

EXECUTIVE BRANCH

MINISTRY OF THE INTERIOR

DECREE amending and supplementing certain provisions of articles 6, 7, 27, 28, 73, 78, 94 and 105 of the Constitution of the United Mexican States, in telecommunications.

A seal with the national emblem in the margin reads: United Mexican States. Office of the President of the Republic.

ENRIQUE PEÑA NIETO, President of the United Mexican States announces to its residents:

That the Standing Committee of Congress has sent me the following

DECREE

"THE STANDING COMMITTEE IN CONGRESS, USING THE AUTHORITY CONFERRED BY ARTICLE 135 OF THE CONSTITUTION AND AFTER OBTAINING THE APPROVAL OF THE LOWER HOUSE AND THE SENATE OF THE GENERAL CONGRESS OF THE UNITED MEXICAN STATES, AND MOST STATE LEGISLATURES,

DECLARES

THE AMENDMENT AND ADDITION OF CERTAIN PROVISIONS OF ARTICLES 6, 7, 27, 28, 73, 78, 94 AND 105 OF THE CONSTITUTION OF THE UNITED MEXICAN STATES, IN TELECOMMUNICATIONS.

SINGLE ARTICLE. The first paragraph of Article 6; Article 7; the sixth paragraph of Article 27; the second paragraph of Article 28; Section XVII of Article 73; Section VII of Article 78, and the sixth paragraph of Article 94 are **AMENDED**, and the second, third and fourth paragraphs are **ADDED** to Article 6, changing the existing second paragraph to become paragraph A of the fourth paragraph, and adding a paragraph B; plus paragraphs 13 through 30 of Article 28 and incidental clause I) of Section I of Article 105, all of the Constitution of the United Mexican States, to read as follows:

Article 6. The expression of ideas shall not be subject to any judicial or administrative authority, except in the event of an assault on morality, privacy or third party rights, the instigation of a crime, or the disturbance of public order. The right of reply shall be exercised in the terms established by law. The right to information shall be guaranteed by the State.

Everyone has the right to free access to timely information from multiple sources, and to seek, receive and impart information and all types of ideas by any means of expression.

The State shall guarantee the right of access to communication and information technologies, as well as broadcasting and telecommunication services, including broadband and internet access. The State shall thus establish conditions for effective competition in providing such services.

The following shall apply for the purpose of this Article:

A. The Federation, the federal entities [states] and the Federal District, within the scope of their respective powers, shall be governed by the following principles and guidelines in exercising the right of access to information:

I. through VII. ...

B. On broadcasting and telecommunications:

I. The State shall guarantee the people their integration into the information and knowledge society through a universal digital inclusion policy including annual and six-year goals.

II. Telecommunications are public services of general interest, so the State shall guarantee that they are provided in terms of competition, quality, diversity, universal coverage, interconnection, convergence, continuity, free access and without arbitrary interference.



III. Broadcasting is a public service of general interest, so the State shall guarantee that it is provided in competitive and quality conditions, providing cultural benefits to the entire population, preserving the plurality and the accurateness of the information and promoting national identity values, contributing to the objectives set forth in Article 3 of this Constitution.

IV. The transmission of advertising or propaganda presented as news or news reports is prohibited. The conditions governing the content and contracting of services for their public transmissions shall be established, including those related to the concessionaires' obligations associated with the information transmitted for others, without affecting freedom of speech and dissemination.

V. The law shall establish a decentralized public agency with technical, operational, decision and management autonomy, which will aim to provide nonprofit broadcasting services to make sure the largest number of people in each Mexican State have access to contents that promote national integration, education, and cultural and civic equality between women and men, the dissemination of unbiased, objective, timely and accurate information on national and international events, with space for independent productions and the expression of the diversity and plurality of ideas and opinions that strengthen the democratic life of society.

The public agency shall have a Citizen Council to ensure its independence and impartial and objective editorial policy. It shall be comprised of nine honorary advisers that shall be elected through an ample public consultation process and the vote of two-thirds of the members present in the Senate or of the Standing Commission during a recess of the Senate. The advisers shall fulfill their roles in stages, so the most senior members shall be replaced every two years, unless the Senate ratifies them to serve a second term.

The Chairman of the public agency shall be appointed as proposed by the Executive Branch, with the vote of two-thirds of the members present in the Senate or in the Standing Committee during a recess of the Senate. The president shall serve in that position for five years and may be appointed for a second term only once, and can only be removed by a Senate majority.

The Chairman of the agency shall submit an annual activity report to the Executive and Legislative Branches of the Union and shall appear before the Chambers of Congress as established by law, to this end.

VI. The law shall establish the rights of telecommunication users and audiences, and the mechanisms for their protection.

