

*Sixth Inter-American Electoral Training Seminar*

# **GUARANTEES OF FREE ACCESS AND OTHER REGULATIONS ON MEDIA ACCESS AND USE**

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**Septembre 10, Mexico City**



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# 1. APPROACH TO THE PROBLEM

- In spite of the advances made in regulation and control of finance, the actual volume of the resources that flow through the parties and what actually is spent during political campaigns is still unclear (the investment is usually only profitable to winners).
- The reported information isn't always verified, often it doesn't reach the public and if it does, it usually doesn't resist the assessments that are possible to make and ends up being viewed with skepticism.



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Nevertheless, there is sufficient evidence to assert that:

- The cost of campaigns is rising
- The funds spent on publicity in the media is usually the main source of spending and the main catalyst for this rise



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- The Electronic media (the conventional forms and the new ones) has acquired a tremendous influence on how we relate to and act in our vital surroundings, but also on how we view and understand the world (homo videns).
- Government, party and campaign strategies do not subtract themselves from this tendency. On the contrary, the strategies have mutated their formats and contents to adapt to these requirements and capitalize their benefits as much as possible.



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It is unlikely for a serious candidate not to have a media strategy and not to dedicate an important amount of time exploring the best possibilities of media exposure available to him.

This logic increases and acquires a bigger relevance in a context in which the electoral competitiveness is intense and in which the dispute for the votes is mainly sustained on new premises and strategies.



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Highly personalized campaigns, in which:

- It is key for the candidate to be recognizable (popular) and to stand out favorably among his opponents (negative campaigns)...

Therefore:

- The presence and media projections are essential and the disposition of resources can be decisive...



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There is no conclusive information regarding the correlation between media exposure and the expectations to win (and it is possible that the role of the media is overrated), but it is a predominant perception.

In any case, it presents us with two big issues:

- The regulation and control of finance
- The rules regarding media access and use



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## 2. LAS MODALIDADES DE REGULACIÓN

These issues are commonly guided by two big principles or objectives that, although often interrelated, are convenient to differentiate:

- The ones associated with control imperatives and expenditure accountability
- The ones regarding guarantees and conditions of equity during the competition.



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Regulations that have been implemented in the region:

- Guarantee of free access
- Limits to the periods of publicity transmission
- Limits to the daily purchase of publicity
- Obligation of the media to register and/or inform about their rates
- Guidelines for the treatment of information in the news
- Monitoring of the informative coverage in the media
- Participation of candidates in journalists or entertainment programs



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### 3. MEDIA DENSITY OF THE CAMPAIGNS: A MULTIDIMENSIONAL MATTER

The possibilities or media exposure windows are multiple:

- Direct publicity spaces (promotions or spots)
- Mediated propaganda spaces (interviews, debates)
- Informative spaces (news, infomercials)
- Editorial spaces (opinion or analysis programs)
- Entertainment spaces (variety, reality shows)
- Integrated publicity (insertion of dialogue or images in series or programs)
- Indirect publicity (shots of static publicity)



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## 4. GUARANTEES OF FREE ACCESS

In 15 Latin American countries and in two Caribbean countries the law contemplates formal guarantees of free radio and television access.

Elements to evaluate their effectiveness and outlooks:

- Temporality (permanent or only during campaigns?)
- Types of media (public and/or private?)
- Characteristics of the times and spaces distributed (periodically? Integrated or segmented?)
- Distribution criteria (equally or proportional?)



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It is also important to consider:

- If it is the only way to transmit publicity on radio and television, or if it is possible to combine with paid publicity
- If the paid publicity has restrictions and of what type these would be (time restrictions or amount of publicity?)
- The more regulations apply, the more difficult it gets to verify the compliance to them.



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## 5. THE IMPACT OF OTHER REGULATIONS

- In five countries it is forbidden to hire publicity: Argentina, Brazil, Chile\*, Ecuador and Mexico
- In other five transmission time is limited: Bolivia, Colombia, Paraguay, Peru and Uruguay
- In eight the daily amount of publicity is limited: the previous five plus Guatemala, Nicaragua and Venezuela
- In seven the media is obliged to register and/or inform about their rates.



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## 6. THE INSTRUMENTS OF CONTROL

The advantage is that the transmission of publicity usually leaves traces or clues that allow supervision and control functions.

To execute them attribution, determination and resources are required, since there are some artifacts of which one can make use.

Noticeably monitoring, the contenders and medias obligation to present periodic reports and to compare of information



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## 7. SANCTIONS

The regulations aren't of much use if the authorities don't have the attributions, capabilities or resources to oversee their compliance, investigate irregularities and, if such is the case, to sanction transgressions.

The capacity to identify them can vary noticeably from one situation (norm) to the other.

Once again, the advantage lies in the fact that a big part of these transgressions in this area are visible and can be documented



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Even though the regulatory field is heterogeneous, the law in 11 of the regions countries contemplates explicit sanctions to transgressions in this matter.

The repertoire of sanctions is varied, but the main ones are pecuniary. Their dissuasive effect is questionable, since they are the ones that mostly activate cost-benefit calculations.

The mechanisms to impose sanctions are not very agile or effective.



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