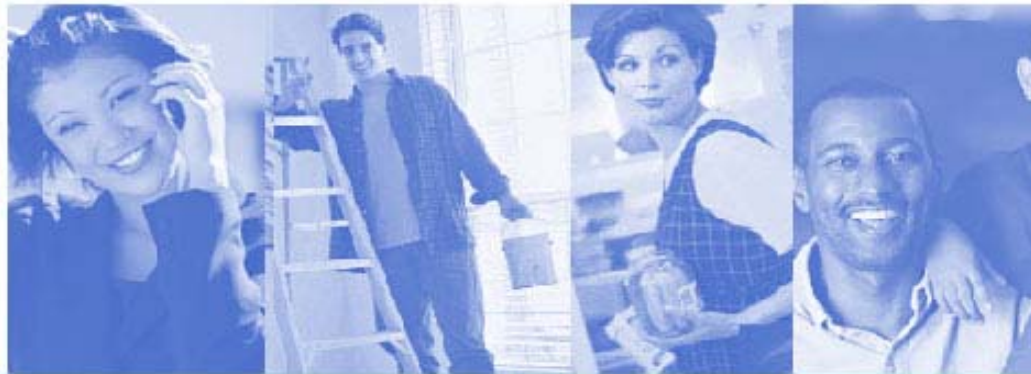




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• Nobody's Unpredictable



Final Paper submitted to:

Professor Elia Zureik
Department of Sociology
Queen's University

A Brief Description of Privacy Issues in Mexico

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A BRIEF DESCRIPTION OF PRIVACY ISSUES IN MEXICO

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A BRIEF DESCRIPTION OF PRIVACY ISSUES IN MEXICO

PUBLIC OPINION POLLS ON PRIVACY

Public opinion polls dealing with privacy related to the electronic flow and storage of personal data using information technologies appear to be practically inexistent. Furthermore, it is not inappropriate to assert that public awareness concerning privacy is very low. The only serious discussion of privacy issues seems to be taking place in the legal arena, that is to say, privacy as a legal concept and a right. Most of the documents on this subject take their sources from privacy groups that exist throughout the world, mainly the United States.

The reasons why privacy issues are not yet being fully addressed in Mexico are manifold and varied:

Because true democracy is relatively recent,¹ Mexico is facing other, more pressing, political and social problems, which involve larger percentages of the population. For instance, Mexican society—including the media, which commissions many of the public opinion surveys that are made available to the public—seems much more concerned about gauging the public's perception of how elected officials are performing and in determining the popularity of the possible presidential candidates for the elections to be held in 2006; that is, two years before election time.

Also, as part of the attempts being made to consolidate democracy, social groups are championing the issue of freedom of information as a basic element in achieving participatory governance. In Mexico, decision-makers have long operated behind closed doors, and access to both government and corporate information has been extremely limited. For years, citizens and activists have been insisting on greater transparency and the unlocking of official records, company data, and

¹ Before Vicente Fox was elected into office in 1999, Mexico had been ruled by the same political party [PRI] for over 70 years.

government archives.² Yet, decades past before public opinion and the change of the ruling party summoned enough force to publicly discuss the right of civilians to this type of information.

It appears that the battle for greater transparency and the Right-to-Know, especially with regards to government actions, is at odds with the notion of protecting privacy. In recent years, for instance, there have been several political and privacy scandals, which could have raised some red flags concerning the issue: telephone lines intervened without (the Mexican equivalent of) a court order; images of politicians asking for and taking bribes, surreptitious recordings of conversations between politicians, and, above all, the sale of the databases of the «*padrón electoral*», —the widest and most accurate government listing of Mexican adults, which contains names, addresses, zip codes, birth dates, etc.— to Choice Point. More recently, the Mexican Senators approved a bill by which the Mexican equivalent of the IRS would provide listings of defaulting taxpayers to be included in the Credit Bureau. This bill is now under discussion in the Lower House and it seems that it will not pass there. Even though some of these scandals have created quite a buzz, surprisingly, none of them has spurred any significant debate about privacy. What is even more noteworthy is the fact that several of these instances have been perceived as the logical consequence of enjoying greater freedom of expression and freedom of the press.