Article 7. The freedom to disseminate opinions, information and ideas through any means cannot be transgressed. This right cannot be restricted through indirect methods or means, such as the abuse of official or private controls, newsprint, radio broadcasting frequencies, or equipment or appliances used in the dissemination of information, or by any other means and communication and information technologies aimed at preventing the transmission and circulation of ideas and opinions.

No law or authority may establish prior censorship or restrict the freedom of dissemination, which has no limits other than those established in the first paragraph of Article 6 of this Constitution. In no case may the property used for the dissemination of information, opinions and ideas be sequestered as an instrument of the crime.

Article 27. ...

In the cases referenced in the two preceding paragraphs, the Nation's domain is inalienable and imprescriptible, and the operation, use or exploitation of the resources in question, by individuals or by companies incorporated under Mexican law cannot be realized except through concessions granted by the Executive Branch, in conformity with the rules and conditions established by law, except in broadcasting and telecommunications, which shall be granted by the Federal Institute of Telecommunications. Legal regulations concerning the works or exploitation of the minerals and substances referenced in the fourth paragraph, shall govern the implementation and tests effected or that must be carried out as of their effective date, regardless of the date on which

MARÍA LUISA OJEDA PESQUERA
Perito Traductor
Autorizado por el
Tribunal Superior de Justicia
del Distrito Federal

the concessions are granted, and disregard for this rule will result in the cancellation of the concession. The Federal Government has the power to establish national reserves and cancel them. The corresponding declarations shall be made by the Executive Branch in each case and under the conditions established by law. Contracts will not be granted or awarded in the case of oil and solid, liquid or gaseous carbides or radioactive minerals, nor shall those granted survive, and the Nation shall exploit these products in the terms established by the respective regulatory law. It is entirely up to the Nation to generate, conduct, transform, distribute and supply the electrical power intended to provide the public service. On this matter, no concessions shall be granted to individuals and the Nation shall exploit the assets and natural resources needed to this end.

Article 28. ...

Consequently, the law shall severely punish, and the authorities shall effectively prosecute all concentrations or hoarding in one or a few hands of basic consumer goods with the purpose of raising prices, and all agreement, procedure or combination of service producers, industrialists, merchants or entrepreneurs somehow implemented to prevent free competition or competition between each other or to force consumers to pay inflated prices and, in general, everything that constitutes an undue and unique advantage on behalf of one or more specific persons and harms the general public or a certain social class.


The State shall have the Federal Commission of Economic Competition, which shall be an autonomous agency with its own legal personality and equity and will aim to ensure free competition and participation, and prevent, investigate and fight monopolies, monopolistic practices, concentrations and other limitations that inhibit the markets' efficient operations in the terms established by this Constitution and the law. The Commission shall be vested with the powers needed to effectively fulfill its purpose, including measures to order the removal of barriers to free competition and participation, regulating access to essential inputs, and ordering the divestiture of assets, rights, equity or operator shares in the proportions needed to eliminate antitrust effects.

The Federal Telecommunications Institute is an autonomous agency with its own legal personality and equity focused on the efficient development of broadcasting and telecommunications, as established in this Constitution and in the terms determined by law. It shall thus be responsible for regulating, promoting and supervising the use, development and operation of the radio spectrum, networks and the provision of broadcasting and telecommunications services and access to active, passive and other essential infrastructure guaranteeing the provisions set forth in Articles 6 and 7 of this Constitution.

The Federal Telecommunications Institute shall also be the authority on economic competition in the broadcasting and telecommunications sectors, so it shall exercise the powers exclusively set forth in this article and in the laws established for the Federal Commission of Economic Competition and shall asymmetrically regulate those involved in these markets in order to effectively remove barriers to free competition, impose limits on the national and regional concentration of frequencies, the concession and cross-ownership that controls various broadcasting and telecommunications concessionaires that serve the same market or geographic area, and order the divestiture of the assets, rights or shares needed to ensure compliance with these limits, guaranteeing the provisions set forth in Articles 6 and 7 of this Constitution.

The Institute shall be authorized to grant, revoke and authorize assignments or changes in the control, ownership or operation of companies with broadcasting and telecommunication concessions. The Institute shall notify the Secretary of the branch prior to its determination, who may issue a technical opinion. Concessions may be for commercial, public, private use and include social and indigenous communities, which shall be subject, according to their purposes, to the principles set forth in Articles 2, 3, 6 and 7 of this Constitution. The Institute shall set the amount of compensation for the concessions granted, and the authorization of the services linked to them, once reviewed by the tax authority. The opinions referenced in this paragraph shall not be binding and

Mary Inés Ojeda Perquera
Parte Traductor
Autorizado por el
Tribunal Superior de Justicia
del Distrito Federal



must be issued within no more than 30 days. Once this period has passed without any opinions being issued, the Institute shall proceed with the corresponding formalities.

