

Topic B: Hugo Chavez television crisis at Venezuela

Committee: Organization of American States (OAS)

### **Background Information**

CARACAS, Venezuela (2007)

The Chavez government claims that it did not renew RCTV's broadcasting license in order to protect Venezuelan society from improper use of public airwaves. "This private company has taken advantage of and benefited from and enriched itself using something that is part of the national domain, something that belongs to all of us," Chavez said recently. "And so I have decided not to renew its broadcasting license."

Alexander Main, an advisor to the president, explained, "Deciding not to renew the broadcasting license of a media that has actively promoted anti-democratic actions designed to topple elected authorities isn't political retribution; it's simply acting in the public interest."

If that were true -- that protecting Venezuelan citizens by enforcing telecommunication law were the government's goal -- there would be a good case for sanctioning RCTV. In April of 2002 civilian and military leaders executed a short-lived coup d'etat against the Chavez government. Several of the men that own RCTV were aware that there was a coup underway, and they used the station as a weapon. On April 11, anchors encouraged citizens to take to the streets in protest, in order to amplify the appearance of popular support for Chavez's ouster. The following day, when the coup leader took office, the station congratulated the new government and hosted its spokespeople. On April 13, RCTV aired cartoons and *Pretty Woman* instead of broadcasting the massive pro-Chavez protests that helped restore him to power.

The government says that these actions violated various telecommunications laws as well as the Constitution, which guarantees citizens the right to uncensored information. Though no court has heard the case, the claim that RCTV broke Venezuelan law appears to be true.

But there are several reasons to think that there is more to the story than public-spirited enforcement of telecom regulations. First, three other television stations also supported the 2002 coup, and none of them has been sanctioned. One station, Venevisión, even supplied its offices as a meeting place for the coup leader and his associates. Venevisión's broadcasting license was renewed last week. This inconsistency makes sense only in light of political considerations: after the coup, Venevisión and Televén changed their editorial line; the other coup-supporting station, Globovisión, reaches only a small audience. RCTV, in contrast, has Venezuela's highest ratings, and has wielded considerable political power in

the past. In 1993, for example, RCTV coverage led to the impeachment of President Carlos Andrés Pérez, against whom Chávez had attempted a coup the year before. No doubt Chávez remembers this well and likely does not want RCTV around should public opinion turn against him.

Temir Porras, who began working in the Chávez government in 2001 and is currently an advisor to the minister of industry and commerce, has a similar view. "Of course there are political motivations, and I support that. A media outlet should not adopt one particular political line," he said in an interview. "Venevisión and Televen, for economic reasons, realizing that Chávez will be around for a long time, re-accommodated their political line after the coup. RCTV and Globovisión didn't. They forgot that their existence depends on Chávez. I am sure that when the Globovisión concession expires, Chávez will not renew it -- we can say that right now. Unless, of course, they try to moderate their tone, which would make them look rather ridiculous. Essentially, those that collaborate with the government project will be left in peace -- that can be said about media outlets as much as landowners or other actors."

Telecommunications Minister Jesse Chacón says that the government singled out RCTV because it has the highest quality bandwidth of any television station. That bandwidth, he says, rightfully belongs to the people, and therefore should be used for the government's new public-service station, TVes. But Venezuelan law says nothing about adjusting media behavior standards according to bandwidth quality. Furthermore, RCTV will not be broadcasting on another bandwidth; in fact, Venezuela's Supreme Court ruled that the government would take possession of RCTV's antenna and other infrastructure. Nineteen minutes after midnight on Monday, May 28, TVes used that infrastructure to begin its broadcast.

The government describes TVes as the "real face of the people, the face [RCTV] didn't let show." It plans to air five hours of user-created content per day, alongside cartoons, soap operas, movies, and 90 minutes of news programming. TVes includes no commercials except those advertising government programs. The station's first several news segments covered public gatherings supporting the establishment of the station, but did not mention rallies protesting the disappearance of RCTV. While Minister of Communication William Lara commented last month that the opposition would also be able to create programming for TVes', the Chávez-appointed president of the new channel, Lil Rodríguez, contradicted Lara in a press conference this week. "No no," she told a Brazilian journalist who asked whether the opposition would create content for TVes, "we will promote Venezuelan cultural diversity, not political diversity."

