law of Economic Competition, specific obligations related to rates, quality of service and information. From 1997, Telmex is allowed to increase or diminish its tariffs for the services that are controlled (connection services, residential and commercial rent and measured services) but this increase can not be higher than the price ceiling allowed by the basket of services.

15. If communication discount schemes are available in your country please provide information on one or more popular schemes applicable to residential users, dial-up Internet access users and a low user scheme from the incumbent PTO. In the space below please indicate the main features:

There are no special discount for residential users, nor for users that access Internet through a public network or for low income users.

Note: Residential user refers to an average consumer's home telephone service. A dial-up Internet user refers to a consumer accessing the Internet via a PC with a modem over the local public switched telecommunication network. Low user schemes is a term sometimes applied by PTOs to schemes designed for segments of the community that are financially disadvantaged.

Numbering/Domain Names (Questions 16 - 17)

16. Please describe the numbering policy in your country. Please mention the responsible authority and whether portability has been introduced and for which services (e.g. 800 numbers, cellular numbers, local PSTN numbers).

According to Article 41 of the Federal Telecommunication Law, the Secretariat shall prepare and manage the fundamental technical plans of numbering, switching, signalling, transmission, rate setting and synchronisation, among others, to which the public telecommunication networks concessionaires shall be subject. Said plans must consider the interests of the user and of the concessionaires and shall have the following purposes:

1. to enable a far-reaching development of new concessionaires and telecommunications services;
2. to give non-discriminatory treatment to concessionaires; and
3. to promote a healthy competition among concessionaires.

The adoption of a Numbering Plan will allow the country to increase its numeric resources, re-organise the numbers granted to date, harmonise the long distance codes assignation criteria and attend to international recommendations on the subject.

17. Have there been any recent government policy initiatives in your country in respect to the administration of Internet top level domain names. (An example of a top level domain name is .be for Belgium).

No.

Interconnection (Questions 18 - 21)

18. Are PSTN interconnect or access charges a matter for commercial agreement between operators and if so is there provision for arbitration and by whom? Is there a requirement to publish the rate for PSTN interconnect or access charges?

If 'yes' please provide a schedule of interconnection charges for the PSTN.

According to Article 42 of the Federal Telecommunications Law, the concessionaires of public telecommunication networks shall interconnect their networks, and for that purpose shall reach an agreement within a term not exceeding 60 calendar days as of the application thereof. Once that term has elapsed and the parties have failed to enter into the agreement, or before if requested by both parties, the Secretariat within the following 60 calendar days shall decide on the non-agreed upon conditions.

Interconnection tariffs applied by the concessionaires are to be registered. Once the Regulatory body has handled the registration record this tariff becomes part of the Public Telecommunications Registry.

The Interconnection Resolution published on 26 April 1996 establishes local interconnection tariffs. These tariffs equal 17.3. per cent for those cities that have a CTI and 16.4. for those cities that have a CCE.

19. For the purpose of establishing interconnect or access charges is accounting separation used?

According to the Law, Concessionaires of public telecommunication networks shall carry separate service accounting, ascribing to themselves and to their subsidiaries an affiliates, desegregated and non-discriminatory rates for different interconnection services.

20. Once the interconnection or access charge has been established is it available as a standard rate for other service providers (including other PTOs and resellers)?

As part of the interconnection agreement, operators shall act on a reciprocal basis between concessionaires that give similar services, have similar capacity or carry similar functions.

21. Does regulation specify that competitive service providers can co-locate facilities on the same site as incumbent PTOs? Please indicate whether resellers and Internet Service Providers can co-locate equipment under the same terms and conditions as PTOs without being designated as a PTO?

Yes, competitive service providers are allowed to co-locate facilities on the same site as incumbent PTOs. Regarding resellers and Internet service providers, this has not yet been regulated.

Information for Updating OECD Tariff Comparison Baskets (Question 22)

22. Please provide the following information for your largest PTO.

| | | |
|---|--------------------------------|------------------------|
| What is the average duration of a local call (i.e., average time of a call in the lowest tariff band for PSTN)? | 3.5 minutes | |
| What is the proportion of calls that fall within your lowest tariff band (i.e. local calls) as a percentage of total national calls? | Business (%) | Residential (%) |
| What percentage of calls from the fixed network (PSTN) terminate in mobile networks (e.g. analogue and digital cellular networks)? | Business (%) | Residential (%) |
| What percentage of total leased lines (i.e. leased circuits) are local (i.e. 2 km or less)? | 53% of leased lines are local. | |

Universal Service/Consumer Issues (Questions 23 -25)

23. In the context of universal service policies which elements of telecommunication service are considered as part of universal service in your country?

1. Rural telephony through satellite
2. Rural cellular telephony
3. Rural telephony through trunking

24. Please provide details of any explicit funding mechanism for universal service and its coverage.

Regarding rural cellular telephones, there is a fiscal incentive. If cellular operators decide to invest in rural telephony they would be exempt from paying their contributions to the government. Nevertheless this is the only explicit funding mechanisms that exist in Mexico with other service funding being done through government subsidies.

25. With what institutions other than telecommunication service providers can customers lodge complaints regarding these operators? (e.g. regulators, ombudsman, Ministry, etc.) Is there a requirement for annual reporting of the number of consumer complaints? If so how are complaints measured and reported.

Complaints can be lodged with the Federal Telecommunications Commission.