Spectrum concessions shall be awarded through a public tender, to ensure maximum participation, preventing concentration phenomena that run counter to the public interest and ensuring the lowest price of services to the end user. In no case shall the determining factor to choose the winning bidder be purely economic. Concessions for nonprofit public and social use shall be awarded under the direct allocation mechanism as established by law and under conditions that guarantee the transparency of the procedure. The Federal Telecommunications Institute shall keep a public register of all concessions. The law establishes an effective penalties schema that includes the following as grounds for revocation of the concession, *inter alia*, breach of the final resolutions in the event of conduct associated with monopolistic practices. Upon revoking the concessions, the Institute will advise the Executive Branch so it can exercise the powers needed to ensure continuity of service, if applicable.

The Federal Telecommunications Institute will make sure the Federal Government has the concessions needed to execute its duties.

The Federal Commission of Economic Competition and the Federal Telecommunications Institute shall be independent in their decisions and operations, professional in their performance and impartial in their deeds, and shall be governed by the following:

- I. They shall issue their decisions with full independence;
- II. They shall exercise their budget independently. The Lower House shall guarantee the budget's adequacy to allow them to exercise their powers in a timely and effective manner;
- III. They shall issue their own organic statutes through a qualified majority voting system;
- IV. They shall be able to issue general administrative provisions solely to fulfill their regulatory functions in their respective fields;
- V. The laws shall guarantee, within each agency, the separation between the authority responsible for investigations and the one that solves the procedures substantiated in a trial;
- VI. The government agencies must comply with the principles of transparency and access to information. They shall collegially deliberate and decide on issues by majority vote. Their meetings, agreements and resolutions shall be public except when established otherwise by law;
- VII. The general rules, acts or omissions of the Federal Commission of Economic Competition and the Federal Telecommunications Institute may be contested only by an indirect *amparo* or relief proceeding and shall not be subject to suspension. Only in cases where the Federal Commission of Economic Competition imposes fines or the divestiture of assets, rights, equity or shares, shall these be executed once the injunction has been ruled on, if this was to be the case. In the event of resolutions issued on such organizations resulting from a trial proceeding, the only one that can be contested is the one that puts an end to the violations committed in the resolution or during the procedure, and the general rules applied during the procedure can only be claimed under the injunction filed against the referenced resolution. *Amparo* or relief proceedings shall be substantiated by specialized judges and courts in the terms of Article 94 of this Constitution. In no case shall regular or constitutional recourses be accepted against intra-procedural actions;
- VIII. The heads of the agencies shall submit an annual work program and a quarterly activity report to the executive and legislative branches of the Union, and appear before the Senate annually and before the Chambers of Congress in the terms set


María Inés Ojeda Pesquera
Perito Traductor
Autorizado por el
Tribunal Superior de Justicia
del Distrito Federal

forth in Article 93 of this Constitution. The Executive Branch may ask either Chamber to order the heads of the agencies to appear before them;

IX. The laws for these agencies shall promote government transparency under principles of digital government and open data;

X. The compensation paid to the Commissioners must comply with the terms set forth in Article 127 of this Constitution;

XI. The agency commissioners may be removed from office by two-thirds of the members present in the Mexican Senate, for serious misconduct in the exercise of their duties, under the terms established by law, and

XII. Each agency shall have an internal comptrollership, whose head shall be appointed by two-thirds of the members present in the Lower House, in the terms established by law.

The governing bodies of both the Federal Commission of Economic Competition and the Federal Telecommunications Institute shall be comprised of seven commissioners, including the Commissioner Chairman, appointed on a staggered basis proposed by the Executive Branch and ratified by the Senate.

The President of each agency shall be appointed by the Senate from among the commissioners, with the vote of two thirds of the members present, for a four-year period, renewable only once. When the appointment is vested in a commissioner whose tenure ends before such period, that commissioner shall only serve as Chair for the time remaining in his or her commission.

The commissioners must comply with the following requirements:

I. Be Mexican citizens by birth and fully enjoy their civil and political rights;

II. Be over 35 years of age;

III. Have a good reputation and not have been convicted of a crime that warrants imprisonment for more than one year;

IV. Have a professional degree;

V. Have served in a prominent professional, public service or academic position for at least three years, on matters substantially related to economic competition, broadcasting and telecommunications, as appropriate;

VI. Prove, under the terms of this provision, their expertise required for the office;

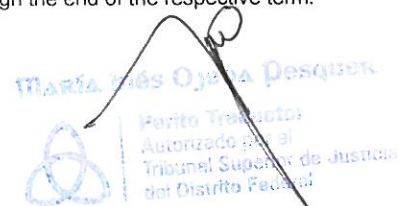
VII. Not have served as Secretary of State, Attorney General of the Republic, Senator, federal or local congressman, State Governor or mayor/head of the Federal District, during the year prior to their appointment, and

VIII. Commissioners for the Federal Commission of Economic Competition must not have held, within the last three years, a job or served in a position or role in companies that have been subject to any of the penalty procedures substantiated by the referenced agency. Commissioners for the Federal Telecommunications Institute must not have held, within the last three years, a job or served in a position or role in the companies of private commercial concessionaires or their related entities, subject to the Institute's regulations.