With regards to freedom of information and the Right-to-Know, Mexico is gradually moving forward. After having been put on the back burner for some time, together with other campaign promises made by Vicente Fox, Mexico's president, in June of 2003, the *Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental* [LFTAIPG] —Federal Law on Transparency and Access to Governmental Information— was finally enacted. Quite paradoxically, this new law —besides ensuring public access to governmental records and files— is, also, the only law that contains some principles regarding the protection of personal data, and the federal agency [*Instituto Federal de Acceso a la Información Pública* — IFAIP] in charge of implementing the LFTAIPG, at least for the time being, appears destined to become the authorized agency regarding the protection of personal data. The LFTAIPG contains a definition of «personal data» and of «personal

² Nauman, Talli. «Mexico's Right-to-Know Movement». *Citizen Action in the Americas*, No. 4. September, 2004. Available at: <http://www.americaspolicy.org/citizen-action/series/04-rtk.html>

data systems» in its third article. Personal data—that is, any information regarding an individual’s ethnic or racial origin, his or her physical, emotional or moral traits, his or her address, telephone, property, political ideology or religious beliefs, as well as any other information relative to his or her physical or mental condition, his or her sexual preferences and any other that might affect his or her intimacy— is confidential and, therefore, cannot be revealed without due cause. Furthermore, articles 20 to 26 in Section I, Chapter IV, of this law deal with the «Protection of Personal Data» by governmental authorities that gather this type of information.

The main contribution of the LFTAIPG has been the standardization of the principles that regulate the handling of citizens’ personal data by different organs of State, safeguarding the principles of consent and purpose and guaranteeing the rights of access and rectification of personal information. According to Article 33 of the LFTAIPG, the IFAIP must prepare and handle the applications forms that provide individuals with access to and rectification of their personal data. This federal agency is also in charge of establishing the general policies and guidelines related to the handling, maintenance, security and protection of all personal data in possession of governmental entities and offices.

The IFAIP even had an office dedicated exclusively to personal data: the *Dirección General de Datos Personales* [DGDP] —General Directorship for Personal Data—. However, in its first annual report [2003-2004], the IFAIP informed that it was unable to guarantee adequate protection of personal data and —citing reasons of «budgetary efficiency»— proceeded to close the DGDP that had been originally established in accordance with its internal rules.³

Currently, there are no civil organizations specializing exclusively in the procurement and protection of privacy rights. Again, in a slightly paradoxical fashion, the groups dedicated to the advocacy of transparency and the Right-to-Know have partly undertaken these issues. Such groups include: *Libertad de Información México* or LIMAC [Freedom of Information Mexico]; *Fundación Información y Democracia* or FIDAC [Foundation Information and Democracy]; *Proyecto Atlatl*; the

³ Luna Pla, Issa. «Desatención a datos personales por falta de presupuesto». *El Economista*, September 20, 2004. Available at: <http://atlatl.com.mx/articulo.php?a=37847>



Universidad Nacional Autónoma de México [UNAM] through the Instituto de Investigaciones Jurídicas [Law Research Institute] and the Facultad de Derecho [Law School], and the Centro de Investigación y Docencia Económica or CIDE [Economic Research and Teaching Center], and the Programa Iberoamericano de Derecho de la Información [Latin American Program for the Right to Information] of the Universidad Iberoamericana [UIA], among others.

LEGISLATION OF PRIVACY ISSUES

It appears that when it comes to the legislation of privacy issues, Mexico is not only well behind developed countries such as the United States and Canada or the European Union, but also quite a distance from other Hispanic countries, such as Chile, Argentina and Brazil, to say nothing of Spain.

All these countries have enacted federal laws to protect privacy. Even though Mexico does offer some legal protection in this regard and is better off than other Latin American countries, apparently only amendments have been made to secondary laws in order to make the protection of personal information more comprehensive, especially in terms of electronic data flow and processing.

The reason why Mexico has fallen behind other Latin American countries can be attributed to two causes:

[1] Vicinity

Before the advent of electronic data flow and the actual immediacy of virtual information, almost all technological or industrial goods developed in the United States reached Mexico first and then slowly trickled down into the rest of Latin America, thus placing Mexico in a most advantageous position compared to its Latin American counterparts. With the innovation in information technologies, other Latin American countries have rushed to grasp the new tools to bridge over the geographical difficulties, while Mexico has adopted a much slower approach.

