

Q&A

With **ADRIANA LABARDINI**
commissioner at Mexico's IFT

Q WHAT IS YOUR POSITION?

A I am a commissioner at the Federal Institute of Telecommunications (IFT), Mexico's independent regulator and competition authority for the telecoms and broadcasting industries, created by constitutional decree in June 2013. The board consists of seven commissioners who, after a very competitive examination process, were nominated by the president of Mexico and appointed by the senate for a fixed term tenure.

Q AND YOUR BACKGROUND?

A I am a lawyer, specialised in telecoms regulation and public policy. I earned a masters from Columbia University, where Eli Noam lectured on telecoms courses at the business school and worked as his assistant at the Columbia Institute for Tele-Information at a time when market liberalisation and privatisation of telephone operators were taking place in many countries, and the impact of the AT&T divestiture was being studied by scholars, policymakers and investors. On my return to Mexico City in 1991, the incumbent, Telmex, was being privatised and a new legal framework was being discussed and I was fortunate to be able to

participate in the national debate on fostering competition in a traditionally monopolistic sector. I worked as an advisor to the ministry of communications as an outside counsel but eventually joined the then regulatory agency,

Cofetel, for four years but went back to the US on a Humphrey fellowship. I came back in 2004 determined to start an independent organisation to promote consumer rights for telecoms and other utilities, some of which were badly abusive without consumer advocates.

Q THAT SOUNDS INTERESTING...

A I wanted to help consumers have a voice, especially in telecoms which of course I was familiar with. But I found a lot of problems and complaints about other services such as financial and transportation services, and other public services as well. There was only expensive and complex access

to justice, no class actions for consumer claims, inefficient consumer protection procedures, and poor education of consumer rights. I realised that we really needed more effective collective actions to access justice, so we fought for Congress to introduce class action legislation so that entities could represent consumers before the courts. After a four year effort, we succeeded in getting an amendment to introduce class actions procedures for consumer and environmental claims, and also antitrust cases. I worked on this independently through Alconsumidor, a non-profit organisation I founded with a partner, which became a member of Consumers International. There is still much to do in Mexico to raise awareness of consumer rights issues as corporations have not had a culture of customer satisfaction and social responsibility, because competition had not been all that strong and consumers were held captive by rent-seeking corporations.

Q WHAT ARE EXAMPLES IN COMMUNICATIONS?

A There are lots of examples, some of which we have addressed at IFT, because we have broad powers and autonomous status. Using both regulatory and competition mandates, we have been able to remove some barriers to foster competition in both the fixed and mobile markets, which are highly concentrated, with high prices, still low penetration and not the best quality. The incumbent would charge domestic roaming even though it had a national network, high interconnection rates, and impose abusive contracts on users. Through asymmetric regulation we have ended domestic roaming charges, lowered termination rates, mandated infrastructure sharing and unbundling, and the incumbent has to go to public tender for all its wholesale services. There are also problems and abuse in pay TV, with long-term contracts, high penalties if you want to terminate contracts earlier, high priced premium packages, and a vertically integrated broadcaster, content producer and cable and satellite distributor. A combination of competition and regulation is our strategy to enable a more efficient market.

Q IT SOUNDS LIKE THE INDUSTRY WOULD OBJECT TO A CONSUMER CHAMPION AT THE IFT...

A Well yes, but the industry knows I am truly independent, without any business or political agendas, and my concern for consumers has been

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honest and legitimate. I understand that our industry needs incentives to invest and grow, but it has to understand the benefits of more competition and the need to gain their customers through good service and prices, and fair practices and contracts – or lose clients. President Peña Nieto looked closely into the commissioners' exam results, credentials and personal history, I assume, and he and the senate appointed three lawyers, me included, two economists and two engineers. We all bring value to the table, and we have all become engineers, economists and lawyers in a way. About 800 people applied as there was a lot of interest in becoming part of the founding board of IFT. The president was given 35 names out of which he picked seven, then confirmed by the senate. I was talking to regulators from other countries at the IIC's International Regulators Forum in Washington and they were very impressed with this selection process.

Q HOW ARE THE IFT COMMISSIONERS ORGANISED?

A As commissioners we all have to vote on the proposals the different units submit to us, including antitrust procedures, rulemaking, licence applications, spectrum auctions, sanctions for illegal practices, technical standards, mergers, content related issues, interconnection, complaints and more. The IFT has a staff of more than 1,200, and the commissioners each have eight or nine advisors. I also chair the transparency council, in charge of reviewing cases of denial of access to information, and sit on the ethics and civil careers committees.

Q THE WHOLESALE MOBILE NETWORK IS A BIG MOVE...

A This is a disruptive model mandated by constitutional amendment to use the 700 MHz band, which will be freed after our analogue TV switch-off is concluded, for an open access, wholesale 4G network, from which current operators and MVNOs will be able to buy capacity across the nation to accelerate mobile broadband services. It will be for the internet of things, multicasting, telemedicine, national security services and much more that requires mobile connectivity not available in Mexico, where 4G is only starting to take off. The wholesale

shared network is meant to be a public private partnership (PPP) to be adjudicated through a bidding process that will take place this year. The government will contribute 90 MHz of spectrum in the 700 MHz band, using the APT 700 standard, and the winning developer will start operating the network in two years. The IFT's role is to issue terms and conditions of licence and bidding rules to make sure the PPP acts on the basis of competition neutrality, offers capacity on a non-discriminatory basis and makes the most efficient use of spectrum to meet its goals.

Q THERE'S A LOT HAPPENING...

A Yes, we are also auctioning 80 MHz in the AWS band in February, which we hope will enable more competition among the three existing carriers and better quality of service. On TV, after having only two commercial networks for decades, we auctioned a third national network in 2014 and we will auction a fourth this year. There's an urgent need for competition and plurality in Mexican media that requires more spectrum, public and community broadcasting including radio and TV for indigenous groups across the country, and 'must carry' rules for cable and satellite TV licencees that have access to the over the air channels in their coverage areas. We have also been very successful in lowering interconnection rates, and our new telecoms act also eliminated domestic long distance charges, and the incumbent's ability to charge termination rates. Only the other mobile and fixed carriers may charge LRIC-based termination rates. And we have set up a new consumer affairs division at IFT to provide information tools for consumers so they can easily compare rates, quality of service and packages.

Q DO YOU REGULATE CONTENT?

A At present, IFT has some powers of surveillance of children's rights and media, caps for advertising time and other guidelines dealing with audience rights. We are working on guidelines for broadcasters, which must hire an ombudsman to take care of complaints from their audiences. I am interested in comparing methodologies to measure plurality in media, and I am also following the debate about over the top (OTT) players and whether they should be licensed or otherwise regulated. So far, we have not opted for licensing, but that doesn't mean that they are exempt from competition, privacy or consumer and protection rules for minors. We have some brief net neutrality principles in our new telecoms act.

Q FINALLY, WHAT ARE YOUR KEY AIMS?

A In the two remaining years of my tenure, I will keep working to make sure consumers have competitive options nationwide, contribute to bridging the digital divide, and work very hard to strengthen our organisation to make sure we are efficient, transparent, inclusive, and highly professional and expert in our field, and the best regulator and competition authority in our region.