The Commissioners shall refrain from holding any other job or working in a public or private job or commission, except for teaching positions. They shall not be allowed to hear matters in which they have direct or indirect interest in the terms established by law, and shall be subject to the responsibilities regime set forth in Title Four of this Constitution and on impeachment. The law shall regulate the modalities under which the Commissioners may be contacted to discuss matters related to their roles, with persons representing the interests of the operators regulated.

The Commissioners shall serve in office for nine years and shall not be allowed in serve in that position again, under any circumstances. In the event that a commissioner is absolutely absent, the corresponding appointment [to fill that vacancy] shall be made through the procedure established in this Article, and so the substitute can serve through the end of the respective term.

Marta Inés Ojeda Pesquera
Perito Traductor
Autorizado por el
Tribunal Superior de Justicia
del Distrito Federal



Candidates aspiring to serve as Commissioners must prove their compliance with the requirements set forth in the preceding paragraphs before an Evaluation Committee comprised of the heads of the Central Bank, the National Institute for the Evaluation of Education, and the National Institute of Statistics and Geography. The Evaluation Committee shall thus hold its sessions each time a commissioner position is vacant, which shall be decided by majority vote and be chaired by the head of the entity with the highest seniority, which shall have the casting vote.

The Committee shall issue a public call to fill the vacancy. It shall verify the applicants' compliance with the requirements contained in this article and those who meet such requirements must then take a knowledge test on the subject matter. The procedure must observe the principles of transparency, openness and maximum participation.

When formulating the knowledge test, the Evaluation Committee shall consider the opinion of at least two higher education institutions and follow the best practices on the subject matter.

Each time there is a vacancy, the Evaluation Committee shall send the Executive Branch a list with the names of at least three and no more than five candidates who obtained the highest passing scores. A new invitation shall be issued if the minimum number of applicants is not met. The Executive Branch shall select the candidate it shall propose to the Senate for ratification, from such list of candidates.

Such candidate shall be ratified by two third of the votes of the Senate members present, within an deadline of 30 calendar days, which cannot be extended, from the date on which the proposal is submitted. The Standing Committee shall, of course, summon the Senators when the Senate is in recess. Should the Senate reject the candidate proposed by the Executive Branch, the President of Mexico shall submit a new proposal under the terms set forth in the preceding paragraph. This procedure shall be repeated as many times as needed if the new candidates are rejected, until only one candidate remains approved by the Evaluation Committee. Such candidate shall then be directly appointed to serve as commissioner by the Executive Branch.

All Commissioner selection and appointment processes are unassailable.

Article 73. Congress has the power to:

I. through XVI. ...

XVII. Pass laws on general communication means, communication and information technologies, broadcasting, telecommunications, including broadband and Internet, postal services, and the use and exploitation of federal waters.

XVIII. through XXX. ...

Article 78. ...

I. through VI. ...

VII. Ratify the President's appointments of ambassadors, consuls general, senior employees at the Ministry of Finance, members of the collegiate body responsible for regulating energy, colonels and other senior leaders of the Army, Navy and Air Force, pursuant to the terms established by law, and

VIII. ...

Article 94. ...

The Federal Judiciary Council shall determine the number, circuit divisions, territorial jurisdiction and subject specializations, including broadcasting, telecommunications and antitrust, among others, of the Collegiate and Unitary Circuit courts and of the District Courts.

Article 105... I. ...

a) through i) ...



MARCELO OJEDA DESQUEZA
Partido Tradicional
Autorizado por el
Tribunal Superior de Justicia
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- j) A state or federal entity and the municipality of another state, on the constitutionality of their actions or general provisions;
- k) Two agencies of the Federal District government on the constitutionality of their actions or general provisions, and
- l) Two autonomous constitutional entities, and between one of these and the Executive Branch of the Union or the Congress of the Union, on the constitutionality of their actions or general provisions.

II. and III. ...

TRANSITORY

FIRST. This Decree shall be enacted on the day following its publication in the Federal Official Gazette.

SECOND. The measures to encourage competition in television, radio, telephone and data services must be applied in all sectors in order to guarantee effective competition in broadcasting and telecommunications.

