

Q&A

With **JUAN WILCHES**, commissioner at Colombia's telecoms regulator, CRC

Q WHAT IS YOUR BACKGROUND?

A I first worked at the CRC (Communications Regulation Commission) as a junior adviser, having a qualification in electronics engineering, and I learnt a lot from lawyers and economists about regulation and public policy. I did an MBA in Canada and came back to Colombia to the new National Spectrum Agency (ANE), which had been set up following our ICT law in 2009, and became deputy director for spectrum management and planning. That was a challenge as this kind of spectrum planning work had not been done much before. Being there, I took the opportunity to work on our 4G spectrum auction in 2013, before coming to the CRC as a commissioner later that year. I was director for one year under our rotation system for commissioners.

Q HOW DOES THE CRC FIT IN WITH OTHER AGENCIES?

A There are three agencies – the CRC, ANE and the National Television Authority (ANTV). At the CRC we have three main objectives, which are to promote

investment, promote competition in telecoms markets (and also postal markets) and to protect consumers. The last one – consumer welfare – I guess has become the most important in the past few years. We have applied new theories

about behavioural economics that we are using as a way to provide transparent and clear information for consumers to take decisions, and this has been one of the main successes that we've had recently. There is also a competition authority for all sectors – the difference is we aim to promote competition where we see market failures while the competition agency acts where it sees infringements to competition law.

Q IS IT BEST TO BE SEPARATE FROM THE SPECTRUM AGENCY?

A In 2009 when the ICT law was passed we tried to reflect the French model in our institutional framework, so we would have something similar to Arcep, the French communications regulator, and ANFR, the spectrum agency. I don't know for sure if it's a great institutional framework generally but it has worked well here in Colombia. Certainly,

spectrum decisions have been really important to the advancement of the industry in the past few years. We are now talking about having a more converged approach and it is more likely the CRC will merge with the television authority, while the spectrum agency underpins both.

Q WHAT IS THE CURRENT CONNECTIVITY SITUATION?

A In the first quarter of 2016 we had 13.7 million internet connections, made up of 59% fixed and 41% mobile. Our definition of broadband is 1 Mbps, which is low, and which we are in the process of reviewing. Based on that, we only have 13.2 million broadband connections. Trying to upgrade this in Colombia means promoting mostly mobile networks as extending fixed lines can be difficult and very costly, although we do have great backbone coverage – a fibre optic network that reaches 96% of municipalities, and the remainder has high speed microwave. On the mobile side we have moved from three operators to five plus three virtual operators (MVNOs). Last year we decided to eliminate some regulatory obligations for MVNOs to make them more independent so that they could negotiate better prices with the network operators. After our 4G auction, which released a lot of spectrum – 225 MHz that is better in the hands of operators than government – we gained two more operators. They are not as big yet as we would like, as it takes time to deploy infrastructure, but we do have a much more competitive market. We've seen Tigo, the brand of what was the third of the original three operators, now challenging hard for the number two position. We are though carrying out a review of the mobile market over dominance concerns.

Q WHAT ABOUT THE DIGITAL ECONOMY?

A Digital economy policies are very important as we depend a lot on oil and we know what's happened to prices recently, so the government is looking to promote efficiencies and innovation across all industrial sectors. In fact this started as far back as 2010 with the Vive Digital policy,¹ which was mainly about developing broadband and reducing poverty through use of the internet. The first phase focused more on developing infrastructure, and that's continuing with, for example, subsidies to promote universal connectivity in rural areas, and to schools. But it has been one of the few such plans



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Juan Wilches, CRC
commissioner

that also addressed the demand side. Now, in Vive Digital II, we are moving to the development of skills, such as with grants to students who want to study IT, and to help smaller companies (SMEs) get into the digital economy by promoting 'anchor' companies, which are large firms that can build digital value chains around them. What we found is that SMEs were not using the internet because they just didn't see any use for it. So we are aiming to identify market and regulatory bottlenecks in the e-commerce value chain. Also recently, the CRC published a consultation² on how we want to measure the digital economy by proposing a set of indicators that apply to the various sectors of the economy. We have adapted this from indicators put forward by the OECD, the UK, Japan and other countries such as Chile.

