



Fact Sheet:

THE FACTS ABOUT RECENT MEDIA EVENTS IN VENEZUELA

Much uproar has surfaced in the international media in recent days as various radio stations in Venezuela have had to stop broadcasting and a "Draft Law against Media Crimes" has been presented to the Venezuelan National Assembly by the Public Prosecutor last week. As usual, much disinformation has shaped the debate surrounding these developments. This fact sheet will help clarify many of the misconceptions that have been circulating in much of the mainstream U.S. media.

34 RADIO STATIONS NO LONGER BROADCASTING ON THE AIRWAVES

In Venezuela, Article 156 of the Constitution of 1999 and articles 3 and 37 of the Organic Law of Telecommunications give the government the power to grant and regulate access to the broadcast spectrum based on public interest standards and other broadcasting regulations. According to the Organic Law of Telecommunication, the National Telecommunications Commission (Conatel), ascribed to the Ministry of Infrastructure and Housing (Mopvi), is the institution responsible for this task. Therefore, in accordance with its responsibilities and the established legal framework, Conatel announced in August 2009 that 34 Venezuelan broadcasting stations can no longer use the public airwaves as they have failed to respect the terms of the Telecommunications Law (promulgated in 2000).¹

Many media outlets have portrayed these measures as the product of a political decision taken by President Chavez, when in fact they involve nothing more than the enforcement of existing law.

Here are the Facts:

1. Conatel and Mopvi are currently undertaking an extensive revision of their databases and

have been updating all their records regarding Venezuelan television and radio broadcast concessions. This process is being carried out transparently and in accordance with articles 37, 73, 76 and 77 of the Organic Law of Telecommunications. The public has continuously been kept informed regarding all the legally founded decisions taken by the responsible state institutions.² In fact, at the commencement of this process, all television and radio outlets were given the opportunity, within a certain time period, to come into compliance by providing the required documentation.

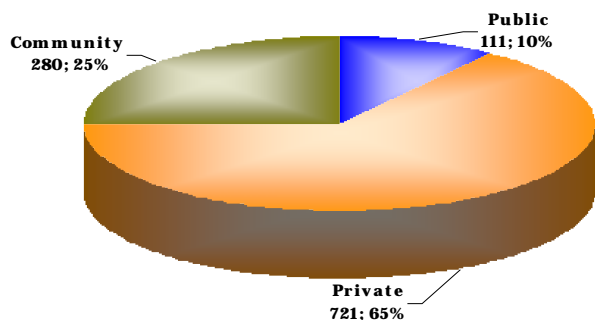
2. The data-revision process brought to light the fact that **34 media stations in question were clearly not complying with the law** due to one or more of the following violations:
 - a. The broadcasting concession had expired.
 - b. The concession-holder failed to seek the renovation of the concession within the allotted time period.
 - c. The concession was being illegally used following the death of the concession holder.³
3. According to the law, in these situations, the broadcasters cannot keep using the public airwaves.⁴
4. The 34 broadcasting stations (32 radio and 2 television) have not presented any evidence that call into question the decisions made by the authorities.⁵ However, they do have the right to take their case to the courts.⁶
5. Diosdado Cabello, Minister for Infrastructure and Housing, responded to those opposing the measures with the following statement: "I challenge those who operate the Circuito Nacional Belfort to provide a document showing that CONATEL has authorized them to operate the 102.3 frequency. They are saying that the station is theirs and it's not true...They have started to say that we are revoking concessions and that is not true. **The state is simply recovering the**



concessions that were being used illegally for more than 30 years.”⁷

- 6. The concessions of an additional 206 radio-stations are being revised more carefully due to possible non-compliance with the law. However, these stations continue to broadcast normally.
- 7. Those affected by the measure can also continue broadcasting their programs through the Internet, as the regulation only applies to the use of public airwaves.
- 8. Currently there are in Venezuela 794 FM radio stations, 210 AM radio stations and 108 TV stations using the public airwaves. In total 65% are commercial, 10% are public, and 25% are community outlets. Though 32 radio stations and 2 television stations will now cease to transmit via the public airwaves and 206 more remain under legal revision, **there are another 872 TV and radio stations operating in Venezuela.**⁸

Venezuela's Media Summary of Ownership 2009



DRAFT LAW AGAINST MEDIA CRIMES

The case of these 34 broadcasters that are operating illegally is completely unrelated to the debate regarding a proposal of a “Law Against Media Crimes” that was presented to the National Assembly by the Public Prosecutor last week and which has not been approved by the legislature.

While the National Assembly is just reviewing this and other proposals regarding how to sanction serious media abuses, the mere idea has

already received harsh criticism from the opposition-owned private media in Venezuela, and some foreign media and organizations. Critics have assumed that there is a defined draft of the law. This is false.