THIRD. Congress shall make the necessary adjustments to the legal framework under this Decree within 180 calendar days after it is enacted, and shall:

- I. Establish special criminal types that severely punish monopolistic practices and concentration phenomena;
- II. Regulate the public agency mentioned in Article 6, which is added under this Decree. The human, financial and material resources of the agency known as the *Organismo Promotor de Medios Audiovisuales* (Agency for the Promotion of Audiovisual Media) shall be transferred to this public entity;
- III. Establish mechanisms to standardize the broadcasting licenses and concessions system, to limit them to concessions only, ensuring a variety of means to distinguish commercial, public, private and social concessions including community and indigenous concessions;
- IV. Regulate the right of reply;
- V. Establish the prohibition of misleading or surreptitious broadcasting;
- VI. Establish mechanisms to ensure the promotion of independent national productions;
- VII. Set specific prohibitions on cross-subsidies or preferential treatment consistent with the principles of competition, to the effect that broadcasting or telecommunications operators do not subsidize their own services on their own, or through their subsidiaries, branches, affiliates and those belonging to the same economic interest group. Each concessionaire shall establish minimum advertising rates consistent with the principles of competition, which will be submitted to the authority for public record;
- VIII. Determine the criteria under which the Federal Telecommunications Institute shall grant authorizations to access multiprogramming under the principles of quality and competition, guaranteeing the right to information and specifically responding to the national and regional concentration of frequencies, including payment of the compensation due, where appropriate;
- IX. Create an Advisory Board for the Federal Telecommunications Institute comprised of honorary members, which shall be in charge of acting as an advisory body in compliance with the principles set forth in constitutional Articles 6 and 7, and
- X. Approve the laws, amendments and additions resulting from this Decree.

FOURTH. Within the same period indicated in the preceding article, the Mexican Congress must issue one single legal order to convergently regulate the use, operation and exploitation of the radio spectrum, the telecommunication networks and the provision of broadcasting and telecommunication services.

The law shall establish that the concessions shall be unique, so concessionaires can provide all types of services through their networks, provided they comply with the obligations and considerations imposed by the Federal Telecommunications Institute and cover the corresponding compensation, when applicable.


MARIA Inés Ojeda Pesquera
Perito Traductor
Autorizado por
Tribunal Superior de Justicia
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Once the Federal Telecommunications Institute identifies the dominant operators under the terms set forth in Section III of the Eighth Transitory Article of this Decree, it shall have 60 calendar days to establish the general guidelines listing the requirements and the terms and conditions the current radio, telecommunications and telephony license holders must comply with in order to be authorized to provide the additional services listed in their concessions, or to move into the single concession model, provided they have complied with the obligations set forth in the laws and their concessions titles. The authorization mentioned in this paragraph can only be granted to the dominant operators when they have complied with the measures imposed on them as set forth in Sections III and IV of Eighth Transitory Article of this Decree. The Institute shall decide on the appropriateness or inappropriateness of the authorizations mentioned in this paragraph within 60 calendar days of the date on which the respective applications are filed, and determine the relevant payments, in the first case.

FIFTH. Once this Decree is enacted, up to 100 percent foreign direct investment shall be allowed in telecommunications and satellite communications.

Foreign direct investment in broadcasting shall be capped at 49 percent. This maximum foreign investment shall include the reciprocity that exists in the investor's country or the country of the operator that ultimately exercises direct or indirect control over the operator.

The terrestrial digital transition will be end on December 31st, 2015. The Powers of the Union shall be bound to promote, within the scope of their areas of responsibility, the implementation of the receivers and decoders needed to adopt the government policy by guaranteeing, in turn, the budgetary resources needed. The concessionaires and permit holders are bound to return, as soon the digital terrestrial television transition ends, the frequencies they were originally granted by the State, to ensure the efficient use of the radio spectrum, competition and optimal use of the 700 MHz band.

SIXTH. In order to ensure the staggered tenure of the Commissioners of the Federal Commission of Economic Competition and the Federal Telecommunications Institute, the first Commissioners appointed in each of these agencies shall end their tenures on the last day of February of the years 2016, 2017, 2018, 2019, 2020, 2021 and 2022.

The Executive Branch shall submit nominations for ratification by the Senate, indicating the respective periods.

The following terms must be observed when appointing the first Commissioners for both the Federal Commission of Economic Competition and the Federal Telecommunications Institute:

I. The Evaluation Committee mentioned in Constitutional Article 28 must send the Executive Branch the respective candidate lists within 60 calendar days after this Decree is enacted;


II. Once the lists are received, the Executive Branch must send its proposals to the Senate within the next 10 calendar days;

III. Once the Mexican Senate is assembled, it shall have 10 calendar days to decide on the proposal, and

IV. In the event that the Senate fails to approve two nominations submitted by the Executive Branch to fill the same vacancy, it shall be responsible for directly appointing the respective commissioner from the list of candidates submitted by the Evaluation Committee mentioned in Constitutional Article 28.