[2] Recent History

While most of Latin American countries had to evolve from military dictatorships to democracies, Mexico took a shorter step, from a seeming democracy —ruled by a single political party for more than 70 years— to a real democracy. The former evolution proved to be easier since most such

countries had to create a new Constitution,⁴ whereas Mexico has been trying to enforce its own Constitution, which was issued in 1917, right after an unfinished Revolution in which the primary goal was to establish a viable State to end the hostilities. During the repressive military dictatorships, other Latin American countries suffered overt violations to their human and basic civilian rights, so when given the chance to generate a new Constitution, they paid lots of attention to ensuring that no further abuses could be made to their newly acquired civilian rights. This means, for example, that in some of the former dictatorships, such as Argentina, the use of identity codes that facilitate the identification of a certain individual based on his / her traits and characteristics is now forbidden by the Constitution. Also, in a landmark case in Argentina, an important ruling from the Supreme Court stated that the Habeas Data right applied implicitly to the families of the deceased. This opened the door to families of the “disappeared”, the victims of the military regime, to request access to police and military files, otherwise closed to them.⁵

In brief, the new Latin American democracies base their constitutions on the concept of civilian laws; meanwhile, the Mexican Constitution is still based upon the concept of State. This means that emergent democracies are better suited for technological change than Mexico, which still has to solve the matter of public information.

⁴ *i.e.*, Brazil in 1988, Paraguay in 1992 and Peru in 1993. These three countries, together with Argentina, Ecuador and Colombia, have incorporated the *Habeas Data* individual complaint in their constitutions.

⁵ Guadamuz, Andres. “*Habeas Data*: The Latin American Response to Data Protection”. *The Journal of Information, Law & Technology*. Available at: <http://elj.warwick.ac.uk/jilt/00-2/guadamuz.html>

LEGAL FRAMEWORK

The Mexican Constitution

The Mexican Constitution guarantees the right to privacy in articles 7 and 16. Even though article seven refers specifically to freedom of expression, it also stipulates that this individual guarantee shall not exceed the boundaries posed by the «respect for private life, morality and public peace». Article 16 of the Constitution, in its first paragraph, protects any individual, his or her family, documents and possessions from being intruded upon except when so mandated—in writing—by the competent authority after having demonstrated probable cause. Through a constitutional reform, which was published in the Federation’s Official Diary on July 3, 1996, two paragraphs—IX and X—were added to this article in order to ensure the inviolability of private communications. The tenth paragraph of this article guarantees the right to private correspondence. Under this addition, for instance, any information obtained through illegal means—*i.e.*, without a search warrant issued by a competent authority—cannot be introduced as evidence in a trial and it also establishes the privileged nature of communications between a defendant and his or her attorney.

However, the protection awarded by Article 16 of the Constitution does not explicitly contemplate personal or private data, much less does it address more modern concepts, such as the «right to informational self-determination», as it has been denominated by German jurisprudence, or «cybernetic freedom», as it has been denominated in Spanish jurisprudence.⁶

International Treaties

Based on recent decisions arrived at by the Nation’s Supreme Court, International Treaties are hierarchically inferior to the Constitution, but have precedence over federal laws. Even though this is fully applicable in the case of Human Rights, it is not necessarily so in regards to other areas, such as fiscal matters. Nonetheless, Mexico has subscribed to and ratified the following international conventions related to fundamental rights of privacy: Universal Declaration of Human

⁶ Aveleyra, Antonio. «El derecho de acceso a la información pública *versus* el derecho de libertad informática». Available at: <http://profesor.sis.uia.mx/aveleyra/comunica/privacidad/pdp.htm>

Rights (1948) article 12; articles 5, 9 and 18 of the American Declaration of Mankind's Rights and Obligations (1948); the International Pact of Civil and Political Rights (1966) article 17; the American Convention of Human Rights or Pact of San José, Costa Rica (1969) article 11; and the Convention on Children's Rights (1989) article 16. Also, the International Telecommunications' Agreement (Nairobi, 1982) articles 18, 22 and 27, which has currently been substituted by the Constitution and Agreement of the International Telecommunications Union, Nice, France, June 30, 1989, ratified by Mexico on April 26, 1991. More recently, Mexico has adhered to the dispositions on secret language adopted by the International Telecommunications Union ("ITU"), according to which messages written in secret language can be admitted in all the countries, except when the Secretary General of the ITU notifies against it, although they would always to be accepted in traffic. The above-mentioned resolutions are important, because cryptographic language is linked—in the most recent international dispositions and in comparative jurisprudence—to issues of national security issues, the fight against terrorism and military secrets.

