MAPPING DIGITAL MEDIA:
BRAZIL

OPEN SOCIETY
FOUNDATIONS

Mapping Digital Media: Brazil

A REPORT BY THE OPEN SOCIETY FOUNDATIONS

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Mapping Digital Media

The values that underpin good journalism, the need of citizens for reliable and abundant information, and the importance of such information for a healthy society and a robust democracy: these are perennial, and provide compass-bearings for anyone trying to make sense of current changes across the media landscape.

The standards in the profession are in the process of being set. Most of the effects on journalism imposed by new technology are shaped in the most developed societies, but these changes are equally influencing the media in less developed societies.

The **Mapping Digital Media** project, which examines the changes in-depth, aims to build bridges between researchers and policymakers, activists, academics and standard-setters across the world. It also builds policy capacity in countries where this is less developed, encouraging stakeholders to participate in and influence change. At the same time, this research creates a knowledge base, laying foundations for advocacy work, building capacity and enhancing debate.

The Media Program of the Open Society Foundations has seen how changes and continuity affect the media in different places, redefining the way they can operate sustainably while staying true to values of pluralism and diversity, transparency and accountability, editorial independence, freedom of expression and information, public service, and high professional standards.

The Mapping Digital Media project assesses, in the light of these values, the global opportunities and risks that are created for media by the following developments:

- the switch-over from analog broadcasting to digital broadcasting;
- growth of new media platforms as sources of news;
- convergence of traditional broadcasting with telecommunications.

Covering 60 countries, the project examines how these changes affect the core democratic service that any media system should provide—news about political, economic and social affairs.

The **Mapping Digital Media** reports are produced by local researchers and partner organizations in each country. Cumulatively, these reports will provide a much-needed resource on the democratic role of digital media.

In addition to the country reports, the Open Society Media Program has commissioned research papers on a range of topics related to digital media. These papers are published as the **MDM Reference Series**.

Mapping Digital Media: Brazil
Executive Summary

In June 2013, scores of cities across Brazil witnessed a series of protests, initiating a wave of public demonstrations that hit headlines around the world. Information overload—visual and textual—through social media, competing narratives about the meaning of the demonstrations, long-standing political demands, police brutality, and the evident perplexity of politicians and citizens trying to make sense of events: these all paint an intriguing backdrop to the debates surrounding media policy in Brazil. Two months later, while this report was being completed, the protests were still going strong, even if on a smaller scale.

Highly heterogeneous in nature, the protests involved a range of demands and constituencies, making it difficult to extract a coherent narrative out of what has so far been a very disorienting and extremely diversified phenomenon. Problems relating to public transport—the focus of the initial protests—compete for space and attention in the streets with issues such as Brazil's role as a host country for sporting mega-events (the Confederations Cup in 2013, the World Cup in 2014, and the Olympic Games in 2016), corruption in politics, health and education, the desirability of specific bills, and the rights of minorities, among other topics. Left-leaning causes mingle with right-wing sentiment; demonstrations against government at all levels of the federation have also been common, along with challenges to the very concepts of a political party and representative democracy.

Protests against traditional media groups such as Organizações Globo, Rede Record, and SBT also took place, due to both a perception that their coverage of the protests was biased, and a general dissatisfaction regarding the role of media in Brazil's social and political life. In response, Globo went as far as apologizing in an *O Globo* editorial (31 August 2013), for having supported the 1964 military coup—an act that was described by one commentator as an attempt at rebranding.[1]

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1. G. Gindre. "Editorial de O Globo É Reposicionamento de Marca" (O Globo's Editorial is Brand Repositioning). *Blog do Gindre*, 2 September 2013, at http://gindre.com.br/editorial-de-o-globo-e-reposicionamento-de-marca (accessed 4 October 2013).

At the same time, Brazilians witnessed the emergence of organized, on-the-spot, independent coverage of the protests, which were broadcast live from smartphone cameras over the internet, or recorded and then uploaded by individuals or alternative media collectives, edited and unedited. The internet and social media played an essential role in the organization of the protests, and also provided the means to disseminate live information of what was happening in the streets. Coverage by traditional outlets was comparatively lacking, both in substance and in speed of delivery.

These developments eloquently illustrate the shifts brought about by digitization, in which incumbents still hold a considerable market and mind share, but are consistently challenged by changes in media consumption habits, and aggressive competition from foreign telecommunications conglomerates and internet companies. This report describes a period of continuing transition, from an era characterized by the dominance of a relatively stable oligopolistic media system, to an era of change propelled by digital convergence.

In the short term, the most radical transformations will be hard to spot, since traditional media have built considerable online presences. Business models, nonetheless, will have to be redesigned. Over the medium to long term, the scenario points towards a drastic reconfiguration of the media landscape, which some players will endure with more resilience than others, and important regulatory decisions will have to be made.

Brazil's media landscape has been characterized historically by oligopolistic control, made viable by flaws in the broadcast licensing system, with licenses used as political currency, regulatory voids, lax enforcement of existing rules, and an absence of adequate checks on cross-media ownership, which all ultimately impact on the diversity of news sources.

The traditional media tend to frame all debate on the matter with strong claims that positive reform would be an authoritarian attempt to curb freedom of expression. The federal government has also avoided the topic along with its clear—and awkward—political implications, despite convening a National Communications Conference (*Conferência Nacional de Comunicação*, Confecom) in 2009, which produced a number of recommendations for reform. President Dilma Rousseff and her Minister of Communications, Paulo Bernardo, have repeated that they would not discuss the subject, at least until after the 2014 elections. Meanwhile, civil society organizations are attempting to gather signatures for a citizens' initiative bill on media reform. If they succeed, this bill will be submitted to a National Congress that is far from impartial on the subject, as many deputies and senators directly or indirectly own broadcasting companies.

Since the 1960s, free-to-air television has been the predominant source of news, entertainment, and culture for Brazil's sizable population, and it continues to be the main source of information for most citizens. It is available in 98.3 percent of households, with Globo holding the highest audience ratings every year. Subscriptions for paid television are on the rise, growing constantly from 1998 to 2005, and substantially since 2005. Even so, by June 2012 there were only 14.5 million subscriptions to paid television services, in a country which had 190.7 million inhabitants in 2010.

Digital terrestrial television covered 508 municipalities in May 2012, reaching almost 46.8 percent of the entire population—a number that will probably increase with a boost in sales of digital television sets due to the World Cup and 2016 Olympics, both hosted by Brazil. Nevertheless, the digital switch-over, scheduled for completion in 2018, has so far been an exercise in maintaining the status quo. No new entrants in the free-to-air television market have emerged during the ongoing transition to digital television, and the digital dividend will be auctioned to telcos for 4G services.

The standard chosen for the Brazilian System of Digital Television (*Sistema Brasileiro de Televisão Digital*, SBTVD) is ISDB-Tb, a modified version of the Japanese ISDB-T. The most important addition to the standard is Ginga middleware, which would allow for greater interactivity in digital broadcasts. But Ginga is hampered by serious implementation problems, and it is hard to be optimistic about its wide adoption and use. Standards for digital radio have not yet been defined.

Public service broadcasting has never really taken off in Brazil, which has privileged commercial broadcasting from the early years of regulation. Public service channels such as TV Cultura and TVE (now TV Brasil) have become relatively popular, but were never as successful as their commercial counterparts. The creation in 2007 of a federal broadcaster, the Brazil Communications Company (*Empresa Brasil de Comunicação*, EBC), has helped to rekindle debates on Article 223 of the Constitution, which establishes that social communication is composed of three complementary systems: public, state, and private. EBC's model, nonetheless, depends entirely on federal government funds, and has flaws that need to be addressed if EBC is to fulfill its original mission.

Around 40 percent of households had access to the internet in 2012. "LAN [local area network] houses"—meaning businesses such as cybercafés that commercialize internet access—were the main means of access to the internet for 47 percent of the population as recently as 2007; they are now the foremost means of access for only 19 percent of Brazilians. The digital divide is still wide—mainly to the detriment of the lowest income classes, since only 7 percent of households with less than one minimum wage per month have internet access—but it is certainly narrower now than a few years ago. Internet access is also geographically uneven; while 44 percent of households in urban areas have access, only 10 percent of households in rural regions are connected. The federal government is implementing a National Broadband Plan (*Plano Nacional de Banda Larga*, PNBL), but its results so far are hardly encouraging.

Access to mobile telecommunications is widespread, and there are more SIM cards circulating in Brazil than there are Brazilians (261 million SIM cards over 190 million inhabitants), most of them prepaid (80.5 percent). This is mostly due to high interconnection costs between carriers, which provide notoriously low quality services. Mobile broadband access has increased from 1.7 percent of active SIM cards in 2008 to 52.5 percent in 2012. During 2013, Brazil started to implement 4G networks (occupying the 2,500 MHz frequency of the spectrum), in order to meet demands for the FIFA Confederations Cup in cities hosting the matches in 2014. The government intends to implement the technology in these cities by December 2013, but 4G services are still in their infancy.

Digitization has had profound effects on journalism. Information flows faster than ever, and from a greater number of sources; journalists have to adapt to an environment that demands immediate coverage of events, sometimes privileging speed over content. Traditional news outlets have diversified the ways they make their content available, and new skills are now required of journalists. At the same time, working conditions for journalists have been negatively impacted over the last decade, since they are required to work more and assume new roles to accommodate demands that derive from digital news delivery.

While television news ratings are in decline, the internet has become the second main source of news, and the number of people reading newspapers online has nearly tripled over four years. Print media, nonetheless, are in a crisis, with mass layoffs in recent months as newspapers struggle to find viable business models. Investigative journalism is particularly affected, despite a small but encouraging number of recent examples provided by crowd-funded independent journalism.

Brazilians are heavy users of social media and user-generated content platforms, with Facebook and YouTube being the second and fourth most accessed URLs in September 2013, according to Alexa. In December 2012, Brazilians averaged 579 minutes a week on social networks, considerably above the global average of 383.3 minutes, according to comScore data.

High engagement with social media does not, however, necessarily indicate diversity of news sources. In fact, web portals controlled by traditional media groups are also among the highest ranking websites in Brazil, and much of the content that is eventually replicated in social media originates from these sources. Nonetheless, it is undeniable that connected Brazilians are potentially more exposed to alternative points-of-view, and the popularity of an initiative such as Mídia NINJA in the June protests indicated the direction of possible shifts. At the legislative level, two important developments can be pointed out. The Information Access Law (Law 12.527/2011) fills a long-standing gap in legislation by providing citizens with the means to make information requests to government at all levels of the federation. The Conditional Access Service Law (Law 12485/11) established unified treatment of pay-TV, which was previously regulated according to the technology used (different rules for cable, DTH, and MMDS), leading to contradictory regimes for services that were essentially the same. Law 12485/11 also establishes cross-ownership limits between certain telecommunications and broadcasting companies, which are open to criticism in terms of criteria, implementation, and enforcement, but do set a precedent for further debate on the subject.