SEVENTH. While the constitutional agencies are being integrated according to the terms set forth in the Sixth Transitory Article, the decentralized agencies known as the Federal Competition Commission and the Federal Telecommunications Commission shall remain in office in conformity with the legal framework established under this Decree, once it is enacted. The human, financial and material resources of the referenced decentralized agencies shall be hired by the constitutional agencies created by virtue of this Decree.

MARÍA INÉS OJEDA DESQUER.
Punto Traductor
Autorizado por el
Tribunal Superior de Justicia
del Distrito Federal



The proceedings initiated before the Federal Commission of Economic Competition and the Federal Telecommunications Institute are created, shall continue under these agencies in terms of the legislation applicable at the time of their creation. The resolutions involved in these proceedings can only be contested through an indirect *amparo* or relief proceeding under the provisions set forth in this Decree.

Moreover, pending lawsuits and recourses shall be concluded under the applicable legislation that is in force when this Decree is enacted.

If the adjustments have not been made to the legal framework under the Third Transitory Article on the date on which the Federal Commission of Economic Competition and the Federal Telecommunications Institute are created, they shall exercise their powers in conformity with the provisions set forth in this Decree and in the laws of economic competition, broadcasting and telecommunications, when such laws do not contradict this Decree.

EIGHTH. Once the Federal Telecommunications Institute is created pursuant to the terms set forth in the Sixth Transitory Article, it must observe the following:

I. Concessionaires that provide open or broadcast television services are bound to allow restricted television concessionaires to rebroadcast their signals, free of charge and without discrimination, within the same geographic area, in full, simultaneously and without modifications, including advertising and with the same quality of the broadcast signal.

Concessionaires that provide restricted television services are bound to allow open television networks to rebroadcast their signals, free of charge and without discrimination, within the same geographic area, in full, simultaneously and without modifications, including advertising and with the same quality of the broadcast signal, and include their contents in the services contracted by users and subscribers. Satellite and restricted television network concessionaires shall only be bound to retransmit the broadcast signals to ensure coverage of 51 percent or more of the national territory. All restricted television concessionaires must rebroadcast signals for federal public institutions.

Telecommunications or broadcast television concessionaires that have been declared to hold substantial power in any telecommunications or broadcasting markets, or dominant operators in the terms of this Decree, shall not be entitled to the free rebroadcasting rule; however, they shall not be able to reflect this as an additional cost of service for users and subscribers, in any case. These concessionaires must agree to the terms and prices of the rebroadcast contents. In case of a disagreement, the Federal Telecommunications Institute shall set the lowest rates under the principles of free competition and participation. The Federal Telecommunications Institute shall punish the dominant operators or those holding substantial power that benefit directly or indirectly from the rule of gratuity through other concessionaires by revoking their concessions, without prejudice of their obligation to pay the corresponding payments. It shall also revoke the latter's concession.

The obligation to rebroadcast contents free of charge shall simultaneously end when there are fair competition conditions in the broadcasting and telecommunications markets. This statement shall be made by the Federal Telecommunications Institute in the terms established by law. In this case, the concessionaires shall be free to agree on the rebroadcasting prices and conditions. In case of a disagreement, the Federal Telecommunications Institute shall determine the rate, which must be focused on costs.

II. In order to ensure full compliance with the Bidding and Award Program for Frequencies for Digital broadcast television, the Federal Telecommunications Institute shall publish, within a period not to exceed 180 calendar days after its creation, the terms and conditions and the request for proposals for new frequency concessions for open or broadcast television, which must be grouped in order to form at least two new television channels to offer national coverage under the principles of efficient market operations, maximum national coverage of services, the right to information and the social role played by the communication

MARÍA LUISA OJEDA DESQUEL
Perito Traductor
Autorizado por el
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media, particularly in response to entry barriers and the characteristics existing in the open or broadcast television market. Concessionaires or groups that have commercial, organizational, economic or legal ties with groups currently accruing concessions to provide broadcasting services on the 12 MHz or a higher radio spectrum in any geographic area, cannot participate in the bidding processes.

III. The Federal Telecommunications Institute shall determine the existence of dominant operators in the fields of broadcasting and telecommunications, and enforce the measures needed to keep from affecting free competition and participation, and thus, end users. These measures shall be issued in a period not to exceed 180 calendar days after the Institute is created, and shall include, as applicable, the related information, supply and quality of services, exclusive agreements, limitations on the use of terminal equipment between networks, asymmetric regulation on tariffs and network infrastructure, including the unbundling of its essential elements and, if necessary, separate accounting, functional or structural elements for such operators.

For the purposes of the provisions set forth in this Decree, dominant operators shall be deemed as such by virtue of their participation in the provision of broadcasting and telecommunication services, when they directly or indirectly hold more than 50 percent of the national market share. This percentage shall be measured either by the number of users, subscribers, audience, traffic on their networks or the capacity used by the same, according to the data available to the Federal Telecommunications Institute.