International privacy-related obligations

Mexico has subscribed to two international conventions regarding the protection of personal data, which compel the country to legislate and implement administrative measures: the Guidelines on the Protection of Privacy and Trans-border Flows of Personal Data issued by the Organization for Economic Cooperation and Development [OECD] on October 1, 1980 and the General Resolution 44/132, session 44, issued by the Assembly of the United Nations, [UN Document A/44/49, 1989]. Both sets of guidelines, OECD and UN, will have significant impact on the public policies of the law and in the new legislative and administrative dispositions that Mexico has been working to implement.

▶▶ OECD Guidelines

In the American continent, besides the United States (1960) and Canada (1961), only Mexico belongs to the OECD, as of May 18, 1994. The OECD privacy protection guidelines are composed

by eight basic principles that can be built into existing national legislation, or serve as a basis for legislation in those countries which do not yet have it. The principles are: ⁷

1. Collection Limitation Principle
2. Data quality principle
3. Purpose specification
4. Use limitation principle
5. Security safeguards principle
6. Openness principle
7. Individual participation principle
8. Accountability principle

▶▶ United Nations Guidelines

On December 14, 1990, the United Nations' General Assembly adopted Resolution 45/95, which introduces the guidelines for the regulation of computerized personal data files (Document E/CN.4/1990/72) based on the following principles:⁸

1. Principle of lawfulness and fairness
2. Principle of accuracy
3. Principle of the purpose-specification
4. Principle of interested-person access
5. Principle of non-discrimination
6. Power to make exceptions
7. Principle of security
8. Supervision and sanctions
9. Trans-border data flows
10. Field of application

On October 21, 1996, during the 53rd session of the Commission on Human Rights of the UN's Economic and Social Council, Mexico submitted a report regarding the implementation of these guidelines.⁹

⁷ «Guidelines on the Protection of Privacy and Transborder Flows of Personal Data». Available at: <http://www.oecd.org/dsti/sti/it/secur/prod/PRIV-EN.HTM>

⁸ «Guidelines for the Regulation of Computerized Personal Data Files». Available at: <http://www.unhcr.ch/html/menu3/b/71.htm>

⁹ U.N. Economic and Social Council. «Question of the follow-up to the guidelines for the regulation of computerized personal data files: report of the Secretary-General prepared pursuant to Commission

Secondary Laws

In Mexico, at least 22 secondary federal laws make reference to rights pertaining to privacy. However, of these, only the LFTAIPG addresses the issue more adequately and comprehensively. Quite a few of these secondary laws have been amended partially to protect personal data.

Secondary Law	Articles
▶▶ Publishing / Printing Law	1, 2, 9
▶▶ Federal Radio & Television Law	4, 6, 58, 66
▶▶ Law on Professions	36
▶▶ Penal Code	210, 350-363
▶▶ Commercial Code	42 - 44
▶▶ Penal Procedures' Code	192
▶▶ Civil Code	1916, 1916 bis
▶▶ Federal Law on Authors' Rights	107 - 110
▶▶ Law on Statistical and Geographical Data	
▶▶ Federal Telecommunications' Law	49
▶▶ Federal Law against Organized Crime	16 - 28
▶▶ Credit Institutions' Law	117 - 118
▶▶ Regulating Law for Financial Organizations	33A – 33B
▶▶ Regulating Law for Credit Information Societies	5, 25, 38, 50, 51-56
▶▶ Federal Law on Civil Servants' Responsibilities	47IV
▶▶ Population Law	98, 103-111, 91
▶▶ Organic Law of the Federal Public Administration	
▶▶ Organic Law of the Attorney General's Office	
▶▶ Federation's Fiscal Code	69
▶▶ Federal Consumer Protection Law	76 bis
▶▶ Federal Labor Law	544
▶▶ Federal Law on Transparency and Access to Governmental Information	3, 13, 14, 20-27, 37, 43, 45

In May of 2000, several reforms were made to the Federal Civil Code, the Commercial Code, the Federal Code on Civil Procedures and the Federal Consumer Protection Law in order to make

decision 1995/114». Report available online at:
<http://www.hri.ca/forthecord1997/documentation/commission/e-cn4-1997-67.htm#II>

electronic contracts legally valid and binding. These reforms are based on the model law issued by the UNCITRAL [United Nations Commission on International Trade Law] in December of 1996.