Serious gaps in internet regulation topics such as net neutrality, ISP liability, privacy, and user rights still have not been addressed by legislation. In an attempt to fill these gaps, the Civil Rights Framework for the Internet (*Marco Civil da Internet*), a draft bill produced through a process of public online debate carried out by the Ministry of Justice, was sent to the National Congress in 2011. The text faced strong opposition from some quarters, and telecommunications companies were particularly aggressive in attacking the bill's net neutrality provisions. The ISP liability provisions were also controversial, and pressure from Organizações Globo was successful in removing copyright infringement cases from the Marco Civil system, which only considers ISPs liable for third-party content if the ISP refuses to obey a judicial order demanding that content is removed. Marco Civil also contains general privacy provisions, but the main proposal on the subject is a

bill for personal data protection, which was also submitted to a public online consultation by the Ministry of Justice. This bill has not yet been introduced in Congress.

After the NSA leaks by Edward Snowden in summer 2013, surveillance of Brazilian citizens and companies by the United States has become a major concern for the government of Brazil, as illustrated by President Dilma's remarks at the 68th Session of the United Nations General Assembly, on 24 September.[2] These leaks motivated the government to speed up the voting of Marco Civil, which is expected to take place by the end of 2013. Controversial proposals in response to U.S. espionage—including the obligatory storage of data relating to Brazilian nationals by online services in data centers located within Brazil—will probably be included in the text.

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2. See http://gadebate.un.org/68/brazil (accessed 3 October 2013).

Context

With a population of 190,755,799[3] inhabitants and an area of 8,514,877 km², Brazil is the largest country in Latin America and the fifth largest country in the world, both in population and geographical area.[4]

Despite its large dimensions and its ethnic diversity, Portuguese is the country's only official language, and is spoken by almost the entire population. A few indigenous languages are spoken, mostly in the Amazon region and other remote areas, as well as a small number of dialects spoken by immigrants in the South. Roman Catholicism is the most widespread religion, professed by 64.6 percent of the population, but in decline over the last decade.

The population is unevenly distributed throughout the territory, and is heavily concentrated (42.1 percent) in the Southeast, the country's richest region and the location of Brazil's most populated city, São Paulo. The Northeast region has the second highest population, with 27.8 percent of all inhabitants, while 14.4 percent reside in the South, 8.3 percent in the North, and 7.4 percent in the Center-West.[5]

Dilma Rousseff, of the Workers' Party (*Partido dos Trabalhadores,* PT), was elected in 2010 and is the first woman president of the Federative Republic of Brazil, which is composed of 26 states, over 5,500 municipalities and the Federal District, where the capital, Brasilia, is located.

The "B" in the BRIC nations (Brazil, Russia, India, China), Brazil is the world's seventh largest economy, and it experienced a GDP growth of 7.5 percent in 2010. Development was modest in 2011 (2.7 percent), and experienced a sharp decline in 2012 (0.9 percent).

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3.   Brazilian Institute of Geography and Statistics (*Instituto Brasileiro de Geografia e Estatística*, IBGE), Demographic Census, 2010 (hereafter, IBGE, Demographic Census, 2010).

4.   United Nations Statistics Division, Demographic Yearbook, 2008.

5.   IBGE, Demographic Census, 2010.

Brazil's notoriously uneven distribution of wealth was somewhat levelled out during the recent period of economic growth, mostly as a consequence of social programs initiated during the Luis Inácio Lula da Silva administration. Between 2001 and 2009, the per capita income of the richest 10 percent of the population rose by 1.5 percent annually, while the income of the poorest grew at a rate of 6.8 percent.[6] The municipal human development index (HDI) has improved at a rate of 47.5 percent over the previous 20 years.

According to the National Household Sample Survey (*Pesquisa Nacional por Amostragem de Domicilio*, PNAD), this growth in income, as well as improvements in living conditions and the reduction in unemployment rates, has led to a 45 percent reduction in poverty.[7] This scenario had a visible impact on the consumption of productive assets, such as IT goods and education, which rose even during the global economic crisis. Nonetheless, a significant number of Brazilians (around 15 percent) are still living below the poverty line, income distribution continues to be a major problem, and, according to the aforementioned survey, 7.9 percent of the population was wholly illiterate in 2011.

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6.   M.C. Neri, "Good News for the Poor," *The Brazilian Economy*, 2 (10), October 2010, at http://cps.fgv.br/sites/cps.fgv.br/files/artigo/The_Brazilian_Economy_October_2010_MC.pdf (accessed 20 August 2011).

7.   National Household Sample Survey (*Pesquisa Nacional por Amostra de Domicílio*, PNAD), 2011.

Social Indicators

Population (number of inhabitants): 190.7 million[8]
Number of households: 67.4 million[9]

Figure 1.

Rural–urban breakdown (% of total population), 2010

Rural, 15.7

Urban, 84.3
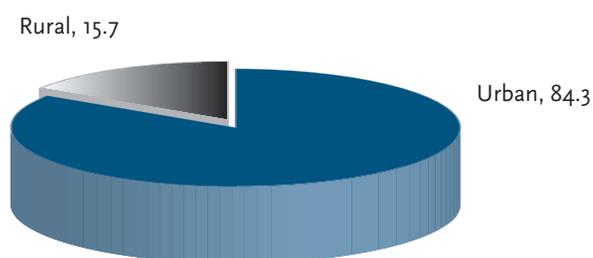
Source: IBGE, Demographic Census, 2010

Figure 2.

Ethnic composition (% of total population), 2010

Afro-Brazilian, 7.6   Asian, 1.1   Indigenous, 0.4

Pardo (multiracial), 43.1   No declaration, 0.1   White, 47.7
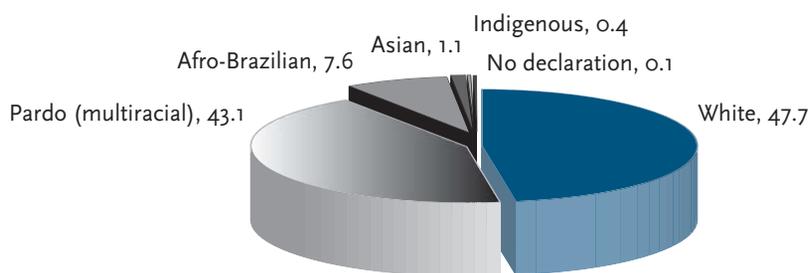
Source: IBGE, Demographic Census, 2010

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8.   IBGE, Demographic Census, 2010.

9.   IBGE, Demographic Census, 2010.

Figure 3.

Religious composition (% of total population), 2010

Spiritism, 2.0

Other, 2.7

No religion, 8.0

Umbanda and Candomblé, 0.3

Protestantism, 22.2

Roman Catholic, 64.6
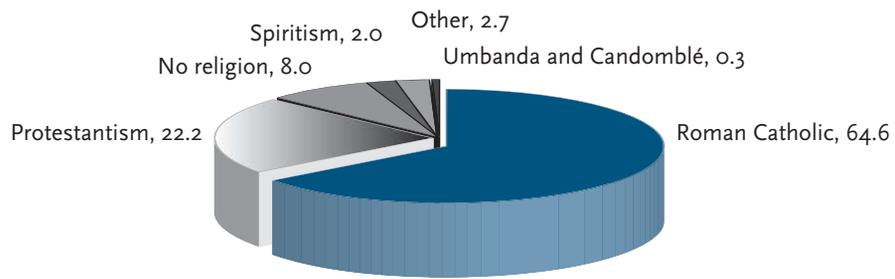
Source: IBGE, Demographic Census, 2010

Economic Indicators

<p align="center">Table 1.</p>

<p align="center">Economic indicators, 2005–2012</p>

	2005	2006	2007	2008	2009	2010	2011	2012
GDP (current prices, US$ billion)	881.7	1,089.1	1,366.2	1,650.3	1,622.3	2,142.9	2,492.9	2,395
GDP (current prices, US$), per head	4,787	5,869	7,281	8,704	8,472	11,088	12,676*	12,078*
Gross National Income (GNI), (current US$), per head	8,270	8,810	9,570	10,160	10,180	11,000	11,500	11,720
Unemployment (% of total labor force)	9.8	9.9	9.2	7.9	8.0	6.7	5.9	5.5
Inflation (average annual rate, % against previous year)	5.6	3.1	4.4	5.9	4.3	5.9	6.5	5.4

Note: * Estimated figures

Sources: International Monetary Fund (IMF), Economic Outlook Database, April 2012, for GDP, unemployment, and inflation data; World Bank for GNI

1. Media Consumption: The Digital Factor

1.1 Digital Take-up

1.1.1 Digital Equipment

Economic growth and the reduction in economic inequality have led to an increase in purchasing power for the average Brazilian, enabling a higher consumption of durable goods, including higher technology equipment (television sets, mobile phones, and PCs).

Television sets were the most widespread media content devices in Brazil in 2011, and were found in 98.3 percent of households. Radio sets were also widely present, especially if we consider that the number of radio sets per household does not account for the reception of radio broadcasts in cars, and via mobile phones and PCs. While the proportion of radio and television sets has remained almost the same over recent years, the number of PCs has grown substantially; even so, they were still the least widespread of these devices, and were found in only 45 percent of households in 2010.

Table 2.

Households owning equipment, 2005–2011

	2005		2006		2007		2008		2009		2010		2011	
	No. of HH ('000)	% of HH	No. of HH ('000)	% of HH	No. of HH ('000)	% of HH	No. of HH ('000)	% of HH	No. of HH ('000)	% of HH	No. of HH ('000)	% of HH	No. of HH ('000)	% of HH
TV sets	49,393	91.3	51,554	92.8	53,137	94.2	55,412	97.0	56,381	97.8	57,048	98.1	57,665	98.3
Radio sets	47,553	87.9	48,720	87.7	49,527	87.8	50,670	88.7	49,290	85.5	49,778	85.6	n/a	n/a
PCs	10,008	18.5	12,277	22.1	14,948	26.5	17,823	31.2	18,620	32.3	20,295	34.9	26,398	45.0

Note: HH: households; n/a: not available

Source: Calculations by MDM editors based on data from the International Telecommunication Union (ITU), 2013

1.1.2 Platforms

While terrestrial radio and television are still the main media platforms in Brazil, there have been changes in audience distribution due to growth in access to pay-TV, the internet, and—much less substantially—digital television.