The effects of the obligations imposed on the dominant operator shall cease when declared as such by the Federal Telecommunications Institute once the law on effective competition determines the existence of fair market conditions.

IV. The Federal Telecommunications Institute, in a period not to exceed 180 calendar days after its creation, shall establish the measures needed to effectively unbundle the dominant operator's local telecommunications network so other telecommunications operators can access the physical, technical and logical connection, among others, between any endpoint of the public telecommunications network and the access point to the local network belonging to that operator. These measures shall also apply to the operator holding substantial power in the relevant services market for the end user.

The measures mentioned in the preceding paragraph must consider as an essential input, all of the elements needed to effectively unbundle the local network. In particular, the concessionaires may choose the local network elements required from the dominant operator and the access point to the same. Such measures could include the regulation of prices and tariffs, quality and technical conditions, and the implementation schedule to ensure universal coverage and increased penetration of telecommunication services.

V. The Federal Telecommunications Institute shall review the existing concession agreements within 180 calendar days after its creation, to verify compliance with their terms, conditions and procedures.

VI. Within 180 calendar days after its creation, the Federal Telecommunications Institute shall collect the information needed to constitute the Public Registry of Concessions mentioned in Constitutional Article 28.

NINTH. The following shall apply with regard to the resolutions mentioned in sections III and IV of the preceding article:

They shall pronounce their conformity with the procedure established by the applicable legislation in force on the date of its issue, and the Federal Administrative Procedures Law, in the absence of an express provision;

They can only be contested through an indirect relief or *amparo* proceeding and will not be subject to suspension as established in Constitutional Article 28, as amended pursuant to this Decree. The general rules applied during the proceeding and intra-procedural acts may only be claimed in an *amparo* or relief proceeding filed against the referenced resolution, and

Maria Inés Ojeda Desques
Perito Traductor
Autorizado por el
Tribunal Superior de Justicia
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No administrative recourses shall be admitted and may only be contested through an indirect relief or *amparo* proceeding under the terms set forth in the preceding section.

Breach of the measures described in such resolutions shall be punished in terms of the applicable provisions. Failure to separate the accounting, functional or structural elements will result in the revocation of the concession titles.

TENTH. The public media that provide the broadcasting services shall have editorial independence, independent financial management, offer citizen participation guarantees, clear rules for transparency and accountability, defense of their contents, financing options, full access to technologies and rules for the expression of ideological, ethnic and cultural diversity.

ELEVENTH. Radio and television advertising shall be balanced, and the law shall authorize the Federal Telecommunications Institute to monitor compliance with the maximum times established for broadcasting commercial messages.

The law must guarantee that children's programming respects the values and principles referenced in Constitutional Article 3 and the rules on health, and shall establish specific guidelines governing scheduled advertising in programming aimed at child audiences. The Institute shall be authorized to monitor such compliance.

The Institute shall also be in charge of resolving all disagreements related to the rebroadcasting of contents, with the exception of electoral matters.

TWELFTH. The Federal Judiciary Council shall establish Circuit and District Courts specialized in antitrust, broadcasting and telecommunications, no later than 60 calendar days after this Decree is enacted.

The Federal Judiciary Council shall issue general agreements establishing the manner in which the cases shall be assigned and the rotation of the specialized judges that shall hear such cases, as well as the steps needed to guarantee the independence, objectivity and impartiality of the courts mentioned in the paragraph above.

THIRTEENTH. The Lower House, in the Federal Expenditure Budget, shall approve the provisions needed to provide budgetary adequacy for the regulatory agencies referenced in this Decree so they can perform their duties, and the budget estimates to ensure the smooth operation of the agency mentioned in Article 6, Paragraph B, Section V of the Constitution.

FOURTEENTH. The Executive Branch shall be responsible for the universal digital inclusion policy, which shall include its goals and objectives in terms of infrastructure, accessibility and connectivity, communication and information technologies and digital skills, as well as government, digital government and open data programs, the promotion of public and private investment in tele-health applications, Tele-medicine and Electronic Health Records and the development of applications, systems and digital content, among others.

This policy shall include, among other goals, that at least 70 percent of all households and 85 percent of all micro, small and medium-sized businesses nationwide, have access to real speed for downloading information in accordance with the average for countries that are members of the Organization for Economic Cooperation and Development. This feature must be offered at internationally competitive prices.

The Federal Telecommunications Institute shall take the measures needed to contribute to the objectives of the universal digital inclusion policy.

Moreover, the Executive Branch shall develop the Federal Government's broadcasting and telecommunications policies and implement the actions needed to guarantee access to broadband Internet in Federal Public Administration buildings and facilities. The federal entities or states shall do the same in within the scope of their authority.