Additional legislation related to consumer protection and data privacy is pending in the Mexican Congress. Many companies and financial institutions are concerned that the government's interest in passing laws related to data privacy could hinder the transformation of Mexico into a digital society. It is widely felt that B2B and B2C e-commerce in Mexico will be advanced only to the extent to which proponents of the free flow of information and a self-regulatory approach prevail on these issues.

▶▶ Data protection bills awaiting discussion

Members of two different political parties have submitted privacy-related proposals to the House of Representatives. Both are geared towards protecting and regulating the use and flow of personal data, based on the *Habeas Data* right.¹⁰ On February 14, 2001, Senator Antonio García Torres, a member of the Institutional Revolutionary Party [PRI], submitted a comprehensive bill, which was approved by the Senate, and then, on April 30th, turned over to the House of Representatives for its discussion. However, a Constitutional controversy arose because —according to some legislators— only the House of Representatives has the authority to launch such initiatives.¹¹ That law seems to have been turned down based on these procedural objections, although there is no notice of this in the House of Representatives' Parliamentary Gazette. On September 6th, Deputy Luis Miguel Barbosa Huerta of the Democratic Revolutionary Party [PRD] submitted a second initiative.

The most noteworthy difference between these two bills —which are modeled after the European Directive on Data Protection, enacted by the European Council—¹² resides in the institution responsible for its enforcement. The PRI initiative proposes the creation of a decentralized public institution, which would be known as the Federal Institute of Personal Data Protection, whereas the

¹⁰ Guadamuz, Andres. "Habeas Data: The Latin American Response to Data Protection". *op. cit.*

¹¹ Velasco San Martín, Cristos. «Protección de Datos Personales en Internet». Available at: <http://www.enterate.unam.mx/Articulos/dos/enero/protecci.htm>

¹² ESC. «Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data» (1996). Available at: http://europa.eu.int/eur-lex/en/lif/dat/1995/en_395L0046.html

PRD proposal locates its operation and enforcement within the INEGI [National Institute of Statistics, Geography and Computer-related information]. Neither of these bills has been able to obtain full support from the private, public and academic sectors. In fact, the bill submitted by Senator García has encountered fierce opposition and generated strong criticism from several areas, such as: the United States Council for International Business [USCIB], Information Technology Industries [ITI] and the Direct Marketing Association [DMA].¹³

According to some analysts, several articles included in the Barbosa bill will limit database construction, list rental and information gathering. One article requires that an individual give express consent to a company before the company can collect and store information on that individual (opt-in). Another article prohibits companies from transferring a list of people or their information to third parties without the prior consent of the individual (opt-in). A third article calls for a National Registry for Data Protection that would require all companies in Mexico that maintain a database to register it with the central body. The proposal includes a prison term of two to five years for "anyone that discloses to a third party information recorded in a database or bank, the secrecy of which he [she] is obligated to observe by a legal provision."¹⁴

The proposed bills appear to be submerged in a sea of bureaucracy and have not yet received attention. The reason why these laws have not received proper attention is only up to guessing, but after making some personal inquiries, several legislators indicated that it was not politically convenient to pass a bill that tends to protect personal data amidst a very public discussion of whether to indict former President Echeverría and other high ranking members of his staff for the assassination of college students in 1968 and 1971. There may be fears that, as in Argentina, the *Habeas Data* right could be used by relatives of the missing students to open governmental and military records regarding their disappearance.

►► Data Protection Bill

¹³ Aveleyra, Antonio. «La comunicación de mensajes de datos personales en México». Available at: <http://profesor.sis.uia.mx/aveleyra/comunica/privacidad/dci4.htm>

¹⁴ Alam Khan, Mickey. «Strict Mexican Data Bill Could Move This Fall», DM News, 07/22/02. Available at: <http://www.privacyexchange.org/>



According to an Internet source, as of June 6, 2003, the Mexican Congress has passed what is described as «a flawed data privacy legislation»,¹⁵ which will negatively impact Mexican, U.S. and other foreign business interests. However, there is no official corroboration of this information in the Parliamentary Gazette of the House of Representatives. It appears that the Barbosa bill has been approved and is currently awaiting implementation.

