

Key Issues in Communications Policy
in Latin America
A Report from the
Latin American Forum on Communications
that was held
January 25-28, 2000
Embassy Suites Hotel
Miami, Florida
February 14, 2000

Mark A. Jamison <#_ftn1>* <#_ftn1>
Director of Telecommunications Studies
Public Utility Research Center
And Associate Director for Economic and Business Studies
Center for International Business Education and Research
Warrington College of Business Admin.
University of Florida
mark.jamison@cba.ufl.edu

Twenty-eight senior policy makers and advisors, representing 16 Latin American countries, participated in the Latin American Forum on Communications on January 25-28, 2000. This forum, which was in Spanish with simultaneous translation into English, explored how Spanish Caribbean Basin and Latin American countries can address communications policy issues that will arise in the next few years, established a dialogue between these countries' leading policy makers and leading international experts, and provided a forum for these countries to share their plans and experiences. Attendance at the program was by invitation only.

Two features characterized this forum and made it different from other telecommunications training programs. First, it emphasized peer-to-peer learning among senior policy makers. In general, peer-to-peer learning is important to expose participants to a broad range of perspectives and experiences. One-to-many instruction, as occurs in traditional training program lectures, limits the knowledge provided to the instructor's knowledge and experiences. Peer-to-peer learning for senior executives, such as this forum's participants, is particularly important because their issues are on the cutting edge, which means that there are no well-developed answers. Furthermore, executives and policy makers work through networks of people and so also do their best learning through collaborative activity. The second feature of this forum is that it focused on next-generation issues. Attachment B is the forum agenda. Most training programs address traditional issues, such as regulatory techniques. These topics are important, especially for technical staff. But because this forum was for senior policy makers, it focused on emerging issues where these government officials' policy decisions today will establish long-term direction for Latin America's participation in the information economy.

During the peer-to-peer discussions, several issues emerged as key to the participants:

1. How can Latin American countries develop policies that are sustainable in the event of unforeseen changes in technology and industry?

Several times recently, Latin American countries have experienced unforeseen events that have obsoleted policies that appeared appropriate when they were made. For example, Colombia licensed a limited number of long distance service providers and charged license fees based on the perceived value to a company of having a tight oligopoly. Within a short time, convergence made voice over IP technologically feasible, allowing numerous companies to offer the functional equivalent of long distance without first obtaining a long distance license. As a result, Colombia

has faced the issue of choosing between enforcing the oligopoly market structure by considering voice over IP as illegal, or relinquishing the oligopoly model. Relinquishing the oligopoly model raises the issue of whether the country should compensate companies for the lost license value, or should simply view the lost license value as a business risk that companies should bear.

Other countries have issued wireless licenses for specific services. Soon thereafter, technological change made it desirable for the licensed spectrum to be used for other services.

There was general consensus at the forum that Latin American countries need to develop communications licenses and other policies that are sufficiently general to ensure that the countries are not locked into outdated technologies and industry structures. Latin American countries also need to develop processes that decrease the time required for adapting policies to new technological and market realities, while still providing the consistency and predictability required for the maintenance of credibility for investors.

2. What institutional and legal policies will allow Latin American countries to maintain policy continuity during times of political change?

Several Latin American countries have experienced recent political changes, either from elections, constitutional changes, or political coups. Indeed, to government officials from Ecuador, who had planned to attend the forum, had to cancel at the last minute because of political upheaval in the country. Because Latin American countries generally have presidential political systems, political change can cause significant policy changes. Policy uncertainty adds risk for investors. This uncertainty can increase the cost of capital in Latin American markets, decrease prices that investors are willing to pay for licenses and privatized state-owned enterprises, and reduces private investment.

Service providers and forum participants discussed this issue to identify key issues and options. Commitment to competitive markets emerged as a key issue for operators. Options for countries included strengthening court systems, establishing arbitration systems, regional policy coordination among countries, and independent regulatory agencies.

