

**TRANSPARENCY IN MEXICAN TELECOMMUNICATIONS: MECHANISMS
TO FACILITATE THE REGULATION OF TELECOMMUNICATION SERVICES**

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ABSTRACT

Mexico has embarked since 1989 on a large-scale effort to liberalize and deregulate its market for the provision of telecommunication services. Mexico sent strong signals to the international community that it was committed to this effort, and decided to privatize the second most important state-run entity: TELMEX. However, the privatization and the subsequent legal framework established to devise a market for liberalized telecommunication services, failed to create a competitive environment where new market entrants could compete in equal conditions with TELMEX. To address this situation, the Mexican government created a quasi-independent regulator (COFETEL) to administrate telecommunication resources and survey the development of the market, but limited its authority to resolve disputes between market participants and to address market imbalances and distortions. The telecommunications industry in Mexico is heavily dependent on foreign investment and technology, and the legal and regulatory framework fails to establish essential safeguards to contain TELMEX's dominant features and anticompetitive practices. Among these safeguards, new market entrants have no opportunity to participate on the policy and regulatory (rule-making) setting processes that shape the market. COFETEL's exercise of authority is also limited by the insufficient information it has on the market, as it lacks mechanisms to assess its ever-changing competitive and technological nature. This situation has been corrected capriciously through the application of discretionary policy and regulatory measures.

This research aims at determining the degree of transparency necessary to facilitate the regulation of the Mexican telecommunications market. By analyzing the elements and features of transparency from the perspective of game theory, economics of information and the experience of international regimes and institutions, it determines which informational mechanisms accommodate the political, social and economic interests of all market participants, including the regulator. Taking into consideration the specific transparency features of the NAFTA and GATS telecommunications provisions, it concludes that all conditions are met for the establishment of a negotiated rulemaking and notice-and-comment procedure to develop a competitive market, which would also take into consideration infrastructure development and teledensity as public interest imperatives.

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