¹⁵ “Best Prospects in the ICT Market”. Available at:
http://www.emich.edu/ict_usa/MEXICO.htm#Country%20Commercial%20Guide

PERVASIVENESS OF THE INTERNET IN MEXICO

The use and diffusion of the Internet in Mexico grew dramatically in the mid and late nineties — going from 0.044 % of the estimated population in 1994 to 3.672% in 2001¹⁶—. Internet growth peaked in 1999 when the percentage change in Internet usage was of 219%. However, the growth pace has been decreasing gradually since then. The increase in the rate of Internet users —even though still positive from year to year— has become less pronounced. For instance, according to the AMIPCI [Mexican Internet Association] and the COFETEL [Federal Telecommunications Commission], the percentage change in Internet usage between 2003 and 2004 will be of 21.6%, dropping from 34% in 2001. The estimated percentage change for next year [2005] is projected to be of 14%, when a total of 17 million users are expected to be surfing the Internet.

Internet penetration is limited by a low PC penetration rate and a lack of fixed-line capacity, which prevents potential customers from gaining access. The installed base of PCs in 2002 was estimated at 8.1 million, of which 54 percent represented PCs with Internet access.¹⁷ Furthermore, the potential number of Mexican Internet users is also limited by income distribution patterns, limited investment in IT, lack of Internet contents in Spanish, and the high prices of fixed broadband connectivity.

Even though other Latin American countries face similar problems to the ones stated above, recent reports indicate that Chile has attained greater Internet pervasiveness than Mexico. According to these sources¹⁸, Internet penetration rates in Chile are close to 20%, similar to the ones cited for Spain, while in Mexico the percentage will be around 14.4% by the end of this year. In terms of electronic commerce, Brazil —according to a study carried out by the Boston Consulting Group¹⁹—

¹⁶ Thomasson, James [MBA]; Foster, William [Ph.D.]; and Press, Laurence [Ph.D.]. “The Difussion of the Internet in Mexico”, p. 9. [pdf document]

¹⁷ «Best Prospects in the ICT Market», *op. cit.*

¹⁸ “Penetración de Internet en América Latina”, i-consultant. Available at: <http://www.honmex.com/hwc/i-consultant/ic-0903.php>

¹⁹ “La realidad del comercio electrónico en América Latina”. **Source:** Boston Consulting Group, PDF (Revista PODER Enero de 2002). Available at: <http://www.enredese.com/est.php>



is the leader in Latin America with a projected income of 906 million dollars by the end of 2004, thus increasing its share in the regional online markets from 62% [in 2000] to 71%. Mexico ranks second with a project income of 134 million dollars, followed by Argentina and Chile. Besides providing a slightly more comprehensive view of where Mexico stands in terms of Internet penetration, the latter may also help explain why other Latin American countries —and not Mexico— are spearheading the privacy legislation efforts.

However, it is important to highlight that the Internet market is the fastest growing segment within Mexico's telecommunications sector.

USE OF THE INTERNET IN MEXICO

According to a survey commissioned by the Mexican Internet Association [AMIPCI] in 2003²⁰, and carried out by Select using a sample of 5,770 interviews, 34.6% of Internet users are concentrated in Mexico City. The other states that have the largest percentages of Internet users are: Mexico with 11.4%, Nuevo León with 6.1% and Jalisco with 7.0%.

This same survey indicates that 33% of the users are female and 67% are male. Nonetheless, the survey also mentions that the percentage of women users has increased compared to 2002. With regards to the ages of the Internet users, 42% are in the 25 - 34 age bracket and 23% in the 18 - 24 age range. Sixty-nine percent of the users have attended college and 48% of them belong to the higher socioeconomic income levels. However, the access of people from the lower middle class increased 183% between 2002 and 2003, going from 6% to 17%. This is due not only to the fact that PC's have grown more accessible, but also to the increased availability of public places with Internet access, such as Internet cafes.

Continuing with the findings of this study, 87% of the people surveyed use the Internet to send and read e-mails, 82% to search for information, 64% to perform bank-related consultations, 55% to read the news and 39% to download music, videos, images and software.

With regards to shopping online, 54% of the Internet users indicate that they do purchase articles on the Internet. This percentage dropped 2% compared to 2002. The main barriers to shopping online, as cited by the interviewees, are: want to see the things I buy [52%], do not have a credit card [42%], do not want to give out my credit card number [41%] and uncertainty whether items will be delivered or not [28%]. Compared to 2002, the fear of giving out credit card information is decreasing, while the fear of not receiving the items bought has increased.