3. How can Latin American countries develop telecommunications infrastructure for rural and poor areas?

State-owned telecommunications enterprises generally failed to develop infrastructure in rural and poor areas in Latin America. Privatization does not necessarily solve this problem. These areas are often

unprofitable for private operators, which target higher income and lower cost areas in order to improve cash flows. As a result, governments generally need to develop policies that incentivize private operators to invest in rural and poor areas. Policies that Latin American countries have used include license build-out requirements, competition, and auctions of infrastructure subsidies. Several countries have used build-out requirements. In these situations, licenses require operators to increase network capacity according to a specific schedule, which normally would be a minimum number of lines or cell sites per year. Governments include these requirements in licenses up front. This allows prospective operators can determine whether other elements of the license are sufficiently profitable to cover the costs of the build-out requirement. Guatemala provides an example where competition caused the landline network to expand quickly. Several countries have demonstrated that mobile competition causes mobile networks to expand quickly. However competition alone does not extend service into unprofitable areas. To remedy this, Peru and Chile developed auction systems that cause operators to compete for subsidies to develop networks in unserved areas. With the auction systems, the government sets price caps for an unserved area and auctions a direct government subsidy for serving the area. Operators bid successively lower subsidy amounts until one of the operators wins the auction by agreeing to a lower subsidy than any of the other bidders are willing to accept. In some instances, the subsidy has been bid to zero.

4. What is the appropriate balance between regulation and deregulation?

Guatemala adopted a deregulation approach to telecommunications reform, relying upon competition, spectrum ownership, and light-handed regulation. Infrastructure has developed rapidly under this approach. Some forum participants expressed concern that the incumbent has maintained a large market share and that a shared monopoly or tight oligopoly could emerge. Other participants observed that these results are little different from the experiences of countries with much tighter regulatory controls. Incumbents' apparent dominant market shares raise concerns that the prospects for competition in telecommunications infrastructure are limited.

Countries are concerned that industry consolidation may adversely affect competition within domestic markets and competition for licenses. There is a need for countries to work together because these issues transcend country boundaries.

5. How can Latin American countries adjust their economies to benefit from the development of globalization and e-business?

The development of e-business affects nearly all aspects of an economy -- economic development, trade, taxation, education and workforce development, and communications infrastructure. For Latin American countries, communications infrastructure is the factor that most limits the development of e-business. This infrastructure limit includes both domestic infrastructure and backbone infrastructure. The region needs to attract private capital and operators to develop infrastructure. Tariff structure is another limiting factor -- tariffs for US-Latin America communications are lower than tariffs for communications within the region. Other aspects of the Latin American countries that should be examined include contract law, education, privacy and property rights laws, security laws, trade tariffs, participation in international forums, trust, taxation, computer access, Latin American web content, network competition, and capital markets.

6. What steps, if any, should Latin American countries take to develop a common communications market?

The geographic make-up of the countries in Latin America, and differences in their approaches to communications reform, limit the development of communications infrastructure in Latin America. Some Latin American countries are smaller than the typical size of a modern network provider. Also, modern network providers are global rather than domestic, which means that their operations and services cross numerous country boundaries. Countries in Latin America lack uniformity in key communications policies that affect private investment. These policies include what is regulated, the opportunities provided for competitive entry, and the licensing of radio spectrum. These differences limit the scale that operators can reach in a country. This market constraint increases the cost of telecommunications development in Latin America, which limits infrastructure development. Options for improving harmonization include development of a web site for sharing regulatory policies, regional harmonization meetings, and developing Latin American think tanks and university-based research centers.