The government has also moved against Venezuela's largest remaining anti-government television station, Globovisión. The week before RCTV went off the air, Globovisión reran various clips of classic moments in RCTV coverage, including Neil Armstrong's moonwalk. One of the clips was of the assassination attempt on Pope John Paul II. Globovisión played this clip along with a Rubén Blades song called "Tengan Fé," which includes the lyrics, "This doesn't end here." On the basis of this broadcast, Communication Minister Lara brought suit against

Globovisión for inciting the assassination of Hugo Chavez. If found guilty, the host of the program that played the clip and one of the directors of the station could face 20 to 30 years in prison. In addition, the government recently reduced the duration of broadcasting licenses from 20 to five years. This means that those licenses which were renewed this year will expire during the presidential election of 2012.

Another indication that partisan political strategy (rather than impartial respect for the law) motivates the non-renewal decision is the government's neglect of due process. Venezuelan law states that the power to grant and renew broadcasting licenses rests with CONATEL, the equivalent of the U.S. Federal Communications Commission, except in the instance of grave threats to state security, when the president gains control over licensing decisions. Neither Chavez nor other government officials have argued that RCTV currently presents a grave threat to state security. Rather, Chavez and the minister of communication have asserted that RCTV violated a number of telecommunications laws as well as several articles of the Constitution. Violation of telecommunications law would place the penalty decision in the hands of CONATEL, and violation of the Constitution would place the decision in court. Nevertheless, Chavez made an executive decision in the case of RCTV. He announced the decision in a speech to the military in December, dressed in military uniform.

(The clause that empowers the executive to make licensing decisions in extreme situations is a legal anomaly that has no counterpart in U.S. telecom regulation; it is one of many such clauses in Venezuelan law, including an article that grants Chavez power to broadcast on all television and radio stations at any time, for any reason. He frequently makes use of this capacity.)

Perhaps the best way to understand why Chavez does what he does is to listen to him. Chavez spoke for two hours, recounting Venezuelan history, praising the accomplishments of his administration's first 140 days, and speculating about the meaning of the remaining five thousand (before 2021, the year until which Chavez promises to stay in power). He also issued a warning to Venezuela's private media:

"This time we were patient, and we tolerated the station for a while, waiting until the license expired. But no one should think it will always be like that," he said. "A license can end even ahead of the established time. A license can end, according to the law, for violations to the Constitution, for media terrorism, etc ... If the Venezuelan bourgeoisie keeps broadcasting against the Bolivarian people, it will keep losing its outlets, one by one." The crowd cheered and blew shrill whistles.

## **Current Situation**

### ***Venezuela Application of Media Social Responsibility Law to Cable Channels***

The objective of the proposed LSR is to define and “establish the social responsibility of radio and television service providers, related parties, national independent producers, and users in the process of broadcasting and reception of messages, promoting a democratic equilibrium between their duties, rights, and interests, with the goal of seeking social justice and contributing to citizenship formation, democracy, peace, human rights, education, culture, public health, and the social and economic development of the Nation, in conformity with constitutional norms and principles, legislation for the holistic protection of boys, girls, and adolescents, education, social security, free competition, and the Organic Telecommunications Law.”

Specifically, the LSR’s guarantees:

- • Judicial mechanisms for families and the population as a whole to adequately develop the role and social responsibility asked from them as an audience.
- • Respect for freedom of expression and interpretation, without censorship.
- • Effective exercise and respect for human rights.
- • An increase in social and cultural information and material geared to children and adolescents that could lead the progressive and comprehensive development of their personality, aptitudes, mental and physical capacity, tolerance for others, and social conscience.
- • The encouragement of domestic and domestic independent productions.
- • Balance between the duties, rights, and interests of people, radio and television service providers, and related parties.
- • Dissemination of Venezuelan cultural values.
- • Needs of hearing-impaired individuals.
- • Promotion of an active participation of the citizenry.

#### Application and Interpretation Principles

The LSR is based on the following principles for implementation and interpretation purposes: “freedom to express ideas, opinions, and thoughts, free and plural communication, the prohibition of prior censorship, responsibility, democratization, participation, social responsibility, social solidarity, sovereignty, national security, free competition, and the radio-electric spectrum as a public domain.”

#### Types of Programs

The LSR permits the transmission of five types of programs: 1) educational and cultural, geared toward comprehensive training that will allow viewers to exercise their rights as citizens and participate in society and with the State; 2) informational, focused on disseminating information of a local, regional, national, and international nature in an impartial, true, and opportune way; 3) opinion pieces; 4) recreational, and; 5) mixed, combining any of the aforementioned categories. Program categories will be announced by using a 1-to-5-numeration system.

Rating System & Restrictions

Program categories will be based on language, health, sex, and violence. A rating system ranging from A to E, with A being the mildest, will be set to monitor programming and inform viewers of the type of program being transmitted. Article 7 allows that violence be broadcast if it is indispensable for the comprehension of the information, it is used to protect the physical integrity of individuals, or it arises without forewarning. As such, news broadcasts will not be forbidden from airing scenes depicting violence as some critics have claimed.