²⁰ “Hábitos de los usuarios de Internet en México, 2003”, Asociación Mexicana de Internet. Available at: <http://www.amipci.org.mx>

The main articles / services purchased online are: electronic payment of electricity, phone and water bills with 39%, books and magazines with 33%, airplane tickets with 32%, CD's and MP3 with 32% and electronic appliances with 31%. However, the only heading that grew between 2002 and 2003 was that of airplane tickets; all the others show decreases ranging between 13% [books & magazines] and 2% [electronic appliances]. Fifty-three percent of all online purchases are done in Mexican web sites. This information, however, contradicts the data provided by other sources, which indicate that Mexican Internet users prefer to shop at international web sites. Finally, of the people surveyed, 56% indicate that they use electronic banking.

According to Mexico's banking association and Select, the number of registered e-banking clients rose from 700,000 in 2001 to 2.4 million in 2002. This number should reach 4.5 million by 2005. Banking operations increased from US \$96 million to US \$280 million over the same time period.

ELECTRONIC COMMERCE IN MEXICO²¹

According to Pyramid Research, e-commerce in Mexico is expected to reach approximately US \$47 billion by 2005, up from US \$1.1 billion in 2001, making it a leader in Latin America in terms of potential for future growth in this area.

International trade in 2002 accounted for US \$873 million of e-commerce transaction and forms the largest component of the US \$1.5 billion in e-commerce revenues. Business-to-business (B2B) is more prevalent than business-to-consumer (B2C) e-commerce. In 2002, B2B reached US \$523 million, and B2C accounted for US \$131 million. The main issues affecting B2C e-commerce include low Internet penetration, a low level of consumer purchasing power, a low penetration of credit cards, an underdeveloped market for consumer credit, and IT education and awareness.

Most signs indicate that B2B will continue to thrive as increasing resources are invested in the development of online supply chains by both the private and the public sectors. B2B is projected to

²¹ Excerpted from: "Best Prospects in the ICT Market". *op. cit.*



reach US\$1.9 billion by 2005. This growth will also result from declines in B2C transactions that are likely to occur in both the short- and medium-term. However, as the Internet penetration rate continues to grow, so will B2C in the long-term.

Large companies and financial institutions are working to change their procurement processes to electronic means. An AT Kearney survey indicates that for this year, 27 percent of the IT investment in Mexico will be for e-business solutions, compared with 18 percent in 2002.

One of the most promising developments related to Mexico's e-commerce future is the Government of Mexico's [GOM] commitment to making Mexico a digital economy. The development of the e-Mexico program is the most obvious manifestation of this commitment. E-Mexico's main goals are to develop Mexico's IT industry, foster an internal market for IT products, promote an adequate regulatory framework in the use of electronic media and e-commerce, and digitalize government services in order to create a model for the private sector. The e-Mexico initiative promotes the use of information technologies in education, health, commerce, and government.

In July 2002, the Mexican government created a trust fund to begin providing points of Internet access to over 2,000 rural communities. Leaders of e-Mexico claim that by 2025, 98 percent of Mexican citizens will be online. As of June 2003, the e-Mexico Project is clearly a reality. The majority of the 3,200 digital community centers have been constructed and a national satellite network to provide connectivity is already launched and in operation. These digital community centers have been installed in 2,429 municipalities and the 16 delegations within Mexico City.

Another positive development in this area is the work that is being done on the e-commerce legal and regulatory framework. Both the government and the private sector have been committed to revamping laws that pertain to or affect e-commerce. In 2000, the GOM began this undertaking with the passage of the e-Commerce Law. As a consequence, electronic contracts are recognized legally, information transmitted online is accepted in judicial proceedings, and consumer protection laws apply to the online world.



Last year, the Mexican Government created a standard (Norma Oficial Mexicana - NOM-151-scfi-2002) on conservation of messages of data. Also, as stated previously, the Federal Law of Transparency and Access to Government Public Information came into effect in June 2003. This year the Digital Signature Law was also approved.

While e-commerce legislation is gradually evolving, a number of additional laws and regulations have been proposed to make Mexico's laws related to e-commerce "inter-operable" with other digital economies. Perhaps the most important is the e-invoice legislation, which will eliminate the requirement that businesses provide hard copies of invoices in electronic transactions.

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