

2015 UPDATE

Breaking Promises, Blocking Reform

Soft Censorship in Mexico



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ABOUT THIS UPDATE

This analysis, prepared by Fundar Center for Analysis and Research, updates the April 2014 report, “Buying Compliance: Governmental Advertising and Soft Censorship in Mexico”, and covers the period from January 2014 through June 2015. It is one of a series in the ongoing project on soft censorship around the world led by the World Association of Newspapers and News Publishers (WAN-IFRA) and the Center for International Media Assistance (CIMA). Country reports on Hungary, Malaysia, Mexico, and Serbia were issued in 2014, as well as a global overview, [“Soft Censorship, Hard Impact”](#), written by Thomas R Lansner, who also edited this update and is general editor for the series.

This report is based on ongoing monitoring, analysis and documentation on the topic of governmental advertising in Mexico performed jointly by Fundar Center for Analysis and Research and ARTICLE 19 Office for Mexico and Central America. It includes analyses of Mexican central government spending on advertising and responses to a series of information requests filed with state governments. It also reflects assessments of how governmental advertising affects media landscapes in various Mexican states, an effort facilitated by the close relationships both Fundar and ARTICLE 19 maintain with journalists, academics, public officials, and local activists.

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1. Executive Summary

The principal means of soft censorship in Mexico today remains the discretionary allocation of government advertising to selected media that was highlighted in the 2014 soft censorship report. It is still practiced on all levels of government, with little or no transparency or accountability.

Little information for state resources spent for advertising or social communication is available. Regulation remains weak, and there is scant political will to effect genuine change. President Enrique Peña Nieto’s clear pledge to create a body to oversee government advertising is seemingly forgotten. Lawmakers failed to meet legal deadlines to establish a legal framework on this matter. And new legislation proposed by some members of the Mexican Congress to regulate government advertising has not progressed.

Some improvements have been seen in possibilities for transparency. Article 70 of the new General Law of Transparency and Access to Public Information, published in May 2015¹, requires municipal, state and federal authorities to provide online detailed information on official advertising spending. Another potentially important regulatory advance is the Telecommunications and Radio Broadcasting Law passed in July 2014. Over one year later, however, it is yet to bring anti-

ipated changes in media diversity and plurality. In fact, its effect has been the opposite—the existence of community radio broadcasters has been jeopardized. The new law allocates one percent of government advertising to outlets designated as community radio. However, such recognition has been delayed and the system for transferring these funds is yet to be created, which makes these broadcasters’ existence increasingly precarious and exposes them to greater political pressure.

This report also details a blatant example of soft censorship—the dismissal of Carmen Aristegui, a journalist who hosted one of the most popular radio programs in the country, and two key journalists of her investigative staff, from *MVS Radio*. Their sacking came just a few months after Aristegui’s team reported its investigation into possible conflicts of interests involving the Mexican President. However, their dismissal was attributed to “administrative reasons”, because they allegedly used resources and brands of the company without its authorization. Aristegui opposed this decision and demanded their reinstatement, which was refused. Aristegui had also rejected new editorial guidelines that would have compromised her program’s editorial independence.²

Country profile³



Mexico Country Data

2014

Population	123.8 million
Adult literacy	94% (2013 figure)
Gross income per capita	US\$ 10,361
Urban/rural population	79 / 21%
Cell phone subscription (SIM)	81.5%
Internet Access (homes)	34.4% (10.8 million homes)
Corruption perception index	103 of 175 countries with a score of 35/100

