



Legal Jeopardy: Clarín Group and the Kirchners Epilogue

Grupo Clarín's three-member executive committee, led by CEO Héctor Magnetto, opted not to testify before the Argentine Senate in opposition to the media bill that had passed the lower house of Congress about two weeks before. Instead, they decided to make clear the company's opposition to the bill on the editorial page of its flagship newspaper. On October 4, *Clarín* newspaper published a message to readers from its corporate parents, highlighting the company's 64-year history in Argentina and its investments in the country, listing its media holdings, and denying in forceful terms that the company was a monopoly. The editorial read in part:

We agree that democracy requires a new broadcasting law. But this project preaches democracy while establishing discretionary power over the media. It also seeks to atomize and weaken... This project leaves the media in a state of absolute precariousness by disregarding existing licenses.¹

As expected, the law passed the Kirchner-allied Congress without modifications. On Saturday, October 10, 2009, after more than 19 hours of debate, the Senate voted 44 to 24 in favor of the bill, which President Cristina Fernández signed into law the same afternoon.²

Grupo Clarín vowed to fight the law, while at the same time, members of Congress who had been opposed to the bill proposed to change or rescind it when a new Congress—with the Kirchners' party no longer dominant—was seated in December 2009. Meanwhile, an Argentine federal court suspended execution of the law, pending review of the constitutionality of provisions that would force Clarín and other companies to sell properties within a year. Clarín executives hoped that the law might be held up in court until Fernández's term expired 2011. Her husband and predecessor, Néstor Kirchner, was widely expected to campaign to replace her as president,

¹ Grupo Clarín, "64 años creyendo en el país y construyendo medios argentinos," *Clarín*, October 4, 2009, <http://edant.clarin.com/diario/2009/10/04/opinion/o-02011830.htm>.

² Alexei Barrionuevo, "Argentina Enacts Law on Broadcasters," *New York Times*, October 11, 2009.

This epilogue was written by Kathleen Gilsinan for the Knight Case Studies Initiative, Graduate School of Journalism, Columbia University. The faculty sponsor was Joshua Friedman, director of the Maria Moors Cabot Awards and adjunct faculty member. Funding was provided by the John S. and James L. Knight Foundation. (0810)

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but it appeared unlikely from Fernández's approval ratings—standing below 30%—that Argentine voters would return her husband to office.

That year's changes in Argentine media law weren't uniformly damaging to Clarín, however. In November 2009, in what was hailed by the Committee to Protect Journalists as a "major advance for press freedom," the same Kirchner-allied Congress that had passed the Law of Audiovisual Services decriminalized libel and slander on the recommendation of the Inter-American Court on Human Rights.³

Yet the feud between Clarín and the Kirchners continued on other turf as government officials accused Clarín owner Ernestina Herrera de Noble of having illegally adopted her two children, who they alleged were the kidnapped descendents of political prisoners murdered under the dictatorship. The accusations harked back to the Fernández government's oft-repeated claim that Grupo Clarín had thrived under the dictatorship while Argentines suffered. Herrera de Noble's children, now in their thirties, insisted they had not been kidnapped. The case remained in court as of August 2010.

³ Committee to Protect Journalists, "Attacks on the Press in 2009: Argentina," <http://www.cpj.org/2010/02/attacks-on-the-press-2009-argentina.php>.