Q WHAT IS THE CRC'S CONSUMER PROTECTION WORK?

A Where we've had good success is in providing tools for the purchasing decisions of consumers, through initiatives such as regulating on simplified services contracts. We have eliminated pages of confusing small print and customers get a one page contract that's very simple and transparent. Our aim is to simplify the relationship between operator and consumers so that they can have a more friendly one. Another topic we are working on now is changing from looking at quality of service to quality of experience – what happens to the customer at the end of their broadband or mobile connection and how they perceive their service. This means generating a lot of data, which we are doing with as many as 60,000 annual user surveys around the country, field measurements on factors such as speeds, and data from a mobile app that collects data on measures such as dropped calls. Through publishing information we're trying to empower consumers to take better decisions. Some of the operators have welcomed it because they feel it will help differentiate themselves in service quality.

Q DOES THE CRC HAVE A POSITION ON NEXT-GENERATION, OTT SERVICES?

A We are starting to study over the top (OTT) applications not only for their impact on our sector but also as a general digital disruptive trend, so we can work out if there are guidelines we can give to regulators in other industries when they take decisions about digital platforms, such as with Airbnb and housing. We have taken no decisions yet and are closely following the rules from other countries and regions about this and other digital

economy issues. We are taking an open-minded approach and, if anything, we are thinking more about how to deregulate than regulate. Established operators do say that OTT platforms are providing services that are similar to those that they provide and we are looking at whether they are really substitutes. But so far, looking at video services such as Netflix and YouTube, and how they are impacting the market, what we have found in Colombia is that they are complementary services not substitutes, but that may change in the next few years and we have to watch the evolution of these OTT platforms closely.

Q DO YOU HAVE A NET NEUTRALITY LAW?

A Yes, our net neutrality law was passed in 2011, and the same year the CRC issued a regulation. Further, in the past year we have had a very good discussion about zero-rated plans and we have designed a methodology to analyse them on a case by case basis. We don't think that you should ever allow all these kind of offers on the market or impose a rule against every one. So the idea of the methodology is to see if a plan is infringing the principles defined in the regulation, given that we are trying to promote innovation and new services for consumers and not restrict their development. Facebook's Free Basics was offered here through Tigo some time ago, and now you can see other kinds of free offers – while we left these to the market, we are in the process of reviewing them.

Q THE OECD WAS RATHER CRITICAL OF THE CRC IN A REPORT ON REGULATORY INDEPENDENCE...

A One of the OECD's main points³ was about the ICT minister as chair of our board – it was clearly restrictive as we could not take decisions without the minister there. Now decisions can be taken with a simple majority of votes. The OECD was also concerned about competition in our fixed-line market, and again we have worked hard analysing internet and television markets, as well as the bundling of services, to promote more competition. The OECD provided us with many recommendations as part of the accession process for Colombia. We are talking to the OECD about a second ICT sector review in the next year or two.

Q THE CRC CURRENTLY HAS THE CHAIR OF THE LATIN AMERICA GROUP, REGULATEL...

A It's a good platform to share experiences and the CRC was one of the founders, but we are still in the process of getting more information from the member countries so we can all compare ourselves. One of the most interesting developments in the region is the possibility of a digital single market, as put forward by the UN Economic Commission for Latin America and the Caribbean (CEPAL/ECLAC),⁴ with which we are participating as regulators. There may be proposals by 2018 for how we can develop ICT with unique rules and services for the whole region, which has a population of 600 million.

Q WHAT ARE THE KEY AIMS NOW FOR YOU AND THE CRC?

A I have been motivated by the opportunity to build policies and regulations that promote the economic and social development of Colombia. To that end, the idea of the evolution of the CRC into an ICT regulator, prepared for the constantly changing digital environment – and taking our vision outside of the ICT sector too – is my main objective.

¹ Vive Digital website: with reports on progress

(in Spanish), bit.ly/1IbnQBQ

² CRC (2016). Towards digital economy measurement

(in Spanish), bit.ly/2d4XJzc

³ OECD (2014). Review of telecommunication policy and regulation in Colombia. bit.ly/1MOINZP

⁴ ECLAC encourages the creation of a regional digital market in Latin America and the Caribbean. Press release, 22 June 2016. bit.ly/2cEuWNd