FIFTEENTH. The Federal Electricity Commission shall fully assign to Telecomunicaciones de México, its concession to install, operate and use a public telecommunications network and transfer all the resources and equipment needed to operate and

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exploit the concession, except fiber optics, rights of way, towers, posts, buildings and facilities, which shall remain under the Federal Electricity Commission's administration, guaranteeing Telecomunicaciones de México an effective and shared access to that infrastructure for its efficient use in order to achieve the proper execution of its duties, and fulfill its objectives. Telecomunicaciones de México shall have the power and resources needed to promote access to broadband services, and to plan, design and execute the construction and growth of a robust telecommunications backbone infrastructure for national coverage, as well as satellite communications and telegraph services. This is in accordance with the guidelines and agreements issued by the Federal Telecommunications Institute.

SIXTEENTH. The State, through the Executive Branch, and in coordination with the Federal Telecommunications Institute, shall ensure the installation of a shared public telecommunication network to promote the population's effective access to communication and broadband telecommunication services in accordance with the principles set forth in Article 6, Paragraph B, Section II of this Decree and the following characteristics:

- I. It shall begin the installation before the end of 2014, which must be commissioned and operating before the end of 2018;
- II. It shall include the use of at least 90 MHz of the spectrum released by the transition to digital terrestrial television (700 MHz band), the fiber optic backbone infrastructure resources of the Federal Electricity Commission and any other State asset that can be used to install and operate the shared network;
- III. These could include public or private investments, identifying budget needs and the provisions to be adopted by the Lower House, where appropriate;
- IV. Make sure that no telecommunications service provider influences the network's operation;
- V. Guarantee access to the assets needed to install and operate the network, and fulfill its purpose and obligations to provide coverage, quality and non-discriminatory services;
- VI. It shall operate under the principles of sharing its entire infrastructure and the unbundled sale of services and capacities, and shall provide services exclusively to marketing firms and telecommunications network operators under conditions of non-discrimination and competitive prices. Operators that use such unbundled sharing and sales services shall be bound to offer other operators and advertisers the same conditions as those they receive from the shared network, and
- VII. Strive to make sure the shared network's pricing policy encourages competition and ensures the reinvestment of profits for growth, modernization and universal coverage.

The Executive Branch, under the National Democratic Planning System, shall include in the respective programming instruments, the actions needed to develop the network mentioned in this article.

SEVENTEENTH. Under the framework of the National Democratic Planning System, the Executive Branch shall include the following actions in the National Development Plan and in the sectoral, institutional and special programs:

- I. The growth of the network backbone infrastructure under the Sixth Transitory Article of this Decree, whether by public, private or mixed investments, to make sure the population is offered service with the greatest coverage;
- II. A broadband program in public places that identifies the number of sites that must be connected each year, until universal coverage is achieved;
- III. A detailed study to identify the largest number of federal public sites, pipelines, posts and rights of way which must be made available to telecommunication operators and broadcasters to accelerate the deployment of their networks. The program shall include the compensation the concessionaires must pay for their appropriate use under principles of non-discriminatory

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access and pricing to promote compliance with the law mentioned in paragraph three of Constitutional Article 6, provided the concessionaire offers the same access conditions to its own infrastructure;

IV. A work program to ensure full implementation of the policy for the transition to digital terrestrial television and the budgetary resources needed to this end, and

V. A National Radio Spectrum Program including but not limited to the following:

a) A work program to ensure the optimal use of the 700 MHz and 2.5 GHz bands under universal, non-discriminatory, shared and continuous principles, and

b) A work program to reorganize the spectrum for radio and television stations.

The Federal Telecommunications Institute shall take the measures needed to contribute to the objectives and targets set forth in the National Development Plan and other programmatic instruments related to the broadcasting and telecommunications sectors.


EIGHTEENTH. The labor rights of workers providing services in businesses and organizations engaged in the activities covered by this Decree shall be respected at all times in accordance with the law.

Mexico, D.F., May 22nd, 2013. – Senator Ernesto Cordero Arroyo, President. – Representative Cristina González Cruz, Secretary. – Initials.”

In compliance with the provisions set forth in Section I of Article 89 of the Political Constitution of the United Mexican States, and to ensure its due publication and observance, I issue this Decree at the residence of the Federal Executive Branch in Mexico City, Federal District on June 10th, 2013. – Enrique Peña Nieto – Initials – The Secretary of the Interior, Miguel Angel Osorio Chong – Initials.

I, María Inés Ojeda, expert translator authorized by the Supreme Court of Justice for the Federal District, as published in the Official Gazette dated April 11, 2013, certify that the above translation into English in thirteen pages is true and complete to the best of my knowledge.

Mexico City, Federal District, July 2, 2013

María Inés Ojeda Posquera

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