Sources: INERGI, Transparency International and World Bank

2. Key Findings

1. Soft censorship through selective government advertising remains a serious problem in Mexico. Allocation of government advertising based on partisan and political agendas continues on a massive scale, and strongly affects editorial content at many media outlets. Federal and local authorities exploit the lack of regulation to influence or outright dictate what is published.
.....
2. The legal vacuum surrounding government advertising persists despite presidential promises and legislative requirements to regulate its use. In July 2012, President Enrique Peña Nieto announced he would create a governing body on official advertising, but by mid-2015 this remained only an unrealized promise. The Congress also failed to meet a May 2014 deadline to regulate the use of government advertising, as outlined by the January 2014 political-electoral reform.⁴ An array of new bills related to regulation of government advertising has been introduced in Congress, but none have even been considered.
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3. The May 2015 passage of the General Law on Transparency and Access to Public Government Information was a major step towards moving details of government advertising expenditure into the public domain. Article 70, paragraph XXIII, of this law requires that from May 2016 government bodies at Federal, state and municipal levels must publish on their websites current and complete information on spending for social communication and government advertising. It is uncertain what level of compliance will be realized. At this time, information on state and local government spending especially remains difficult to obtain.
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4. Billions of pesos are still being spent on government advertising which promotes politicians or partisan agendas absent any evidence that this has a positive impact on public debate. In 2013, the federal government spent 48.8 per cent more than its allocated budget for government advertising.
.....
5. Corrupt practices related to government advertising continue in many Mexican states, as illustrated by the case of Ciudad Juarez described below, whose mayor allegedly paid for advertising on non-existent websites. These practices include offering poorly-paid journalists bribes—known colloquially as “*chayote*”—to influence their reporting.
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6. Soft censorship may take on forms that are harder to prove, such as the sacking of journalists for “administrative reasons” (the firing of Carmen Aristegui and her team from *MVS Radio* in March 2015 is the most noteworthy recent instance), or cancellation of investigative programs, like the case of “*El Observador*”, the only investigative program on *Channel 22*, one of two Mexican cultural channels. A dozen *Channel 22* journalists denounced its cancellation as censorship.
.....
7. A provision of the Telecommunications and Radio Broadcasting Law requires one percent of federal expenditure on social communication be awarded to community radio broadcasters. However, the Federal Telecommunications Institute (IFT) has not moved to offer community broadcasters the recognition as “broadcasters for social, community and indigenous use” required to receive the earmarked one percent advertising allocation.⁵ In July 2015, the IFT finally published the guidelines for granting concessions.
.....

3. Key Recommendations

1. The Mexican Congress should enact laws that ensure fair and transparent government advertising, based on principles outlined by the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights.⁶ The January 2014 electoral reform transitory article requiring special regulation of advertising by April 2014 should be implemented without further delay.
.....
2. Federal, state and municipal governments must publish on their respective websites detailed breakdowns of spending on government advertising and social communication, as required by Article 70, paragraph XXIII, of the new Federal Law on Transparency and Access to Public Government Information. The National Transparency Platform included in the law must offer timely access to this information.
.....
3. Community radio stations should be officially recognized by the Federal Telecommunications Institute (IFT) as “communitarian and indigenous social use” concessionaires to gain access to one percent of the federal expenditure on social communication as stipulated by the Telecommunications and Radio Broadcasting Law.
.....
4. Media outlets should strengthen audience confidence and promote transparency regarding government roles in media by fully disclosing their receipt of official advertising and any other government funds.
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5. Public discussion about financial ties between government and media should be encouraged to raise support for institutional reform that will ensure that governments at all levels promotes free, independent and pluralistic media.
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6. Media should adopt ethics codes that forbid acceptance of “*chayote*” [bribes to influence editorial content] or any other gift or compensation that influences media coverage.
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4. Soft Censorship Practices: Overview

This analysis defines official “soft censorship” or indirect censorship as any of an array of official actions intended to influence media output, short of legal or extra-legal bans, direct censorship of specific content, or physical attacks on media outlets or media practitioners.

Governments can exert a chokehold on information through various forms of soft censorship. These include: financial pressure on media outlets to publish or withhold specific information through partisan allocation of advertising and

other media funding; restricting access to public information; and “administrative” pressures applied on journalists and media to modify editorial content, such as surveillance, arbitrary dismissals, restrictions on access to information or coverage for certain places and events, self-censorship, and advertising boycotts. This section focuses on recent instances that demonstrate various means through which soft censorship is exercised in Mexico today.