Subscriptions to pay-TV, via cable or satellite, have been growing substantially over the past year (see section *5*). In November 2011, direct-to-home (DTH) satellite reception was responsible for 55 percent of subscriptions, Multipoint Multichannel Distribution System (MMDS) for 2 percent, and cable reception for 43 percent.[10] The pay-TV market is heavily concentrated, and is dominated by two companies: NET Brasil and Sky. Other players—such as Oi, GVT, and Telefónica—have entered the market offering triple play packages (television, internet, and telephone), but this has not affected market concentration.

Concerning the transition to digital television, the Brazilian System of Terrestrial Digital TV (SBTVD-T) was established by Decree 4901/06,[11] and its general guidelines can be found in Decree 5.820/06,[12] which has adopted the Japanese Integrated Services Digital Broadcasting Terrestrial (ISDB-T) standard. Digital television transmissions started on 2 December 2007, exclusively in the city of São Paulo, and the latest data on the coverage of digital television were released in May 2012 by the National Telecommunications Agency (*Agência Nacional de Telecomunicações*, Anatel). According to this source, digital television covers 508 municipalities (of which 52 have digital television services in operation, which reach the remaining areas), accounting for 89.2 million people (46.8 percent of the population) and 31.3 million households (46.4 percent).[13] The transition period from analog to digital is expected to end between 2015 and 2018.

Some problematic issues have emerged in the context of the transition from analog to digital, such as pricing and content diversity. Even though there has been a decrease in the price of set-top boxes (STBs), from US$ 300 to US$ 100–150, this is still a very high price for a country like Brazil, in which—recent improvements in social welfare notwithstanding—inequality of income distribution still remains a problem. Digital broadcasting, furthermore, requires television sets that only a small percentage of the population can afford. Moreover, digital broadcasting has not increased diversity in free-to-air (FTA) television; content production remains at the same level as in the analog era, and interactivity remains a promise (see section *1.2.2*).

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10. IBGE, Demographic Census, 2010.

11. See http://www.planalto.gov.br/ccivil_03/decreto/2003/D4901.htm (accessed 26 September 2013).

12. See http://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2006/Decreto/D5820.htm (accessed 26 September 2013).

13. Anatel, 2012.

Table 3.

Platforms for the main TV reception and digital take-up, 2005–2010

	2005		2006		2007		2008		2009		2010	
	No. of HH ('ooo)	% of TVHH	No. of HH ('ooo)	% of TVHH	No. of HH ('ooo)	% of TVHH	No. of HH ('ooo)	% of TVHH	No. of HH ('ooo)	% of TVHH	No. of HH ('ooo)	% of TVHH
Terrestrial reception*	49,393	91.3	51,554	92.8	53,137	94.2	55,412	97.0	56,381	97.8	56,989	98.0
– of which digital	0	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Cable reception**	2,511	5.0	2,842	5.5	3,228	6.0	3,811	6.8	4,314	7.6	4,980	8.7
– of which digital	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Satellite reception*	1,437	2.9	1,479	2.9	1,762	3.3	2,091	3.8	2,779	4.9	n/a	n/a
– of which digital	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
IPTV[14]	0	0	0	0	0	0	0	0	0	0	0	0
Total[15]	53,341	107.0	55,875	108.0	58,127	109.0	61,314	110.0	63,474	112.0	n/a	n/a
– of which digital	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Notes: HH: households; TVHH: TV households; n/a: not available

Sources: * ITU, 2011; ** Anatel, "Panorama dos Serviços de TV por Assinatura" (Overview of Pay-TV Services), 46th edn, 2011

Even though they were present in only 45 percent of households in 2011, PCs represent the main access point to the internet, according to the Brazilian Internet Steering Committee (*Comitê Gestor da Internet*, CGI),[16] and the number of households with internet access grew from 13 percent of the population in 2005 to 40 percent in 2012. The number of handsets, however, has been growing consistently. According to Anatel, the total number of mobile phones in Brazil reached 262.3 million in January 2013, 80.4 percent of which were on prepaid plans; only 51.5 million (less than 20 percent) had data plans.[17] The high percentage of mobile phone subscriptions, exceeding the total Brazilian population in 2013, is due to the fact that interconnection costs are very expensive, and companies tend to offer much cheaper rates for calls made within their own networks. This provides an incentive for consumers to subscribe to more than one carrier simultaneously.

Within this context, "LAN houses" have emerged as an alternative for the lower-income members of the population to have access to information, knowledge, and culture, and act as a major driving force for bridging the digital divide.[18] According to the CGI,[19] in the past few years LAN houses were the main point of internet access for Brazilian users, but in 2012 they occupied the fifth place, accounting for 19 percent of access and mostly concentrated within low income groups: 40 percent of the population earning less than the minimum wage access the internet through these venues.

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14.   IPTV is still unavailable to the mass market in Brazil.

15.   The figures on the total number of TV households in this table do not exactly match those in Table 2 because the various sources use different methodologies. Also, for most years, there is more than one type of reception and take-up in a household.

16.   Comitê Gestor da Internet, "Research about information and communication technologies in Brazil," 2005–2010 (hereafter, CGI, "Research about ICT in Brazil").

17.   National Telecommunications Agency (Anatel).

18.   LAN stands for "local area network." LAN houses are commercial providers of online connectivity operating somewhat like cybercafés—except without serving coffee.

19.   CGI, "Research about ICT in Brazil," 2011.

It is important to stress, however, that even though internet penetration in Brazil is relatively low, due to its sizable population Brazil represents the eighth largest internet audience in the world, and the largest internet population in Latin America. Recent data from IBOPE Net Ratings reveal that Brazil had 79.9 million internet users by the end of 2011, a growth of 8 percent from the previous year. [20] The growth of internet access in households during 2011 was about 18 percent.

According to a Huawei study on broadband internet access in Brazil, a growth in mobile connectivity was the driver for the increase in the number of broadband connections in 2012, mainly through smartphones (89.6 percent) and the 3G network.[21] In 2012, almost 53 percent of all cell phones in Brazil had mobile 3G internet connection, an increase of 58 percent in comparison with 2011. In the same period, all the municipalities in Brazil had coverage for cell phone networks, according to Telebrasil, with 40.7 percent of them covered by at least four companies. Nonetheless, access to fixed broadband is still an issue, and even its definition in the National Broadband Plan (see section 7) has been controversial in a country where broadband access is a luxury that many cannot afford. In April 2013, Brazil started to implement the 4G network for mobile cellphones (working on the 2,500 MHz frequency), in order to meet the demands of the FIFA Confederations Cup. The government intends to implement the technology in the cities that will host the 2014 World Cup by December 2013. Anatel has even created a webpage with regulatory orientations for the mega events, providing relevant information about dates and processes over the coming months related to broadcasting and telecommunication.[22]

Table 4.

Internet subscriptions and mobile telephony, 2005–2012

	2005	2006	2007	2008	2009	2010	2011	2012
Internet (% of households)	13.0	14.0	17.0	20.0	27.0	31.0	38.0	40.0
– of which broadband (% of households with internet subscriptions)	—	40	50	58	66	68	68	67
Mobile telephony (density)	46.8	53.6	64.2	79.2	90.5	104.7	123.9	132,7
– with internet access (3G), in millions	0	0	0	1.7	4.1	14.6	33.2	52.5

Sources: CGI, "Research about ICT in Brazil," 2005–2012; Telebrasil (Brazilian Telecommunications Associations), 2013

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20. V. Aguiari, "PNBL e 3G fazem número de brasileiros online chegar a 79,9 milhões" (PNBL and 3G make number of online Brazilian reach 79,9 million), *Info*, 10 April 2012, at http://info.abril.com.br/noticias/internet/brasil-fecha-2011-com-79-9-mi-de-internautas-10042012-29. shl (accessed 26 September 2013).

21. See http://teleco.com.br/pdf/huawei/Balan%C3%A7o%20Huawei%20da%20Banda%20Larga%20-%20Fev2013.pdf (accessed 26 September 2013).

22. See http://grandeseventos.anatel.gov.br/pt-br (accessed 3 August 2013).

Figure 4.

Households with internet access, urban areas and in total (%), 2005–2012

	Urban area	Total
2005	13	
2006	14	
2007	17	
2008	20	18
2009	27	24
2010	31	27
2011	43	38
2012	44	40
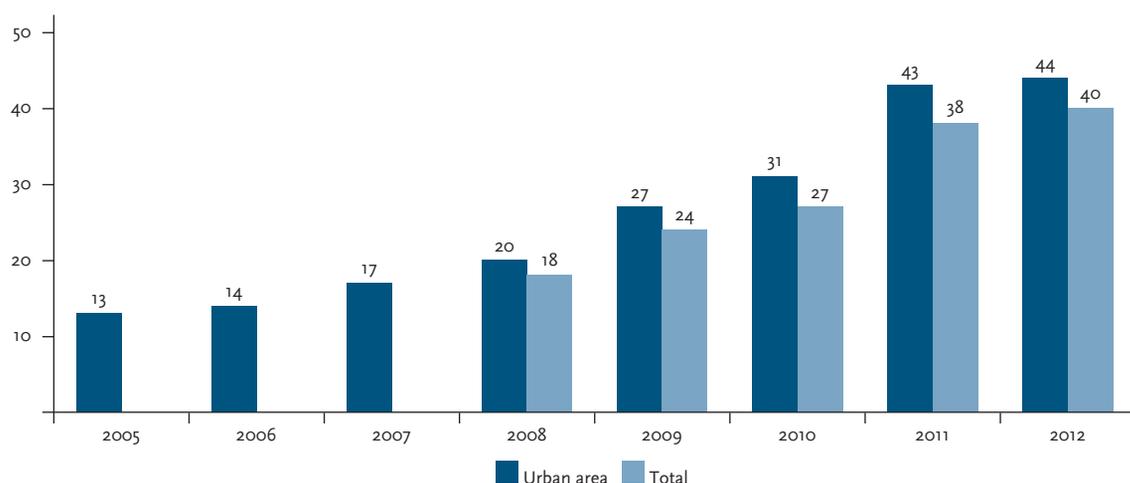
Source: CGI, "Research about ICT in Brazil," 2005–2012

The Brazilian government intends to switch off the analog television services of at least 1,600 municipalities between 2015 and 2018, changing the previous decision to switch off in 2016. According to the Communications Minister, Paulo Bernardo, the process should start with the largest cities and metropolitan areas.[23]

1.2 Media Preferences

### 1.2.1 Main Shifts in News Consumption

While digital take-up has changed news consumption habits to some degree—particularly for those with access to broadband internet—traditional platforms such as terrestrial television and radio are still the main source of news for Brazil's population. According to a national survey by the Brazilian Secretariat of Social Communication (*Secretaria de Comunicação Social da Presidência da República*, SECOM), 96.6 percent of Brazilians frequently watched television in 2010, and 80.3 percent listened to the radio.[24] Of those who watched television, 83.5 percent only watched FTA television, a result that reflects the low level of penetration of pay-TV.