Table B on page 8 summarizes these categories.

Table shows the presentation time blocks that determine television and radio broadcast content.

Table A – Presentation Blocks

<b>Block</b>	<b>Time</b>	<b>User</b>	<b>Categories Not Allowed for Transmission</b>
All-Users	7 a.m. to 7 p.m.	Children <b>with out</b> parental supervision	B (Language, Health, Sex) C, D, E
Supervised	5 a.m. to 7 a.m. and 7 p.m. to 11 p.m.	Children <b>with</b> parental supervision	C (Language) D (Sex, Health) E (Sex, Violence)
Adult	11 p.m. to 5 a.m.	Adults, <b>older</b> than <b>18</b> yrs.	E (Sex)

Advertisement & Related Restrictions

Advertisements may not exceed 15 minutes for every 60 minutes of broadcast; this time may be divided into a maximum of 5 sections during the 60 minutes, unless the format of the program requires a different interruption pattern.

Advertisements via insertion on the screen are only allowed for sporting or artistic events. These shall not exceed 5 minutes for every 60 minutes of diffusion and may not occupy more than 1/6 of the screen.

Advertisements of the following is not permitted: tobacco; alcoholic beverages; illegal drugs; professional services for individuals that do not obey with conditions or requisites established by the law; illegal goods, services, or activities; gambling; goods, services, or activities directed towards children and adolescents that use or contain violence, and; weapons, among others.

#### State's Access to Free and Obligatory Spaces

The government has limited access to the airwaves for announcements of national significance. These spaces shall not exceed 60 weekly minutes or 15 daily minutes. The organization in charge of communications and information will determine the time and frequency of these spaces, granting users 10 minutes out of the 60 weekly minutes as a guarantee of access to service providers.

#### Paid Subscription Services

Cable companies that charge a fee for their service must offer, free of charge, access to open television channels as long as these do not exceed 15 percent of the total channels offered to the user. Also, cable providers must incorporate State television channels into its service and correctly block channels that broadcast programs with an E sexual content.

#### On Democratization and Participation

This article (No. 12) allows users to organize legally to ensure the following rights:

- • The ability to receive program information prior to their transmission.
- • Responses from service providers within 15 days of the filing of a complaint.
- • Promotion and defense of their communication rights and interests.
- • Access to public records for messages disseminated by service providers.
- • Participation in the process of formulation, execution, and evaluation of programs geared toward critical education.
- • Participation in non-binding public consultations for the elaboration of this law's technical regulations.
- • Solicitation of financing for critical education projects, as well as for the promotion and defense of users' rights and interests.
- • Access to free airtime as specified by the law.
- • Promotion of dialogue and exchange between service providers, users, and the State.
- •

Organizations seeking such goals should be non-profit; have a membership of at least 20 individuals; its members must not have conflict of interests with service providers, and; members' properties or access to resources will not contribute to influence or inhibit their participation in the promotion and defense of the aforementioned rights.

Service providers must transmit a daily minimum of 3 hours of educational, informational, and/or opinion pieces geared towards children and adolescents.

Furthermore, these service providers must broadcast a daily minimum of 7 hours of programs produced domestically during the All-User Block. A minimum of 4 hours of this daily minimum must come from domestic independent producers. During the Supervised Block, broadcasting requirements are of a minimum of 3 hours of programs and advertisements produced domestically, 1.5 hours of these being domestic independent productions. Under no circumstances may a domestic independent producer occupy more than 20 percent of a service provider's daily domestic independent production requirement. 100 percent of advertisements must be produced domestically, unless specified by international treaties between Venezuela and other countries. 85 percent of advertisements aired by service providers must be domestically produced. Rebroadcasts may not exceed 30 percent of weekly transmission.

#### Television Programming Commission

In an effort to guarantee the democratization of the airwaves, the Law creates a Television Programming Commission and a Radio Programming Commission that will establish the mechanisms and conditions by which airtime is assigned to domestic independent producers. These Commissions will consist of a representative each from the ministry in charge of information and communication, the service providers, the domestic independent producers, and the users organizations.

#### On Democratization and Participation for Community Service Providers

Public and community non-profit channels must allocate a minimum of 70 percent of its daily transmission to community productions. The same community or independent producer may not hold more than 20 percent of the service provider's daily transmissions. Community production generated by a community operator may not hold more than 15 percent of its daily transmissions.

#### On Democratization and Participation for Cable Companies

Cable companies that charge a fee for their service will provide the State with a channel for educational and journalistic programs by national independent producers.