A) Advertising and Influence

1. Regulation of Government Advertising Stalls

At the federal level, regulation of government advertising is officially a priority issue. In 2014-15, however, very little progress was made. July 2015 marks three years since President Enrique Peña Nieto declared his commitment to regulate government advertising. “I will champion the creation of a non-governmental and autonomous body that supervises the hiring of the media for advertising purposes at all levels of government,” he wrote in an article for the *Reforma* newspaper. “The aim is to ensure that advertising contracts are awarded under the principles of public usefulness, transparency, and respect for freedom of the press and public access to information”.⁷ This pledge has not been honored.

The Legislative Branch has also failed to advance advertising regulation, despite their obligation to regulate use of government advertising by May 2014, as required by the January 2014 political-electoral reform. None of several new bills introduced recently have yet been considered.⁸

Legislative stagnation is similar at the state level. Recent developments in the state of Baja California are illustrative. In March 2015, the “Citizens’ Bill for Institutional Advertising Transparency for the State of Baja California” was introduced as a joint effort by civil society [including a petition with 690 signatures] and local deputies from several parties. Opposition by the state government blocked this effort.⁹

2. Government Advertising: Overspent and Opaque

Government advertising in Mexico is characterized by a lack of clear rules and chronic overspending. In 2013, President Enrique Peña Nieto's first year in office, his administration spent 7.1 billion pesos [US\$ 445 million¹⁰] in government advertising. This exceeded the 4.8 billion pesos [US\$ 300 million] budget approved for that year by nearly 50 per cent. During 2014, the federal government spent 6.8 billion pesos [US\$ 425 million] on advertising, while the approved budget was about five billion pesos [US\$ 312 million]. Similar overspending is expected in 2015.

Based on 2014 figures, considerable sums were paid to media hired by the federal government to advertise its policies and programs, its purported achievements, and its image. Two companies, Televisa S.A. de C.V. and Estudios

Azteca S.A. de C.V., received 25 percent of all spending on government advertising, equivalent to 1.78 billion pesos [US\$ 111 million].¹¹

It is more difficult to discover how each state spends on advertising. A joint investigation by Fundar and ARTICLE 19¹² noted that during 2013, 27 states [of Mexico's 31 states] spent a total of 5.6 billion pesos [US\$ 350 million]. The five states that spent the largest sums on advertising were: Coahuila with 1.3 billion pesos [US\$ 105 million], Nuevo León with 718 million pesos [US\$ 45 million], Chihuahua with 674 million pesos [US\$ 42.5 million], Morelos with 440 million pesos [US\$ 27.5 million] and Campeche with 313 million pesos [US\$ 19.5 million]. Local government advertising is even more opaque.

3. Instilling Transparency: Poor Progress

Publication of the General Law on Transparency and Access to Public Government Information in the Official Gazette of the Federation on May 4th 2015 is a positive development. Article 70, paragraph XXIII, of this law states that governments at all levels are required to publish "the amount of money spent on social communication and government advertising broken down by type of media, suppliers, contract number and description or campaign via their transparency websites." However, enforcement of this new requirement will begin in May 2016.

There is to date only partial and incomplete compliance with these regulatory changes, and states remain reluctant to provide detailed accounts of the resources spent on government advertising. The state government of Oaxaca halted development of a web platform for government advertising transparency that was being created in cooperation with civil society. The government of Coahuila published its expenditure on government advertising for the first time, but the report lacked clarity and detail.¹³

4. Community Radio Broadcasters and Government Advertising

The Telecommunications and Radio Broadcasting Law was published on July 14th 2014. Its Article 89, section VII, stipulates that community radio broadcasters may, in accordance with their statutes, obtain revenue from the “sale of advertising to federal government bodies which shall allocate one percent of the resources they allocate for social communication and advertising approved in their corresponding budgets to the country’s community radio broadcasters, which shall be distributed equally amongst the existing broadcasters. State and municipal governments may allocate up to one percent for this purpose in accordance with their budgets.”

As of mid-2015, the country’s community radio broadcasters have been unable to gain access to government advertising because the Federal Telecommunications Institute (IFT) has not issued certificates of recognition as stations for “communitarian and indigenous social use”. Instead, community broadcasters continue to operate as licensed stations absent special concessions, or without any license.