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23. E. Rodrigues, "Sinal Analógico será Desligado a Partir de 2015" (Analog Service will be Switched Off in 2015), *O Estado de São Paulo*, 31 July 2013, at http://www.estadao.com.br/noticias/impresso,sinal-analogico-sera--desligado-a-partir-de-2015--,1059065,0.htm (accessed 31 July 2013).

24. Secretaria de Comunicação Social da Presidência da República (SECOM), via Empresa Meta: "Relatório de Pesquisa Quantitativa—Hábitos de Informação e Formação de Opinião da População Brasileira" (Quantitative Research Report—Habits of information and formation of opinion of the Brazilian population), March 2010 (hereafter, SECOM, "Relatório de Pesquisa Quantitativa").

Figure 5.
Preferences for FTA and pay-TV (% of total viewers), 2010

|	
Only FTA TV	83.5
FTA TV and pay-TV	10.4
Does not watch TV	3.4
Only pay-TV	2.7
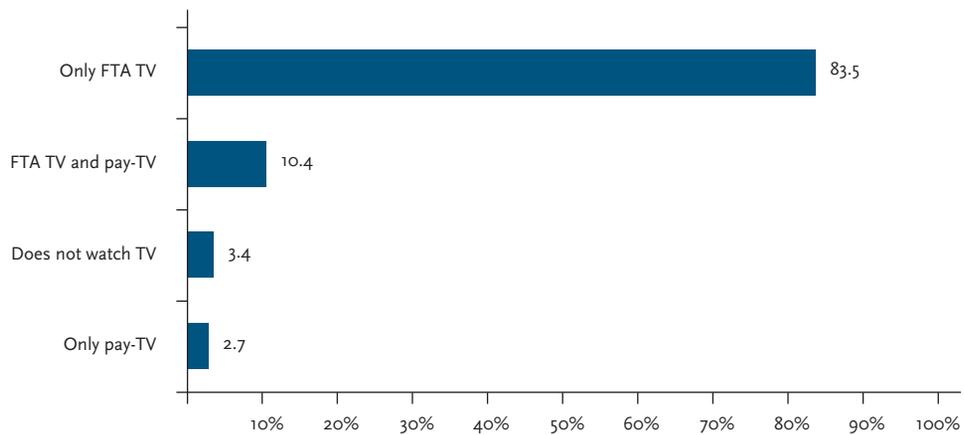
Source: SECOM, "Relatório de Pesquisa Quantitativa" (Quantitative Research Report), March 2010

The FTA television audience, however, is in decline, as viewers migrate to other platforms and media outlets. According to IBOPE, between 2000 and 2009 the average percentage of television sets turned on during primetime fell from 66 percent to 59 percent, and the five biggest broadcasters of the country lost, as a group, 4.3 percentage points in the ratings. The deployment of digital television has not changed the content offer from the perspective of audiences. Although the technical quality has improved, broadcasters have so far failed to take advantage of the possibilities represented by digitization, and no investment has been made to increase the number of free channels, or to diversify content in any way.[25]

Figure 6.
Audience evolution of pay-TV (ratings), 2005–2010

2005	2006	2007	2008	2009	2010
2.5	2.8	2.7	2.8	3.8	4.5
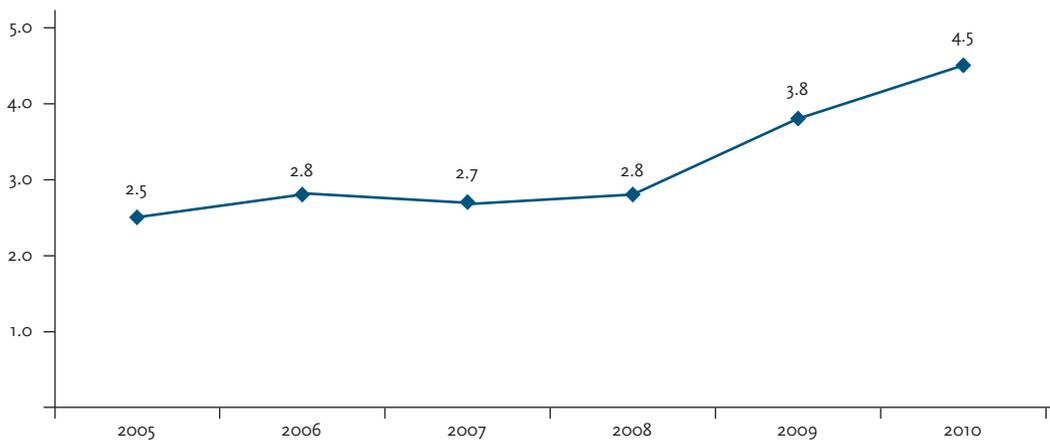
Source: IBOPE, average data from 2010[26]

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25. Interview with João Brant, executive coordinator on the board of Intervozes, São Paulo, 4 August 2011.

26. R. Feltrin, "Ibope de TV paga, DVD e games ultrapassa Record e é o novo vice-líder" (Ibope of Pay TV, DVD and games surpass Record and it is the new second-placed), UOL, 12 January 2011, at http://noticias.uol.com.br/ooops/ultimas-noticias/2011/01/12/ibope-de-tv-paga-dvd-e-games-ultrapassa-record-e-e-o-novo-vice-lider.jhtm (accessed 26 September 2013).

According to IBOPE ratings, television sets are being used for functions other than watching FTA television, and this would explain, at least partially, the decline in its viewership. The number of television sets used for watching cable television, playing videogames, DVDs, etc. had a growth rate of 91 percent compared with 2000. According to the National Telecommunications Agency (Anatel), the total number of pay-TV viewers rose from 200,000 in 2000 to 3.4 million in 2010. IBOPE audience data are consistent with this increase.

Most importantly, the growth of the internet appears to be a pivotal cause of the decline in FTA television. According to research carried out by F/Nazca,[27] a significant proportion of Brazilian internet users say they have abandoned some forms of traditional media for the internet.

Furthermore, the internet ranks as the second preferred source for news consumption among Brazil's online population.

Figure 7.
Preferred news consumption platforms (% of online population), 2011 and 2012

Television is still the preferred news consumption platform for most of the population, but when we analyze this consumption by age, the internet is the preferred platform among Brazilians aged 12–15 and/or people with a college degree. Figure 8 shows consumer preferences in relation to traditional media among users of mobile internet devices, and it is interesting to note that more than half of tablet users prefer to read newspapers and magazines online.

27.   "F/Radar," 11th edn, 2012. This research was the product of an analysis of survey questions applied between 10 and 16 April 2012 throughout Brazil to people of 12 years old and above. The research was extended to include information from the 2010 census and 2011 estimates from IBGE. The margin of error is +/–2%.

MAPPING DIGITAL MEDIA ■ BRAZIL

Figure 8.
Preferred traditional (offline) media among mobile internet users (%), 2012
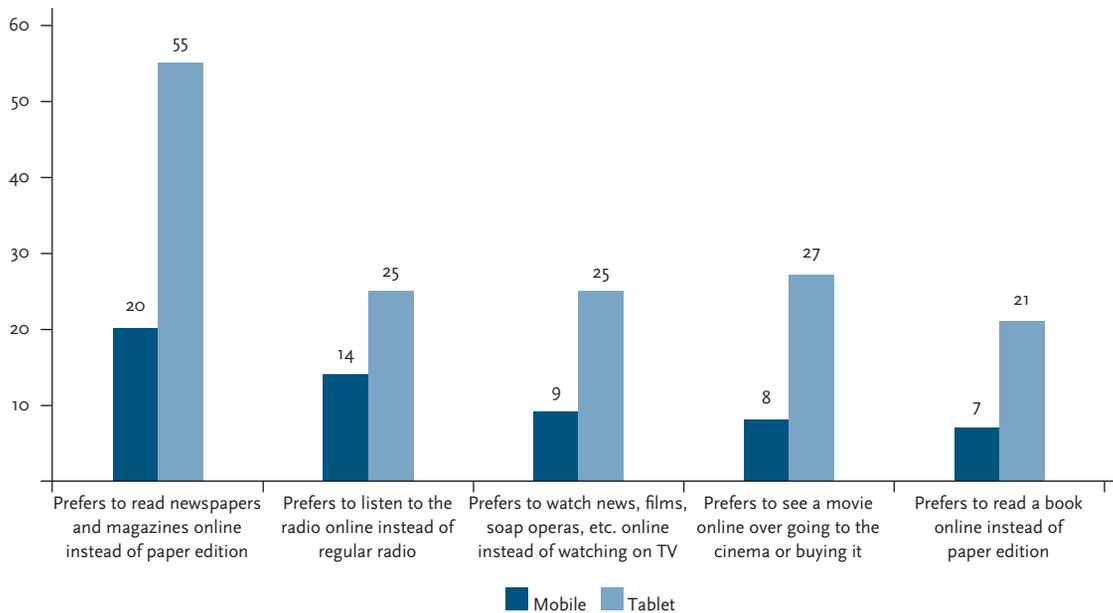
Source: F/Nazca, "F/Radar," 11th edition, 2012

1.2.2 Availability of a Diverse Range of News Sources

Brazil has four major television broadcasters, which have traditionally been owned by the same organizations throughout the years, and which are responsible for the top news programs: Organizações Globo, owned by the Marinho family; Sistema Brasileiro de Televisão (SBT), owned by Silvio Santos; Record, owned by Bishop Edir Macedo, founder of Igreja Universal do Reino de Deus (Universal Church of God's Kingdom); and Rede Bandeirantes, owned by the Saad family. All of them also host content on multiple media platforms, besides television, including radio, newspapers, magazines, and websites.

Organizações Globo is the largest media conglomerate of Latin America, controlling (directly or through local owned affiliates and regional networks) 340 media outlets, more than SBT and Rede Record put together.[28] This conglomerate is the owner of Rede Globo, which in 2012 was the second largest commercial television network in the world—by commercial income[29]—and the leader in the national television ratings, due mostly to its internationally famous soap operas, but also for its news and sports programming. In 2010, Globo commanded almost 70 percent of the viewership in Brazil, dwarfing its nearest competitor, Record, which captured just 13 percent.[30]

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28. *Donos da mídia* (Media Owners) project, at http://donosdamidia.com.br/inicial (accessed 26 September 2013).

29. H. Tolipan, "Globo sobe em ranking e torna-se segunda maior emissora do mundo!" (Globo Rises in Ranking and Becomes Second Largest Broadcaster in the World), *Jornal do Brasil*, 9 May 2012, at http://www.jb.com.br/heloisa-tolipan/noticias/2012/05/09/globo-sobe-em-ranking-e-torna-se-maior-emissora-do-mundo (accessed 2 October 2013).