Here are the facts:

- 1. The president of the Media Commission of the Venezuelan National Assembly, congressman Manuel Villalba, has been emphatic in pointing out that **there is not consensus in the National Assembly around the possible contents of the proposed Special Law against Media Crimes;** “there are different proposals that will be debated.”⁹ In fact, the Media Commission is actively promoting a national debate about this matter.
- 2. The possible enactment of a law of this kind in Venezuela is not seeking to limit freedom of expression but rather ensuring the subsequent imposition of liability, in accordance with article 13 of the Interamerican Convention of Human Rights.¹⁰ In fact, the proposed law would be in harmony with the Venezuelan Constitution and the American Convention of Human Rights. For instance, Article 13 of the Convention also states that “any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.”¹¹ Article 58 of the Venezuelan Constitution states that “everyone has the right to timely, truthful and impartial information, without censorship, in accordance with the principles of this Constitution, as well as the right to reply and corrections when they are directly affected by inaccurate or offensive information.”¹²



Embassy of the Bolivarian Republic of Venezuela to the United States

3. There has been a long debate in Venezuela about how to guarantee a balance between the right of freedom of expression and the responsibilities of the media and their owners with society. According to the editor of the most widely read Venezuelan newspaper, *Últimas Noticias*, those who are most critical of the idea of this law today are those who years ago would approve a constitution that foresaw the clear punishment of 'criminal expressions'. Rangel pointed out that "the constitution of 1961 that they approved, guaranteed that freedom in article 66, but clearly stated that those expressions which constitute a crime are subject to punishment according to the law". It furthermore said that "anonymity is not permitted, just like the promotion of war, the offense of the public morale or propaganda that would provoke the disobedience of the laws."¹³

In conclusion, neither the regularization of the situation of radios and TVs that have been operating outside the law in Venezuela, nor the development of a law to clearly regulate subsequent imposition of liabilities in the case of serious media abuses are measures that limit freedom of speech in Venezuela. 34 broadcasters will no longer be broadcasting due to their non-compliance with the law, but the telecommunications authority CONATEL has increased the use of the airwaves by private stations by granting, for instance, 181 concessions to private FM radio station owned by the private sector during the administration of President Hugo Chávez.¹⁴ Hence, freedom of speech is unquestionably alive and protected in Venezuela, as the biased network of opposition-media in Venezuela confirm.

August 4th, 2009.

For more news and information about Venezuela, please visit our website: <http://www.embavenez-us.org/>

¹ Telecommunication Law, June 2000.

http://www.tsj.gov.ve/legislacion/LT_ley.htm

² Conatel, "Ministro Diosdado Cabello anuncia apertura de procedimiento administrativo de Conatel a 86 emisoras AM y 154 emisoras FM para restitución de sus concesiones al Estado", July 3, 2009.

http://www.conatel.gob.ve/noticia_comp.asp?numn=2654

³ Conatel, "Notificadas Estaciones de Radiodifusión", August 1, 2009.

http://www.conatel.gob.ve/noticia_comp.asp?numn=2660

⁴ Telecommunication Law, June 2000.

http://www.tsj.gov.ve/legislacion/LT_ley.htm

⁵ "Venezuela to Transfer Private Media Concessions to Community Media", *Venezuelanalysis*, August 3, 2009.

<http://www.venezuelanalysis.com/news/4683>

⁶ Conatel, "Notificadas Estaciones de Radiodifusión", August 1, 2009.

http://www.conatel.gob.ve/noticia_comp.asp?numn=2660

⁷ "Venezuela to Transfer Private Media Concessions to Community Media", *Venezuelanalysis*, August 3, 2009.

<http://www.venezuelanalysis.com/news/4683>

⁸ CONATEL, "Situación actual de los servicios de radiodifusión sonora, TV abierta y difusión por suscripción", July, 2009.

⁹ "Ley Especial contra los Delitos Mediáticos aún no cuenta con el consenso de la Asamblea Nacional", *VTV*, August, 4, 2009. <http://vtv.gob.ve/noticias-nacionales/21770>

¹⁰ American Convention of Human Rights.

<http://www.oas.org/juridico/english/treaties/b-32.html>

¹¹ American Convention of Human Rights.

<http://www.oas.org/juridico/english/treaties/b-32.html>

¹² Constitution, 1999 (Spanish)

<http://www.tsj.gov.ve/legislacion/constitucion1999.htm>

¹³ "Los Domingos de Díaz Rangel", *Últimas Noticias*, August 2, 2009.

<http://www.ultimasnoticias.com.ve/ediciones/2009/08/02/default.asp?N=1&I=0&cfg=2820BDZF2405&iu=996>

¹⁴ "Democratización del espectro radioeléctrico reforzará información en las comunidades", *Minci*, July 28, 2009.

http://www.minci.gob.ve/noticias-minci/1/190741/democratizacion_del_espectro.html