Absent this recognition, it is impossible for the process of allocating one percent of government advertising to community broadcasters to even begin. And implementation will be complicated and potentially contentious. As noted in this report, the total value of government advertising is unclear. Mechanisms for egalitarian allocation of resources stipulated by law for community and indigenous radio broadcasters must be created. The World Association of Community Radio Broadcasters (AMARC) Mexico has sought to facilitate community radio stations’ transition from licensed broadcasters to officially recognized community broadcasters, but there has been no progress as of mid-2015. AMARC has asked the Federal Telecommunications Institute (IFT) to issue certificates of recognition—as recommended by the Consultative Council of the IFT on April 23, 2015—required for community broadcasters to gain access to resources to which they are entitled by the 2014 Telecommunications and Radio Broadcasting Law.

B) Bribes and Payoffs Given to Journalists

The billions of pesos spent on government advertising with scant regulation and accountability fosters an array of corrupt actions. The persistence of bribery of journalists in Mexico was discussed in the previous soft censorship report. Accounts of this kind of corruption are ample, albeit largely anecdotal.

A recent accounting exercise completed by civil society in the state of Chihuahua detailed dubious transactions relating to government advertising. From 2010 through to 2014, funds disbursed for social communication by the municipality of Ciudad Juarez totaled 100 million pesos [US\$ 6.25 million], a sum significantly beyond the allocated budget. During 2014, the citizens' as-

sociation *Plan Estratégico de Juárez* (PEJ—Strategic Plan for Juarez) documented municipal government advertising contracts worth a total of 120 million pesos [US\$ 7.5 million], including more than 600,000 pesos [US\$ 37,500] paid to non-existent websites. After the PEJ documented this, municipal authorities deleted the value of communication contracts on their transparency website. In March 2015, they decided to designate all contracts as classified information, which contravenes new transparency requirements.¹⁴ Currently, the PEJ is drafting a legal strategy to obtain advertising contracts and is demanding reinstatement of transparency in government spending on advertising.

C) Other Administrative Pressures

During this past year, Mexico has seen several cases of dismissal or departure of journalists—for example, the dismissal of the journalist Lydia Cacho in September 2014 from the newspaper *El Universal*—and termination of programs that could be interpreted as soft censorship. Yet it is very difficult to conclusively prove the relationship between administrative pressures and/or contracts for government advertising and changes in the information published by media companies.

The most blatant case has been the dismissal by *MVS Radio* of journalist Carmen Aristegui, a vocal critic of the government who hosted one of Mexico's most popular news programs.

In November 2014, Aristegui's investigative team published information about a possible conflict of interests involving the Mexican President. "The President owns a house in the Las Lomas area of Mexico City worth US\$ 7 million," they reported. "It was built to his requirements by *Grupo Higa*, one of the companies that won the bid for con-

structing the México City-Queretaro train, and was also involved in several construction projects in the State of Mexico when the President served as Governor."¹⁵

Five months after this report, which gained global as well as local attention, the journalist and her team of researchers were fired for collaborating with *MexicoLeaks*, a web-based platform for anonymously denouncing acts of corruption. They were also accused of illegally using the MVS brand to support *MexicoLeaks*.

Aristegui's dismissal sparked wide interest both domestically and internationally as an example of increasing constraints on freedom of speech in Mexico. To date, the President's possible conflict of interest remains unclear, and the journalist remains off the air. Aristegui filed suit against her former employer, *MVS Comunicaciones*, demanding reinstatement. On June 3, 2015, the Supreme Court decided not to hear the suit. In July 2015, a special federal administrative tribunal rejected the case.

5. Conclusion

Soft censorship, most conspicuously in the form of partisan allocation of government advertising, remains a powerful impediment to a free, independent and pluralistic media in Mexico. Many media companies continue to allow their content to be influenced by the government in order to safeguard their financial and political interests. Lack of regulation on government advertising allows massive and opaque discretionary expenditure on official advertising, including 2.3 billion pesos [US\$ 143.8 million] in federal government overspending in 2013 alone. In that year, the country's two main TV networks, *Televisa* and *TV Azteca*, received more than a quarter of all funds spent.

