

## Competition for frequencies in Ecuador: the perspective of the community sector

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The Public Competition for free-to-air Radio and Television Frequencies is one of the issues with the greatest presence in the public agenda, not only because it will change the media landscape for the next 15 years, but because it takes place in the midst of an agitated electoral process with respect to the permanence or not of the “citizens’ revolution” government led by Rafael Correa, which has been in power for the last 10 years. This is how the Public Frequency Contest became a campaign issue, where

stakeholders representing different tendencies called for its suspension and the repeal of the Communications Law.

In this context, the present article proposes another vision of the Competition from the perspective of the community sector, a stakeholder that has been almost absent in the debate despite being one of the sectors that has the greatest involvement in this process.

## Understanding the Frequencies Competition in Ecuador

The Public Competition for Radio and Television Frequencies is a mechanism set out in the Organic Communications Law (OCL) approved in 2013. Prior to this, definitions for the granting of frequencies were established in the Broadcasting and Television Law, approved in the midst of the military dictatorship in 1975 and amended twice in the 1990s. This law did not establish a public tender, and the granting of frequencies was handled hermetically within the only decision-making body, the National Council of Broadcasting (CONARTEL). This body was made up of representatives of the government, the armed forces, the chambers of commerce of private production entities and two of the country’s main private media associations, which were frequency licensees as well as being part of the regulatory body. This conflict of interests was one of the issues modified by the new Constitution of 2008, following which the

Ecuadorian Association of Broadcasting and Television (AER) and the Association of Television Channels of Ecuador (ACTVE) stopped being part of CONARTEL.

CONARTEL managed the frequencies on a discretionary and discriminatory basis, which mainly affected community and local communication proposals. This was denounced by the Audit Committee on Radio and Television Frequencies, created through a provision in the Constitutional Assembly, which in its report published in 2009 highlighted several irregularities in the mechanisms for granting frequencies: lack of clear procedures; lack of regulations; no defined timeline (applications that were archived or simply left unanswered); granting of frequencies on the basis of recommendations or political favors; and payments made for frequencies, which generated significant corruption.

For this reason, one of the main demands of the community-based communications organizations was to modify the regulatory body and establish a method that would allow access on equal terms and without discrimination; accompanied by an equitable distribution where community media organizations have guaranteed access to frequencies.

In 2013, in the new OCL and the new Telecommunications Law, several major changes were made: 1. CONARTEL was dissolved and several decision-making bodies were created for the management of frequencies

(Article 47); 2. An open and transparent public competition was established for the granting of concessions for private and community media; while for public media the allocation process is direct (Articles 108, 109 and 110); 3. Equal distribution of frequencies for community media was guaranteed: 33% private media; 33% public media; and 34% community media; 4. Limits were set for the concentration of frequencies (Articles 113 and 114).

The Public Competition which was initiated in 2015 and which is still in progress has made a difference, as it is the first time that the State has held a competition for frequency concessions in which community media can participate without discrimination, limitations of coverage and without the requirement of a special permit. In the previous Law, community media had to request the permission of the Armed Forces, and coverage and financing was limited; this meant that the few existing community media organizations preferred to obtain legality as private companies. As a result, in Ecuador, community radios represent only 1.8% of all radio stations compared to 81.03% private and 17.18% public stations.

Moreover, the importance of this competition is marked by the number of frequencies involved: 1472 radio and television frequencies, many of which are currently in the hands of private franchise holders whose licenses have expired.

This is one of the main points of the conflict: several private media companies are competing for frequencies of which they have been

concessionaires for more than 10 years. At the same time, several community media organizations are applying for such frequencies, and demanding that they be distributed in a more equitable manner as established by the Law to reach 34% for the community sector.

In order to allow access for community media organizations, affirmative action policies were established in the form of extra scores during the first (ARCOTEL) and second stages (CORDICOM) of the competition. This means that if a community media organization competes for a frequency that is currently held by a private station, it is more likely to obtain the license. And this is what worries the private concessionaires, who regard this contest as a threat to freedom of expression; while for community organizations it represents an opportunity to demand their own media platform, deemed necessary for the exercise of the right to communication.

This competition is not perfect and has various shortcomings that affect the process, especially with respect to expanding the participation of community media as follows: the difficulty of accessing requirements such as a technical study and funding; the limitation in the provision of information in indigenous languages, which meant that various indigenous radios could not compete; limited dissemination in provinces that aren't part of the central region; lack of understanding of what

community means, thus allowing church bodies to access the “Affirmative Action” policies, although they belong to the powerful groups among which frequencies have been most concentrated, among others. These indirect limitations meant that applications submitted by community media organizations that had no link to religious bodies were less than expected.

According to the list of applicants published by ARCOTEL, of the 271 frequencies requested as “community,” 145 were requested by church organizations (Catholic, Evangelical, Christian, etc.), more than 53%. This was only possible because the same Law of Communication allows religious organizations to be considered as community, something that CORDICOM should have regulated prior to the contest, but did not.

In spite of this situation, those of us who work in community media organizations believe that this competition represents a breakthrough in distribution policies and access to frequencies for the democratization of communication in Ecuador, and that its suspension or repeal would be a setback for the exercise of the Right to Communication.

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