All television service providers are obligated to: 1) publish on a monthly basis printed program guides that indicate the name, type, time, and date of transmission, and; 2) announce prior to every transmission the name of, type, and warnings regarding the program.

#### Social Responsibility Directorate, Council, and Fund

The LSR proposes the creation of a Directorate and Council of Social Responsibility.

The Directorate will detail management duties as defined by CONATEL's General Director, a representative each from the Ministries of Information and Communication, Education and Culture, and Health, and a representative each

from the National Women's Institute, the National Council for Children and Adolescent Rights, the religious sector, academia, and NGOs dealing with the protection of children and adolescents, and two representatives from the user organizations. The latter four representatives will be selected in an assembly convoked by CONATEL. The Directorate's duties will be to: 1) discuss and approve technical norms derived from the law; 2) establish and impose sanctions not assigned to CONATEL's Director or the Ministry of Telecommunications, and; 3) manage and effectuate all necessary actions to guarantee adherence to the Social Responsibility Fund and approve funds for more expensive projects.

The Council will consist of a representative of each the Ministries of Information and Communication, Education and Culture, and Health, and representatives from the National Women's Institute, the National Council for Children and Adolescent Rights, the religious sector, academia, the users, indigenous communities, NGOs dealing with the protection of children and adolescents, television and radio service providers, announcers, television and radio workers, youth councils, and NGOs dealing with culture, among others. This multi-sector Council will serve as a consultant for matters concerning the Directorate.

The Social Responsibility Fund will contribute to the principles of democratization, plurality, and social responsibility in television and radio by ensuring the resources to support, develop, and promote domestic production, training domestic producers, developing critical education for the media, and conducting research related to the broadcasting of messages in the country.

It will be financed by contributions from radio and television providers for the development of diffusion activities within the country. More specifically, service providers will contribute 2 percent of yearly revenues to the Fund. Service providers will receive a 25 percent discount when transmissions by domestic independent producers are greater than 50 percent of daily transmissions and a 25 percent penalty when program retransmissions, advertisements, and publicity campaigns exceed 20 percent of daily transmissions. Donations and interest payments from amassed contributions will also aid the Fund.

### Penalties

Penalties vary from denial of spaces for broadcasts to suspension and revocation of license. Here are highlighted some of these penalties.

#### *Denial of Spaces for Cultural or Educational Broadcasts*

- · Failure to identify program sources during the broadcasts.
- · Transmission of inappropriate C-category language, health, sex, and violence elements under the supervised block.
- · Disobeys time limitations imposed on advertisements as stipulated under Art. 8.
- · Failure to turn in to CONATEL copies of the recordings and broadcasts as required by Art. 23.

*Fine Consisting of 0.5 to 2 Percent of Service Providers' Previous Fiscal Period's Revenues*

- · Non-compliance with obligation to offer free and obligatory spaces to the State as specified in the law.
- · Transmitting programs with a sexual content of category E.
- · Transmitting propaganda or advertisements against what is decreed under Art. 16.
- · Failure to broadcast programs developed by national and national-independent producers as specified in the law.
- · Not submitting information required by the National Telecommunications Commission as specified by the law.
- · Failure to comply with requirements on the broadcasting of domestic, domestic independent, and community-based productions.
- · Not granting free spaces to the Executive Branch's entity in charge of communication and information.
- · Transmitting messages that illegally promote, make an apology of, or incite disobeying the current judicial ordination.
- · Transmitting messages that impede the actions of citizen security organisms and the judicial branch that are necessary to guarantee the right to life, health, and individuals' personal integrity.

*Suspension and Revocation*

- · Suspension of license for up to 72 continuous hours when messages transmitted: 1) incite war, changes to public order, and crime; 2) are against National Security, or; 3) are anonymous. Suspension will also occur when the service provider receives 2 penalties amounting to 30,000 units each during a 3-year time period.
- · Revocation of license for up to 5 years when a penalty is repeated following suspension and within 5 years of the first penalty.

The law provides a mechanism for service providers to appeal their case either in person or by writing. (Art. 31-35). A clear and fair process is in place to handle such issues. The following steps are in place: 1) oral or written complaint; 2) submittal of evidence against penalization; 3) investigation by CONATEL; 4) the Directorate will have between 30 and 45 days to reach a verdict, and; 5) depending on the outcome, the possibility to submit decision to the country's courts.