30. SECOM, "Relatório de Pesquisa Quantitativa," March 2010.

Organizações Globo is also the most important player in the pay-TV field. It owns Globosat, the largest provider of pay-TV channels in Latin America, which has joint ventures with Twentieth Century Fox, Universal Studios, Metro-Goldwyn Mayer, Paramount Pictures, and NBC Universal. Globo News, the first 24-hour news channel on Brazilian television, is a Globosat channel. Organizações Globo also owns many other media enterprises, such as radio stations, newspapers, magazines, book publishers, music labels, and movie production companies. Among these, one of the most relevant is CBN (*Central Brasileira de Notícias*), the country's biggest radio network, with affiliates around the country.

Over 64 percent of the respondents in a 2010 survey of television viewers—an overwhelming majority—watched news programs as their first preference. The second most popular genre were soap operas, at around 16 percent, followed by sports, films, talkshows, and children's television.[31]

Among internet users, search engines are mentioned as the main source for news, with social networks coming a close second. However, social network usage varies depending on age (see section *3*).

Figure 9.

Main online news source among internet users (% of internet users), 2010
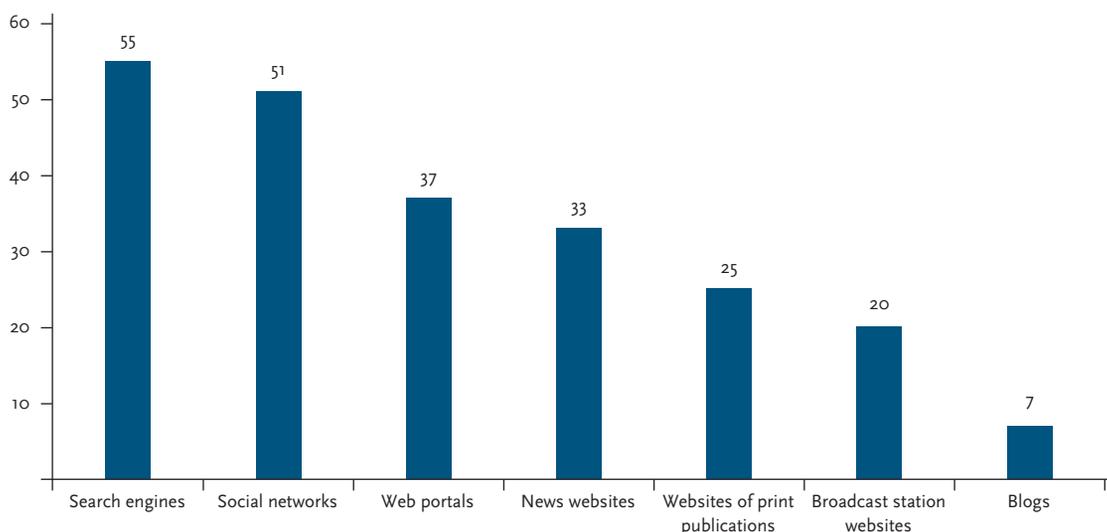
Note: Users aged 12 or older

Source: F/Nazca, "F/Radar," 7th edition, April 2010

Regardless of redirection through social networks, the number of unique visitors to the websites of traditional newspapers has been on the rise since 2005. The total combined number of unique visitors to Brazilian newspaper websites rose from 4.2 million in January 2005 to over 18.4 million in the same month in 2011.[32]

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31.   SECOM, "Relatório de Pesquisa Quantitativa," March 2010.

32.   IBOPE, Nielsen Online, in Newspapers National Association, at http://www.anj.org.br/a-industria-jornalistica/jornais-no-brasil (accessed 15 June 2011).

In parallel, the number of newspaper subscriptions for mobile phones increased by more than 100 percent between 2005 and 2010, from 86,210 to 202,900.[33]

1.3   News Providers

1.3.1   Leading Sources of News

1.3.1.1 Television

The influence and popularity of Rede Globo is undeniable, even though it has been consistently losing audiences over the past five years. Rede Record, owned by the evangelical church leader Edir Macedo, of Igreja Universal do Reino de Deus, was on the rise from 2005 to 2008, and seems to have reached a stable viewership level. Grupo Silvio Santos's SBT, Grupo Bandeirantes de Comunicações's Rede Bandeirantes, and Grupo TeleTV's Rede TV! complete the top five news providers on television. Public (state) television channels, collectively, hold the sixth position in the overall ranking. It is interesting to highlight how Globo's annual average audience has decreased over recent years, as much as SBT's audience.

Table 5.

Annual average TV audience by broadcaster, primetime (% of total households), 2005–2010

Television station	2005	2006	2007	2008	2009	2010
Globo	35.5	35.5	31.1	29.2	29.6	27.6
Record	5.9	7.3	8.8	10.4	9.5	9.5
SBT	10.1	7.8	6.8	7.3	6.2	5.9
Bandeirantes	2.8	3.0	3.0	3.0	3.3	3.1
Rede TV!	1.7	1.5	1.6	1.8	2.1	1.9
Pública	0.6	0.6	0.7	0.6	0.5	0.5
MTV	0.3	0.2	0.2	0.2	0.1	0.2

Source: IBOPE, 2011

Audiences for cable television reveal a strong presence for sports and sports news channels, with Globosat's SporTV remaining constantly at the top of the audience rankings over the past five years. SporTV, ESPN Brasil, and ESPN also rank high. Globosat's news channel Globo News is the only general news channel among the top five, although its audience has been declining steadily since 2005. Globosat's educational channel Futura and Bandeirantes's Band News are closely followed by two public television channels, TV Câmara and TV Senado, which provide coverage of legislative news and broadcast legislative sessions of the two houses of Brazil's National Congress.

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33.   Newspapers National Association, at http://www.anj.org.br/a-industria-jornalistica/jornais-no-brasil (accessed 15 June 2011).

Table 6.

Annual average TV audiences using pay-TV channels during primetime
(% of households with cable TV), 2005–2010

| Television station	2005	2006	2007	2008	2009	2010
SporTV	0.70	0.71	0.54	0.59	0.67	0.66
Globo News	0.68	0.54	0.42	0.33	0.39	0.37
SporTV 2	0.22	0.25	0.18	0.17	0.19	0.22
ESPN Brasil	0.24	0.24	0.19	0.18	0.18	0.15
ESPN	0.18	0.17	0.11	0.12	0.11	0.11
Futura	0.08	0.07	0.07	0.08	0.10	0.08
Band News	0.13	0.09	0.05	0.05	0.06	0.08
TV Camara	0	0	0	0.01	0.04	0.05
TV Senado	0.07	0.07	0.06	0.04	0.04	0.03
Bandsports	0.02	0.04	0.02	0.02	0.02	0.03
TB Justiça	0	0	0	0	0.01	0.03
Canal Rural	0.03	0.02	0.02	0.02	0.01	0.01
CNN	0.03	0.02	0.01	0.01	0.01	0.01

Source: IBOPE, 2011

1.3.1.2 Radio

Radio is an important source of news consumption, being present in 79 percent of households in 2012, according to the CGI. Among upper income groups, the penetration is larger (94 percent), decreasing in lower income groups (64 percent). According to Anatel, in 2011 Brazil had a total of 4,018 radio broadcasters, distributed regionally: 301 in the North, 950 in the Northeast, 1,409 in the Southeast, 943 in the South, and 415 in the mid-West. Radio still holds a prominent position as a news source, but its use has decreased in recent years. It is important to highlight that some research only takes account of the equipment owned by households, ignoring the fact that some of the population listens to the radio in cars or on mobile devices.

Figure 10.

Households with radio equipment (%), 2008–2012
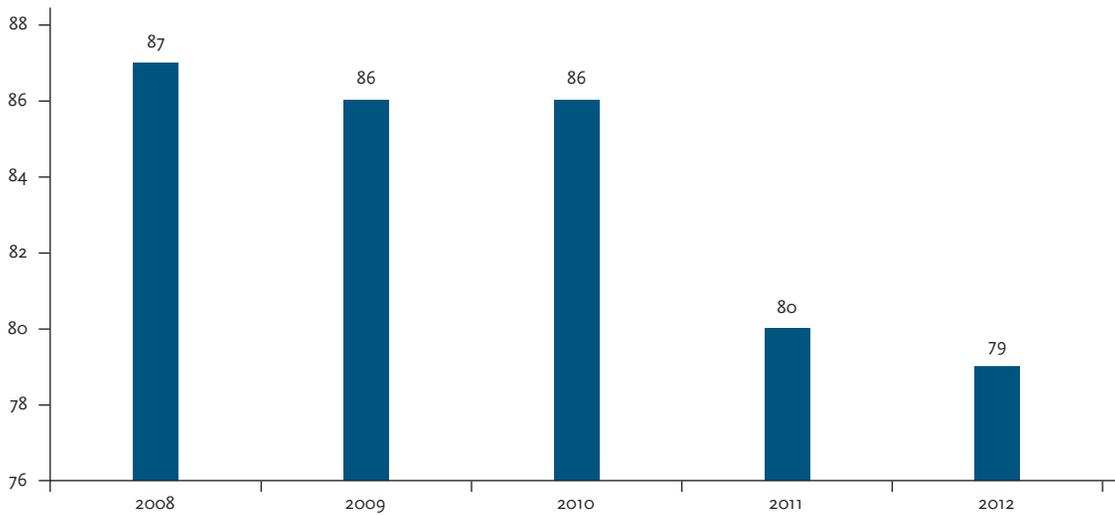
Figure 11.

