

Broadcasting in Brazil

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Concept of “Broadcasting” in Brazil

- In the 1930s “broadcasting” was translated by some decrees as “radiodifusão”, which means “open radio and TV by radiofrequency”;
- For more than 80 years, Open Radio and TV (=“broadcasting” in Brazil); Pay-TV and telecommunications have been treated separately, according to specific rules;
- Radio and TV are regulated by an old law, approved in 1962. At that moment, for example, Brazil was trying to establish its first private networks and to begin transmitting by satellite.

Legal Framework

- “Broadcasting” (Open Radio and TV)

Law nº 4.117/1962; Decree-Law nº 236/1967; Law nº 9.612/98 (Community Radio) etc.

- Pay TV

Law nº 8.977/1995; Law nº 12.485/2011 etc.

- Telecommunications

Law nº 9.472/1997 etc.

- Convergence

In discussion: Internet Civil Rights; Intellectual Property; Communications

Legal Framework – Intellectual Property

- Law nº 9.610/1998 considers transmission “by any means”, but sometimes it mentions only “radio and TV”
- *Art. 95 “The broadcasting stations are responsible to authorize and prohibit the transmission of their signals (...)”*
- Law doesn’t mention anything similar regarding PayTV, Internet etc.

Structure of TV sector in Brazil

- Three types of licenses: TV stations and Educative TV Stations (around 500) and “retransmitters” (more than 10 thousand);
- More of 80% are private/commercial TV stations;
- “Retransmitters” can include new programs or advertisement only when they are situated in the borders of the country;
- Most of the TV stations have national partners, so they transmit the same programs and add some local ones (mainly journalism).

Structure of Radio sector in Brazil

- Six types of licenses: Stations in FM (ca. 2000), MW (ca. 1650), SW (66) and Tropical Wave (72); Educative FM Stations (176) and FM Community Radio (ca. 4500);
- Educative and Community Radio don't aim profit and have restrictions to transmit commercial advertisements;
- National networks are less common than in TV;
- Community Radios are forbidden to participate in networks (except in case of disasters and in some other cases).

Conclusions

- Brazilian laws don't use the same concept of “transmission by any means”, currently being debated in WIPO, i.e., communications platforms and services are subject to different rules;
- The situation may change in some years, because some new laws are being debated according to a more “pro-convergence” framework;

Conclusions

- Brazilian TV networks are based in part on stations (“retransmitters”) that don’t include programs or advertisement;
- More than 50% of Brazilian radio licenses are community or educative stations, so they don’t include advertisement and belong to non-profit organizations;
- This scenario must be considered in the debates about payments due to contents licensing.