***Venezuela's Law vs. Other Countries***

The international laws used as the basis for the development of the LSR contain several elements that were also adopted by Venezuelan legislators. These elements include the protection of personal privacy; the promotion of national television and cinematography production; a regulatory agency conformed by a wide array of sectors; strict guidelines concerning advertisement; clearly outlined program categorization; special broadcasts geared towards minors; the protection of minors from vulgarity, sexuality, and other gross content; means by which the citizenry may participate in the regulation of television and radio broadcasts, and; the establishment of broadcasting blocks for all, supervised, and adult audiences.

## ***Venezuela New Restrictions on Cable TV***

President Hugo Chavez's government is imposing new regulations on cable television while revoking the broadcast licenses of more than 200 radio stations, the top telecommunications official said Thursday.

The new regulations will soon require cable television companies that use largely locally produced content to comply with Venezuelan laws for broadcasters, said the official, Diosdado Cabello, who heads the telecommunications agency.

Critics of Mr. Chavez's socialist government say the new rules are part of a drive to silence criticism of its policies.

Mr. Cabello, who is also the public works minister, said in a speech to the National Assembly that "the revolution hasn't touched this sector at all, and the time has come for us to get a handle" on it.

He said that cable channels with at least 30 percent of their content produced abroad would be exempt, but that other channels using primarily Venezuelan-produced programming would need to comply. Venezuela's strict broadcast laws include a measure requiring all broadcasters to carry Mr. Chavez's speeches when he says so.

Mr. Cabello said the new rules would start on Friday.

The changes will affect Venezuelan-produced cable channels like Radio Caracas Televisión, or RCTV, a frequent critic of the government's policies, which moved to cable and satellite in 2007 after Mr. Chavez refused to renew its broadcast license.

The new regulations come amid tensions over the government's previous announcement that it will revoke the licenses of 240 radio stations, and over investigations into an opposition-aligned television station, Globovisión, that could lead to its closing.

## ***Venezuela Channels taken off-air***

**The Venezuelan government has taken six cable television channels off the air for breaking a law on transmitting government material.**

The privately owned RCTV International, openly opposed to President Hugo Chavez, is one of those affected.

On Saturday the government had ordered RCTV to televise a government message, but the channel refused to comply.

The communications director for RCTV, Gladys Zapain, told AFP there was "no prior notification" of the move.

Last week RCTV, along with 23 other cable channels, was redefined by the government as a national, rather than international broadcaster.

As such, the channels would now be expected to carry presidential addresses and government campaign material in what is an election year in Venezuela.

The government had urged cable services to drop channels ignoring the rules.

"They must comply with the law, and they cannot have a single channel that violates Venezuelan law as part of their programming," said the director of Venezuela's state-run telecommunications agency, Diosdado Cabello.

When the first opportunity to televise a government message was rejected by RCTV, it was ordered off air within a day.

The BBC's Will Grant in Caracas says there was only going to be one winner in such a battle of wills.

He says it is thought that the move is temporary at this stage, but that the government is unlikely to permit RCTV to broadcast again until the media group agrees to comply with the new law.

Opposition groups accuse Mr Chavez of trying to control the media and prevent coverage of political discontent.

RCTV moved to cable in 2007 after the Venezuelan government of Mr Chavez refused to renew its terrestrial license.

Mr Chavez has in the past accused it of backing a coup attempt against him.

**Key Links**

<http://edition.cnn.com/2010/WORLD/americas/01/24/venezuela.station.dropped/index.html>

<http://www.venezuelanalysis.com/news/5095>

<http://www.nytimes.com/2009/07/10/world/americas/10venezuela.html>

<http://www.rethinkvenezuela.com/downloads/medialaw.htm>

<http://news.bbc.co.uk/2/hi/8477428.stm>

[http://www.prospect.org/cs/articles?article=hugo\\_chavezs\\_television\\_crisis](http://www.prospect.org/cs/articles?article=hugo_chavezs_television_crisis)

### ***Venezuelan Newspapers***

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- [Abril](#)
- [Analítica](#)
- [Aporrea](#)
- [Business News Americas](#)
- [Correo del Caroni](#)
- [The Daily Journal \[In English\]](#)
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- [Economía Hoy \(Caracas\)](#)
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- [El Sol De Margarita \(Isla Margarita\)](#)
- [El Tiempo \(Anzoategui\)](#)
- [El Universal \(Caracas\)](#)
- [El Venezolano](#)
- [Espacio Autogestionario](#)
- [Globovision \(Caracas\)](#)
- [Informe](#)
- [La Cadena Global](#)
- [La Hora \(Isla Margarita\)](#)

- [La Mañana](#) (Coro Edo)
- [La Verdad](#) (Maracaibo)
- [La Voz](#) (Miranda)
- [Las Verdades de Miguel](#) (Caracas)
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