Evolution of radio penetration, percentage of population over 10 years old, 2000–2010
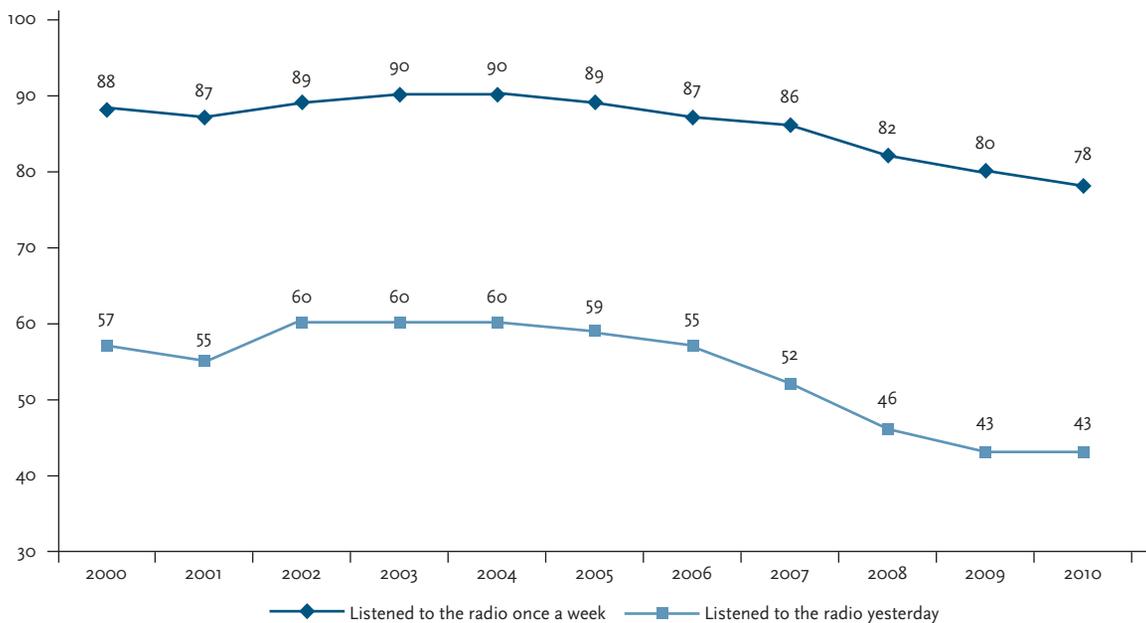
Regarding the modulation frequencies, Brazil still uses amplitude modulation (AM) broadcasting, initiated in 1923 by Roquette Pinto. AM radio is known for its low transmission quality and susceptibility to interference. The government therefore intends to migrate all the AM signals to the part of the spectrum already used by frequency modulation (FM) broadcasting, in response to a demand from the Brazilian Association of Radio and Television Broadcasters (*Associação Brasileira de Empresas de Rádio e Televisão*, ABERT) and the States

Association of Broadcasting. This process is set to begin with the smallest municipalities, migrating the AM broadcasters to the range between 76 and 88 MHz, right next to the FM range (88–108 MHz), but this depends on the implementation of digital television.[34]

Figure 12.
Penetration of AM and FM broadcasting (%), by age group, 2010
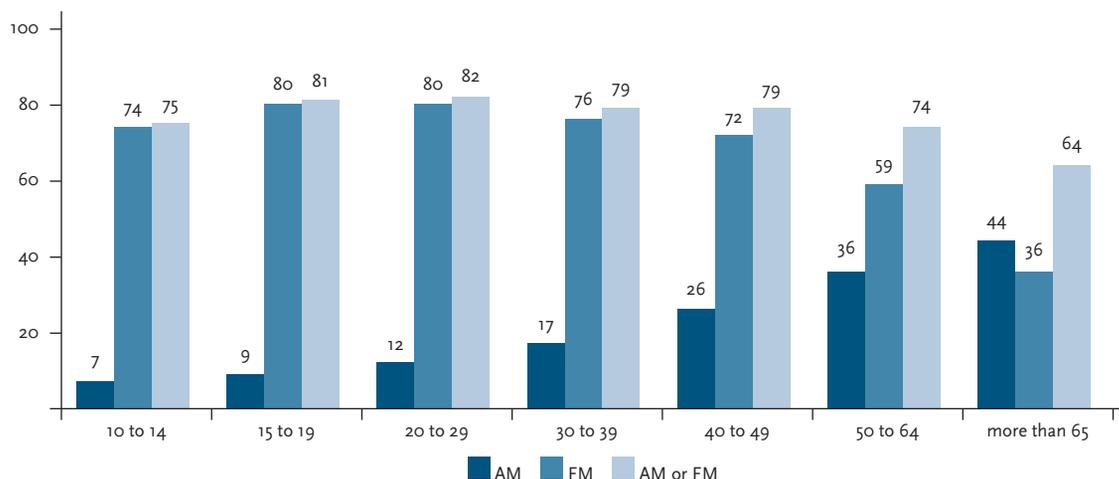
Source: Mídia Dados, 2011

While digital television is slowly increasing its take-up, digital radio is far from becoming a reality in Brazil; for years, the country has been trying to decide which standard it is going to choose for digital radio. For now, two standards are under discussion: IBOC (In Band On Channel), a proprietary pattern that permits the transmission of analog and digital radio signals simultaneously on the same frequency; and DRM (Digital Radio Mondiale), an open standardized digital broadcasting system intended for the bandwidth currently used for AM broadcasting in particular. Only in 2012 did the Ministry of Communications (*Ministério das Comunicações*, Minicom) create a Consultant Council to discuss this question. As well as being delayed, the policy debate is unbalanced, privileging commercial interests and weakening efforts toward a more democratic and popular digital radio platform. Tests using these two standards have been performed by the Ministry of Communications in certain municipalities to evaluate their performance under different conditions of both propagation and occupation of the available spectrum. The most recent test was carried out in São Paulo in June and July 2012.

Today, however, a wide variety of stations have recently become accessible through digital platforms, either through computers or mobile phones. This mode of access to radio is quite significant in the 16–24 age group, but also high among Brazilians aged 25–49.

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34. Anatel, "A extensão da faixa de FM (eFM) e a migração da faixa de OM: O que fazer com os canais 5 e 6 da televisão na era digital" (The extension of the FM band (eFM) and the migration of OM band: What to do with channels 5 and 6 in the digital era), 2010, at http://www.anatel. gov.br/Portal/verificaDocumentos/documento.asp?numeroPublicacao=244137&pub=orig (accessed 17 August 2013).

Table 7.

Platforms for listening to the radio, by age group, 2010

Usually listen to:	Age (%)				Total
	16–24	25–39	40–49	over 50	
FM radio	82.3	76.6	71.3	60.8	73.5
AM radio	20.4	27.1	34.7	44.1	30.7
– by internet	19.0	9.5	5.0	2.9	9.6
– by mobile	33.7	18.8	8.6	4.6	17.6

Source: ABERT, Radiodifusão—Uma Abordagem Numérica 2010

1.3.1.3 Print Media

Even with some oscillations in the consumption of print newspapers over the last five years, the ranking of Brazil's biggest newspapers shows the same media outlets competing for the top positions, with not much variance.

Table 8.

Brazil's biggest newspapers by paid circulation (copies per day), 2008–2012

Title	Publisher	2008	2009	2010	2011	2012
Super Notícias	Sempre Editora S/A	303,087	289,436	295,701	293,572	296,799
Folha de São Paulo	Empresa Folha da Manhã	311,287	295,558	294,498	286,398	297,650
Extra	Infoglobo	287,382	248,119	238,236	265,018	209,556
O Estado de São Paulo	O Estado de São Paulo S/A	245,966	212,844	236,369	263,046	235,217
O Globo	Infoglobo	281,407	257,262	262,435	256,259	277,876
Zero Hora	Zero Hora Editora Jornalística S/A	179,934	183,521	184,663	188,561	184,674
Daqui	Organização Jaime Câmara	n/a	n/a	90,342	163,568	159,022
Diário Gaúcho	Zero Hora Editora Jornalística S/A	166,886	146,885	150,744	155,853	166,221
Correio do Povo	Empresa Jornalística Caldas Júnior	155,569	155,131	157,409	149,260	149,562
Meia Hora	Editora O Dia S/A	231,672	185,783	157,654	136,802	118,257
Aqui	Diários Associados	n/a	n/a	125,676	120,757	39,074
Expresso da Informação	Infoglobo	n/a	n/a	84,285	93,269	67,181
Agora São Paulo	Empresa Folha da Manhã	n/a	n/a	92,863	91,828	92,046
Dez Minutos	Editora Ana Cássia Ltda.	n/a	n/a	83,210	89,741	91,498
Lance!	Arete Editorial S/A	113,715	125,050	94,683	84,983	80,238

Note: n/a: not available

*Source*:   Instituto Verificador de Circulação (IVC), in Newspapers National Association[35]

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35.   See http://www.anj.org.br/a-industria-jornalistica/jornais-no-brasil/maiores-jornais-do-brasil (accessed 26 September 2013).

The average daily circulation for 2012, as shown in Table 8, is more than 8 million. Certainly, this is a small number if we compare it with the total population in Brazil. Newspaper subscriptions are not cheap compared with the level of the minimum wage, for example, and because some parts of the population prefer other platforms such as television and internet to read news in real time and also have some interaction (you can comment on news or share news with your social networks). Newspapers are preferred by older people and by those who can afford this practice.

The above ranking includes both tabloids and broadsheet newspapers. The main quality newspapers in the country are *Folha de São Paulo*, *O Globo*, *O Estado de São Paulo*, and *Zero Hora*. In 2010, *Folha de São Paulo*, the top ranking newspaper since 1986, ceded first place to a popular newspaper, *Super Notícias*, from the State of Minas Gerais, but recovered it in 2012, with a growth of 4 percent. Other popular newspapers also appear in the ranking: like *Meia Hora*, edited by publishers owned by Empresa Jornalística Econômico (EJESA). *Extra* is a low budget, popular newspaper from Infoglobo (publisher of *O Globo*). The tabloids *Correio do Povo* and *Diário Gaucho* have significant circulations, but are mostly focused on local news from the State of Rio Grande do Sul. The soccer newspaper *Lance!* is the only topic-specific media outlet appearing among the top 15.

Figure 13.

Average daily paid circulation of major newspapers (in '000 copies), 2002–2010
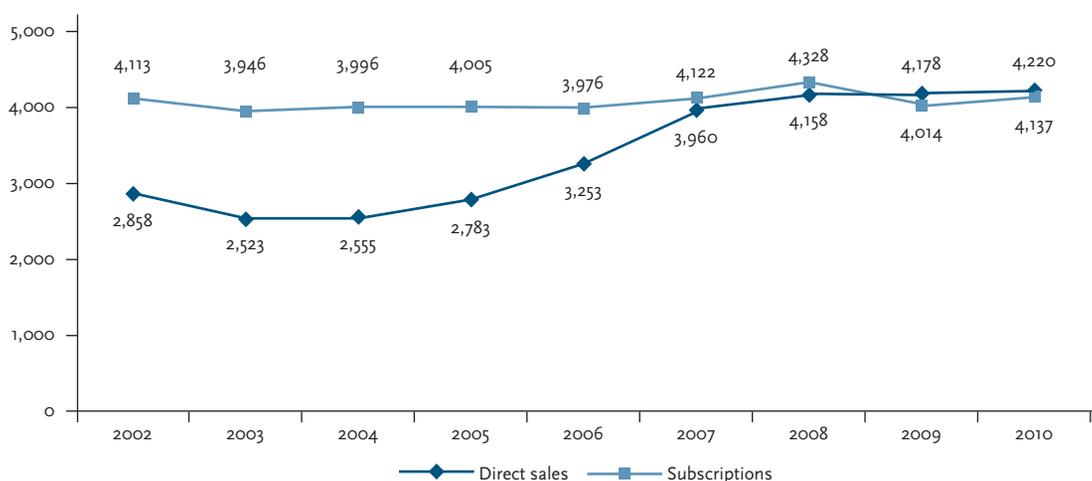
Source: Instituto Verificador de Circulação (IVC), in "Panorama da comunicação e das telecomincações no Brasil" (Panorama of Communications and Telecommunications in Brazil), 2011–2012, Institute of Applied Economic Research (*Instituto de Pesquisa Econômica Aplicada*, IPEA)

Editora Abril has five magazines among the most read weeklies in Brazil: *Veja* and *Veja São Paulo*, *Ana Maria*, *Viva Mais*, and *Contigo*. The weekly news magazine *Época* is owned by Organizações Globo, while *IstoÉ* is published by Editora Três, and is partially owned (30 percent) by the Terra Network, the biggest online media enterprise in Latin America and part of the Telefónica Group. Figure 14 illustrates the dominance of *Veja* over the other magazines, with more than twice the average circulation of the second most read magazine.

