

ABDI - XXII Seminário Internacional

Painel: As Tendências da Regulação das Telecomunicações pelo mundo. Quais os principais temas da regulação de telecomunicações atualmente em debate pelo mundo?

Argentina – Dr. Jorge de Lucio

National Constitution (1853)

No direct reference to telecommunications

Section 14: Civil Rights (legal industry / commerce / etc)

Section 17: Property

Section 75 / 14: National Mail

Section 75 / 18: "Progress Rule" (development)

Telco Act 19.798 (1972)

(Broadcasting Act 22285 & National Mail Act 20216)

1. Telecommunications Services
2. Taxes & Tariffs
3. Telco Development
4. Telco & National Security
 - Federal Jurisdiction
 - Telco Privacy (Criminal Law 26388)
 - Interconnection rule

Recent Telco Act Amendments: 25833 & 25891

Telco Deregulation. Decree 764/00

1. Licensing Rules
2. Interconnection
3. Universal Service
4. Spectrum (Administration, Management and Control)

Important Recent Telco Events

Late 80's and early 90's

- SECOM & CNC (responsibilities)
 - SECOM (Secretaría de Comunicaciones)
 - Former: Secretaría de Obras Públicas y Comunicaciones
 - Regulatory agency
 - CNC (Comisión Nacional de Comunicaciones)
 - Former: Comisión Nacional de Telecomunicaciones
 - Technical agency (verification & control)
- National Telco Company (Entel) Privatization
- AMBA and countrywide Cellular Phone Auctions – Public Bids

Mid 90's

- PCS. Auctions – Public Bids
- CPP

Late 90's and early 00's

- Telco Deregulation / Transition to liberalization
- Telco Liberalization Market & Telco Deregulation

Recent

- NIR
- “Compre Nacional”
- Universal Service

Mobile Market

- 3 cellular service providers plus digital and analog SMR operators.
- The cellular companies hold also PCS licenses.
- Each of the cellular and PCS licenses, cover only a specific geographic area, but together and/or by roaming agreements, provide national coverage.
- The PCS licenses and associated frequencies provide existing cellular companies the ability to launch a wide range of wireless products and services (including Push-To-Talk over Cellular).
- Spectrum Cap (50 MHz maximum)
- Postpaid & prepaid customers – CPP and MPP (CPP prices are set by the Ministry of Federal Planning, Public Investments and Services).
- SMR providers can interconnect with the public switched telephone network
- The tariffs for cellular/PCS and SMR are freely fixed by the providers.

Licenses

- Regulations establish a single license system that allows the license holder to offer any and all types of telecommunications services.
- The licensee is free to choose the geographic area, technology and architecture through which its services will be provided. However, each specific service must be registered with the SECOM.
- License holders who acquired spectrum under a public bid or auction must comply with the terms and conditions under which the spectrum was granted.
- The regulations do not impose any minimum investment, loading or other requirements on holders of licenses. However (i) certain specific rules of origin mandate that at least 30% of any new infrastructure be of Argentine origin, (ii) some requirements do apply to the launch of a new service, such as a requirement to launch some services within 18 months from the date of its registration.
- The grant of a license is independent of the resources required to provide a service and specifically does not include the right to the use of spectrum.

Network interconnection

- The general principles of the interconnection rules are:
 - Freedom of negotiation and agreement between the parties with respect to prices charged for interconnection, although the regulations include guidelines which are generally followed in practice and which can be imposed by the SECÔM in the event of a dispute between parties.
 - Mandatory provision of interconnection with other carriers so long as interconnection is technically feasible.
 - Non-discrimination.
 - Reciprocal compensation.
 - Maintenance of an open architecture to avoid conditions that would restrict the efficiency of interconnected operators.
- All interconnection agreements must be registered at CNC.

Universal Service

- Levy equal to 1% of service revenue minus applicable taxes and specified related costs.
- “Pay or Play” system. The license holder can choose either to pay the levy or to participate directly offering services to specific geographical areas as designed and/or approved by the federal government.
- Although regulations state that this levy would be applicable beginning January 1, 2001, the Universal Service Fiduciary Fund, is still not executed.
- From mid 2007, all contributions are being deposited into a financial institution; however the Fund is still pending.
- In 2008 a new decree modifies some of the rules of Decree 764/00.

Administration of Spectrum

- The SECOM is empowered to partially or totally revoke awarded spectrum if it is not used, or if it is not used in accordance with the terms and conditions under which it was granted.
- Licenses and spectrum authorizations may not be transferred nor assigned, in whole or in part, without prior written approval of regulatory authorities.
- Prior authorization is also required upon a change of control as a result of the transfer of the licensee's capital stock.

Pending Big Issues for all Telecommunications Services

- **Universal Service:**
 - Fiduciary Fund (creation and operation)
 - Implement pay or play
- **Federal vs. Local legislation**
 - NIR
 - Taxes
 - Infrastructure Deployment
- **New bands?**

Muito Obrigado!