7. How can Latin American governments ensure the success of the current market reforms?

Latin America's recent wave of telecommunications privatizations was preceded by a nationalization wave just a few decades ago. The nationalization of telecommunications occurred because of failures in private provision of telecommunications. Research shows that the failures of private firms resulted from regulatory policies that discouraged investment. Latin American countries need to develop sustainable regulatory systems that encourage continued private investment. These policies include opening markets to competition, deregulation where

competition develops and in other instances where regulation is unnecessary, and regulatory commitment in regulating prices and market structure. These policies depend upon a regulator that is independent from the operator, political control, and other stakeholders; credible with investors; legitimate in the eyes of consumers; and transparent in its processes for making decisions.

A well-trained regulatory agency and ministry is necessary for the successful resolution of these important policy issues and for implementation of the policy decisions. Participants of the forum were asked to identify training needs. They identified 17 areas where training is needed. Many of these areas overlap.

1. Being up-to-date on world communications trends, including trends in technology industry, and policies.
2. The political economy of regulation, including relationships with government and operators, the public, universities and think tanks, multilateral organizations, and regulators and policy makers in other countries.
3. Regulatory policies and techniques important for the development of the Internet.
4. Regulatory policies for controlling price while allowing for the financial viability of the telecommunications operators.
5. Understanding the telecommunications business.
6. Appropriate regulation of telecommunications, spectrum, and media services.
7. Preparation of civil employees with a Hispanic culture.
8. Regulatory mechanisms and incentives important for the development of competition.
9. The role of the regulator in telecommunications.
10. Opportunities for Latin American countries in globalization and convergence.
11. Strategies for infrastructure and economic development.
12. Experiences of the US FCC in regulation.

13. The development of legislation for telecommunications regulation.
14. Wireless technologies.
15. Incentive regulation techniques, including price caps and benchmarking.
16. Appropriate techniques for regulating price structures.
17. Cross-sector regulatory issues.

Four themes emerge from this list of training needs. Training on institutional frameworks and processes is needed. This training should encompass the role of the regulator; issues of independence, legitimacy, credibility, and transparency; and relationships with stakeholders and relevant institutions. The independence issue is key in defining the role of the regulator. Latin American regulatory agencies and communications ministries need to examine approaches that other countries have tried to determine what models can be adapted to Latin America. Workshops are needed to examine models for independence, to identify how other countries have established legitimacy and credibility, and to study transparent decision-making processes that involve stakeholders in the regulatory process. Cross-country learning from experienced regulators should be a prominent feature of this training.

Training on competition is also important, including licensing, barriers to entry, market structure, interconnection, deregulation, and matching regulatory policies to market structure. Both policy-level training and technical training are important. Policy training is necessary to help countries choose appropriate instruments. Technical training is important to help the regulatory staff develop rules and enforcement mechanisms for implementing the instruments.

Training on policies for infrastructure expansion is needed, including Internet development, rural development, universal service and universal access for the poor, and the role of competition and incentive regulation. Workshops should examine Internet policy so that governments understand Internet governance and applications, and how Internet affects almost all elements of an economy. Training programs on infrastructure deployment should include approaches for identifying needs, case studies in using competition and subsidy mechanisms, techniques for developing build-out requirements and auctions, and methods for rebalancing prices to undo traditional cross subsidies.

Basic training in industry, technology, and policy trends should be considered for all training programs. This information is important for ensuring that the participants have sufficient background to address the

policy and policy-implementation issues described above.

In conclusion, the Latin American Forum on Communications provided a unique opportunity for substantive peer-to-peer learning by senior policy officials from Latin America. Progress was made in recognizing and clarifying emerging issues, identifying potential best practices, building a base of regulatory and industry expertise, and developing a network of policy leaders and leading international experts for ongoing consultation and coordination. In addition, numerous needs for further training were identified, focusing on institutional, competition, and regulatory issues.

<#_ftnref1>* <#_ftnref1>The author would like to thank the numerous sponsors and supporters of this forum for their invaluable contributions. A complete description of the forum and its proceedings are available on the Public Utility Research Center web site at <http://bear.cba.ufl.edu/centers/purc/LAFC/lafcmain.html>.