Figure 14.

Most read weekly magazines (in '000 copies), 2009–2011
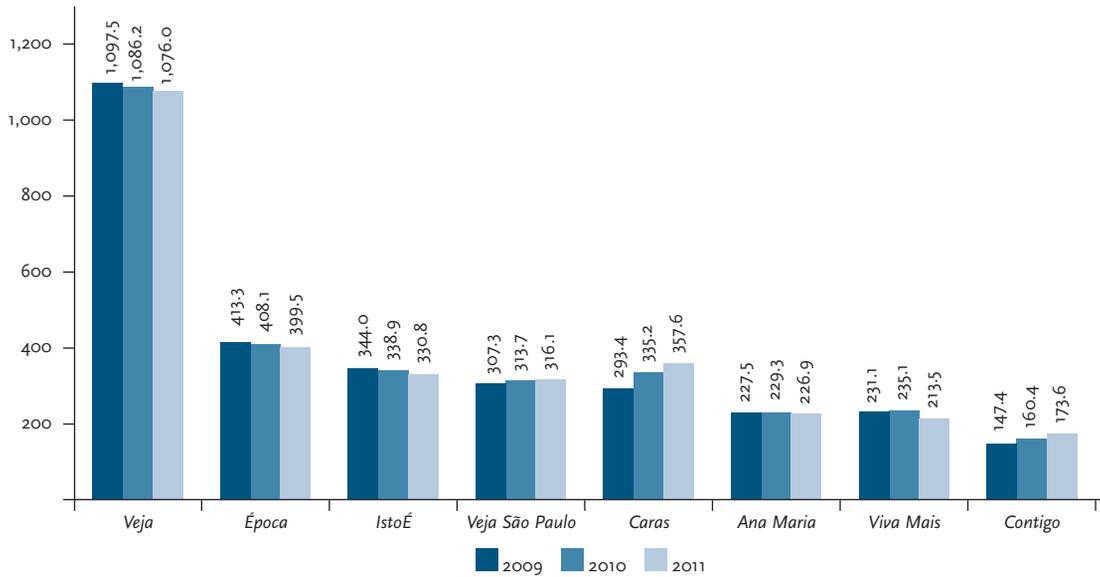
Source: IVC, in Mídia Dados, 2011

Figure 15.

Average circulation of magazines, per year (in '000 copies), 2000–2009
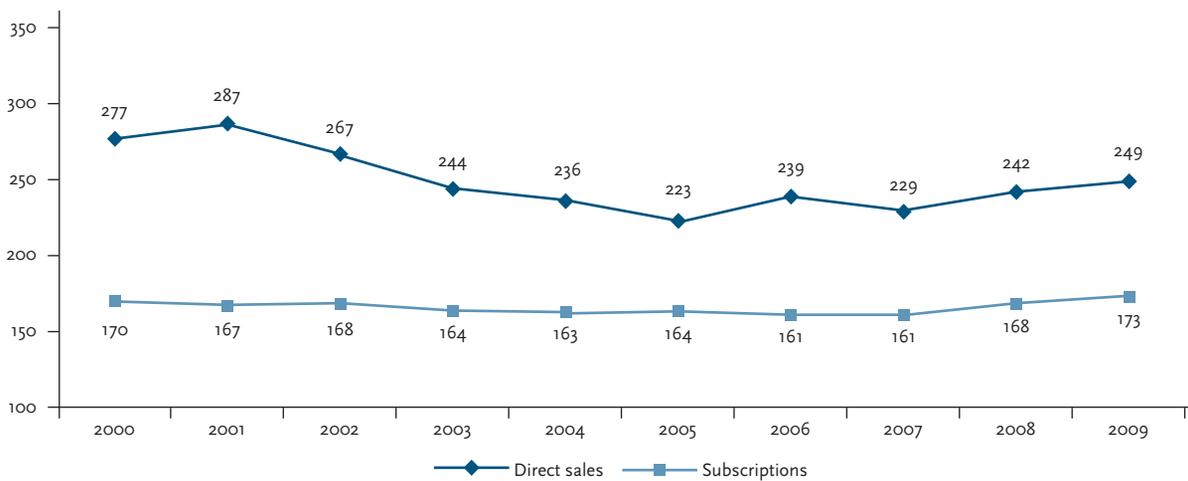
Source: IVC, in IPEA, "Panorama da comunicação e das telecomincações no Brasil," 2011–2012

Recently, the country has faced what has been called a crisis in print media, mainly because of the discontinuation of many printed magazines from Editora Abril (such as *Playboy, Contigo, Alfa, Bravo!, Gloss, and Lola)* and the dismissal of more than 150 employees in August 2013; even *Veja,* the magazine with the highest circulation in Brazil, suffered cuts. Previously, in March 2013, *Caros Amigos* magazine, well known for its leftist approach, fired an entire team of journalists who were striking for better conditions, and who

were also protesting against the decision to make budgetary cuts throughout the organization.[36] These cases reignited the debate about the precarious working conditions for journalists, and the role of print media in contemporary Brazil.

1.3.1.4 Online

Brazil's most accessed website with news content is the portal UOL, which also hosts the web edition to *Folha de São Paulo*, as well as other news sources, and attracted 50 million unique visitors in January 2012. The portal phenomenon in Brazil differs from that in other Latin American countries, since Brazilians were forced for many years to pay for a "content provider" on top of paying for their preferred ISP, which fueled the portals, such as UOL and Terra (5th most accessed). MSN, Globo.com, and Yahoo! were roughly in the same range (32–46 million visitors), with a considerable advantage over iG and its 16 million unique visitors, and Abril and R7 with 12 million each.

Despite the fact that these portals host content for some of the most widely read print newspapers and magazines (or the websites for these publications, including *Folha de São Paulo*, *O Globo*, and *Veja*), they also provide email, Instant Messaging (IM), and social networking functionality, among other services. Not all of the traffic to these sites can be said to be news-oriented. That is only true for dedicated news websites such as Estadao.com.br, the website for the newspaper *O Estado de São Paulo*, and the *Lance!* sports news website.

This ranking reflects the dominance of media conglomerates in the online news market. UOL is owned by Grupo Folha, Globo.com is the web portal for Organizações Globo, MSN is a Microsoft property, Terra Brasil is the Brazilian portal of Terra Networks, part of the Telefónica Group. Abril.com is owned by Grupo Abril. R7 is owned by Rádio e Televisão Record.

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36. M. Amaral, "Revista Caros Amigos demite equipe de redação em greve" (*Caros Amigos* Magazine Fires Journalists who were on Strike), *Brasil de Fato*, 11 March 2013, at http://www.brasildefato.com.br/node/12267 (accessed 2 August 2013).

Table 9.

Top 15 internet news websites, by unique visitors, January 2012

Site	Unique visitors (million)
Uol.com.br	50
Msn.com	46
Globo.com	38
Yahoo.com	32
Terra.com.br	28
Ig.com.br	16
R7.com	12
Abril.com.br	12
Bol.uol.com.br	8.9
Oglobo.globo.com	7.5
Estadao.com.br	4.2
Mundodastribos.com	4.2
Lancenet.com.br	3.2
Clicrbs.com.br	3.1
Dihitt.com.br	0.8

Source: Google AdPlanner (accessed 26 January 2012)

1.3.2   Television News Programs

Journalism in FTA television is clearly dominated by Rede Globo. Besides broadcasting "*Jornal Nacional*" (National Journal), the main news bulletin in the country, all the other bulletins quoted below belong to Rede Globo's daily schedule.

Nevertheless, since 2005 all the news bulletins from Rede Globo have shown declines in audience numbers. In 2010, "*Jornal Nacional*" registered the worst ratings in its history. The digital switch-over was not a factor, since digital television is still in its early stages in Brazil, and it broadcasts the same content as analog television. And in contrast to some newspapers, television news broadcasters have not developed websites with a content offer distinct from the conventional platform (see section *6.3.1*). It is worth noting that almost all the news bulletins with higher viewership belong to Organizações Globo.

Figure 16.

News bulletins with the highest ratings (% of total households),[37] 2005–2010
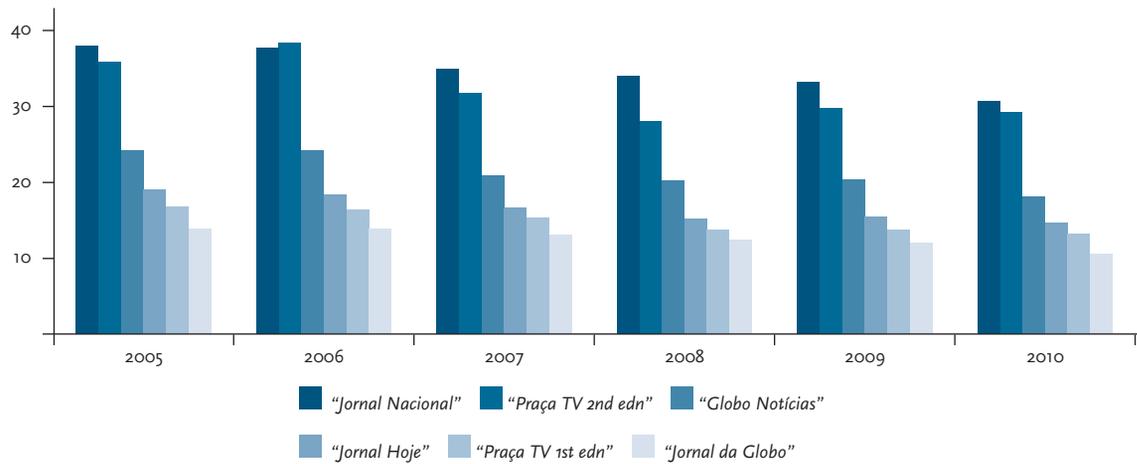
Source: IBOPE, Media Workstation

More recent data shows sharp declines in audience for the top rating news bulletins

Table 10.