Mexican citizens' access to information is today held hostage by special interests sustained by the unwillingness of media and authorities to challenge the status quo by which many of them benefit. Despite some new laws promoting transparency, federal and state governments remain unwilling to reveal—and able to conceal—their spending on advertising. The dismissal of journalist Carmen Aristegui's team by *MVS Radio* illustrates the price even prominent journalists may face for revealing allegations of corruption among Mexico's political and business elite.

There are some potentially very positive developments. The General Law on Transparency and Access to Public Government Information on paper promises broad access to government advertising data. Compliance by all branches of government—executive, legislative and judicial—and at all levels, however, is so far very weak. Regulation of government advertising must be enforced urgently, which can be accomplished only with the approval of a governing law. Also, implementation of the article of the Telecommunications and Radio Broadcasting Law that requires one percent of advertising contracts be awarded to community radio broadcasters could broaden media pluralism—if it is properly applied.

President Enrique Peña Nieto plainly promised comprehensive reforms to the use and misuse of government advertising in 2012. The executive and legislative branches must act to realize this presidential promise, thereby fostering the free, independent and pluralistic media essential to democratic development. Both public officials and media must accept and encourage much greater transparency and abide by clear rules if the power and pressures of soft censorship in Mexico are ever to be curtailed.

Endnotes

1. Municipal, state and federal authorities have until May 2016 to implement this law
2. http://www.nytimes.com/2015/03/29/world/americas/in-mexico-firing-of-carmen-aristegui-highlights-rising-pressures-on-news-media.html?_r=0
3. Data obtained from the web pages of the INEGI (Mexican National Institute of Statistics, Geography and Informatics), Transparency International and the World Bank
4. An analysis of the 2014 political-electoral reform is found here: <https://mexicoinstituteonelections2015.wordpress.com/2014-political-electoral-reform/>
5. Article 89, paragraph VII, of the Telecommunications and Radio Broadcasting Law: http://www.diputados.gob.mx/LeyesBiblio/pdf/LFTR_140714.pdf
6. <http://www.oas.org/en/iachr/expression/index.asp>
7. Enrique Peña Nieto's article in the *Reforma* newspaper: http://busquedas.gruporeforma.com/reforma/Libre/VisorNota.aspx?id=1364383|ArticulosGC_Reforma&md5=8fcf539cd14b703e4d86385a8b76ec59
8. For more information, refer to the press release dated 13 May 2014, "The regulation of government advertising is left out of the electoral reform debate", available at: <http://publicidadoficial.com.mx/?p=2587>
9. Fundar, together with ARTICLE 19, issued a media statement about this: http://fundar.org.mx/baja-california-se-opone-a-regulacion-de-publicidad-oficial-promueve-opacidad-en-gasto-publico/#.VZ0Tovl_Oko
10. US\$1= 16 Mexican pesos (July 2015 exchange rate)
11. "Freedom of expression for sale", report by ARTICLE 19 and Fundar Center for Analysis and Research, August 2015, available at: www.publicidadoficial.com.mx
12. "Freedom of expression for sale" report by ARTICLE 19 and Fundar Center for Analysis and Research, August 2015, available at: www.publicidadoficial.com.mx
13. Link to Coahuila's platform for government advertising data transparency: <http://www.sefincoahuila.gob.mx/sistemas/transparencia/principal.php>
14. To see the entire exercise performed by the PEJ organization visit <http://www.planjuarez.org/>, and <https://www.youtube.com/watch?v=naBP44MB9wg>, <https://www.youtube.com/watch?v=nQGfEWVYM2Q>
15. *Aristegui Noticias*, "Peña Nieto's White house", special report, 9 November 2014, available at: <http://aristegui-noticias.com/0911/mexico/la-casa-blanca-de-enrique-pena-nieto/>

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- Exercise carried out by the *Strategic Plan for Juarez* organization: <http://www.planjuarez.org/>, and <https://www.youtube.com/watch?v=naBP44MB9wg>, <https://www.youtube.com/watch?v=nQGfEWVYM2Q>.

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