Changes in audience ratings of news bulletins in 2012 and 2013

News bulletins	Audience rating (%)
"Jornal Nacional" (Globo)	−12
"SPTV 2nd edn" (Globo)	−10
"Jornal da Globo" (Globo)	−11
"Brasil Urgente" (Band)	−18
"Jornal da Band" (Band)	−12
"SBT Brasil" (SBT)	−3
"Jornal do SBT" (SBT)	−6
"RedeTV News" (Rede TV!)	−41
"Jornal da Record" (Record)	+2
"Cidade Alerta" (Record)	+6

Source: IBOPE, January/August 2012 and January/August 2013[38]

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37. "*Praça TV*" is a slot on Rede Globo's daily schedule reserved for local news broadcast, in two editions, the first one at noon and the second during primetime.

38. "Jornais da TV Têm Queda Recorde de Audiência em 2013," *UOL Notícias,* 17 September 2013, at http://mais.uol.com.br/view/1575mnadm-j5c/jornais-da-tv-tem-queda-recorde-de-ibope-em-2013-0402CC18386EDCB14326?types=V,F,S,P,T& (accessed 4 October 2013).

1.3.3 Impact of Digital Media on Good-quality News

Since the internet became the second main platform for news consumption, Brazilian audiences are definitely on the path to a larger number of sources and a greater variety of ways to experience news content. This has delivered new tools and opportunities for minority groups and independent media (see section *4.3.3*), and an autonomous source of news for the section of the population with internet access.

The impact of digital media on the quality of news, however, is unclear. The same group of media conglomerates that dominates traditional news platforms also attracts the majority of internet users in Brazil, and the type of content provided by these conglomerates remains mostly the same.

1.4 Assessments

The full implementation and wide adoption of digital broadcasting will take a considerable period of time, but it is safe to say that the switch from analog to digital broadcasting will not facilitate a greater variety of ownership or content and dilute concentration in the sector. There have not been any observable changes in news offer and choice on television as a result of digital broadcasting. Additionally, interactivity in television broadcasts, despite the hype surrounding Brazilian "Ginga" middleware (see section *7.1.1.1*), is still only a promise, and the same is true of multicasting and a greater variety of television channels. As digital switch-over approaches, the freed 700 MHz band will be auctioned to telecommunications companies.

The impact of digitization in Brazil is more evident when one looks at internet use, rather than the country's still embryonic digital broadcasting industry. Even though the digital divide remains wide, Brazil has a massive number of internet users, representing the largest internet population in Latin America. Television remains the main platform for news consumption, but there have been meaningful audience fluxes in the past five years. Audience numbers for FTA television are declining in parallel to an increase in pay-TV subscriptions; the internet population is on the rise, and is still far from reaching a plateau. The internet's potential for cannibalizing television audiences as a competing source for news and entertainment should not be underestimated.

The overall news offer and choice are certainly more varied and compellingly richer in the online environment. Nevertheless, when we look at audience rankings for websites in Brazil, it is clear that the same media conglomerates that dominate the traditional media are currently the main players in the market. Independent media and a wealth of user-generated content (UGC) do exist, but audiences flock to websites that are controlled by the most powerful incumbent players, such as Organizações Globo, Grupo Folha, Grupo Abril, and Record. These players' business models may be in a state of rupture, but they have so far been very flexible in adapting to a digital scenario, at least as far as maintaining a grip on audiences is concerned.

The immense influence historically exerted by Organizações Globo over Brazil's culture and politics needs to be stressed. Globo has an extremely wide reach, with significant ratings on all platforms, including both FTA and pay-TV, newspapers, radio stations, magazines, and web platforms. While the news bulletin

"*Jornal Nacional*"'s audience may be in decline, everything points to Globo maintaining its position as a communications giant in the online environment.

Brazil's impressive adoption of social networks and its vibrant blogosphere indicate, however, that there is room for growth in UGC and more critical analysis of information, as opposed to strictly passive consumption. A more discerning demand from individuals, in the end, may lead to improvements in offer and choice of news.

2. Digital Media and Public or State-administered Broadcasters

2.1 Public Service and State Institutions

2.1.1 Overview of Public Service Media; News and Current Affairs Output

Commercial interests have dominated Brazilian media from the beginning, leaving little opportunity for the development of non-commercial, public service media. What passes for public service broadcasting in Brazil nowadays is part of a convoluted, flawed system, weak in reach and audience share, and rife with identity issues. This system comprises:

- the federal government's TV Brasil (national) and eight radio stations (regional), managed by the Brazilian Communications Company (*Empresa Brasileira de Comunicação*, EBC);

- broadcasters operating under educational radio or television licenses, maintained by states, municipalities, universities, and private foundations;

- some of the "basic free-use channels" that have been established, through legislation, as must-carry channels for subscription television providers, including channels created by the federal and local legislative houses, the Brazilian supreme court, universities, and non-governmental organizations (NGOs);

- community radio stations.

During the early years of radio broadcasting, experimentation with both commercial and non-commercial models took place, but commercial radio emerged victorious when the sector was first regulated. In 1931 and 1932,[39] President Getulio Vargas positioned the state mainly as licensing authority and content regulator.

The first broadcaster, Rádio Sociedade do Rio de Janeiro (still operational today as Radio MEC), founded in 1923 by Edgard Roquette-Pinto, was donated to the Ministry of Education and Culture in 1936, and

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39. In 1931, President Vargas issued Decree 20.047, the first Brazilian Law on Telecommunications. There were, at the time, 29 radio broadcasters, some of which had been functioning in a mostly unregulated sector for almost a decade. See O.P. Pieranti, *Políticas Públicas para Radiodifusão e Imprensa* (Public Policy for Broadcasting and the Press), Rio de Janeiro, FGV Editora, 2007, p. 48 (hereafter, O.P. Pieranti, *Políticas Públicas*).

consequently became the first state broadcaster.[40] The first major state broadcaster, however, was Rádio Nacional do Rio de Janeiro, founded by Organizações Victor Costa in 1936. Rádio Nacional was taken over by the Getulio Vargas administration in 1940, and used as a propaganda tool during Vargas's dictatorial Estado Novo regime (1937–1945), but it operated just like a commercial broadcaster, extracting most of its revenue from advertisements. It remained the foremost Brazilian broadcaster until the early 1950s, but lost its standing and influence thereafter.

The arrival of television occurred in the midst of a broadcasting system that was already fully dependent on advertising as its main source of revenue. Intimate relationships between government and broadcasting, however, remained a staple of the sector. Organizações Globo's communications empire, in fact, flourished through a symbiotic partnership with the military dictatorship of 1964–1985. TV Globo, founded in 1965, transmitted the first program with national coverage, "*Jornal Nacional*" (National Journal), in 1969, using infrastructure built by the military, and collaborated closely with the dictatorial regime.[41]

The first major attempt at creating a public service broadcasting system began under military rule with Decreto-Lei (Executive Order) 236 of 1967, which created a new category of broadcast license for non-commercial radio and television, conceived as a tool for mass public education, granted to governments at the federal and state levels, universities, and foundations.[42] The decree was guided by a very limited idea of educational television, strictly based on the transmission of lectures, speeches, and debates; the concept of "educational" broadcasting, however, was widened by broadcasters themselves to include cultural and journalistic content.

Almost every Brazilian state created its own educational broadcasting service in the following years, under the control and supervision of the federal government's Fundação Centro Brasileiro de TV Educativa (FCBTVE).[43] The non-commercial nature of educational licenses was eventually mitigated in 1986 with the Sarney Law,[44] and in 1995 with the Rouanet Law,[45] which allowed licensees to obtain additional resources as sponsorships from the private sector to produce audiovisual content. State broadcasters operating under educational licenses, however, are particularly dependent on budgetary allocations made by the government, and most are not significant in terms of audience reach. Historically, only two channels with a public service mission achieved relative popularity in Brazil: the federal government's TVE Rio (now TV Brasil) and the State of São Paulo's TV Cultura.

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40. J. Valente, "Sistema Público de Comunicação do Brasil" (Public Communication Systems in Brazil), in Intervozes (ed.), *Sistemas Públicos de Comunicação no Mundo* (Public Communication Systems in the world), Paulus, São Paulo, 2009, p. 270 (hereafter, J. Valente, *Sistemas Públicos de Comunicação*).

41. V.A. de Lima, *Mídia: Teoria e Política* (Media: Theory and Politics), 2nd edn, Editora Fundação Perseu Abramo, pp. 141–173.

42. Decreto-Lei 236/1967, Articles 13 and 14.

43. Nine state broadcasters were created in the first half of the 1970s, including TVE Rio and TV Cultura. See O.P. Pieranti, *Políticas Públicas*, p. 64.

44. Law 7.505/86, now revoked.

45. Law 8.313/91.

TV Cultura, despite a governance structure that attempts to check government influence,[46] is extremely sensitive to political pressure and is currently under a restructuring plan involving budgetary and staff cuts, which some see as a deliberate bid to dismantle its operations. Furthermore, a controversial partnership with major media companies such as Folha, Estado, and Abril has added fuel to the fire of accusations of political misuse of public airtime.[47]

Three years into the New Republic and Brazil's transition from dictatorship to democracy, the 1988 Constitution of the Brazilian Federative Republic came into force, and with it an entire section on "social communication."[48] The centerpiece of the constitutional framework, Article 223, establishes that the Executive branch is responsible for granting and renewing broadcast licenses, observing the principle of the "complementarity of the private, public, and state systems." There is no specific orientation in the Constitution regarding what exactly should be considered private, public, or state broadcasting, and the difference between "public" and "state" is a matter of contention for some.

In 1995, the Cable TV Law imposed on every provider of cable television the obligation to carry six new channels: one containing programming from the municipal and state legislative houses, two for the National Congress, one to be shared by local universities, one educational/cultural channel to be shared by the federal and local government offices responsible for education and culture, and one community channel, to be used by NGOs and other non-profit entities.[49] In 1998, legislation for community radio was passed; these small, local broadcasters are also required to be non-commercial in nature.[50]

Despite the constitutional principle establishing a system based on the complementary nature of public, state, and private broadcasting, Brazil still lacks a strong, cohesive public broadcasting system. The licensing procedures for educational broadcasting and community radio suffer from serious problems (see sections 5 and 7), and there is no single public broadcaster in the country that is sufficiently independent from either the government or the market.

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46. TV Cultura, Rádio Cultura (AM and FM), and pay-TV children's channel TV Rá-Tim-Bum are managed by a private foundation, Fundação Padre Anchieta, under a board of curators that includes 23 members from the government of São Paulo, universities, and other institutions from both the public and private sectors with a cultural or scientific background. More than half of Cultura's budget, however, comes from the government of São Paulo. In 2011, out of a budget of BRL 157,341,114 (US$ 78,670,555), BRL 85,034,974 (US$ 42,517,487) came from the government. See Fundação Padre Anchieta, *Relatório de Atividades 2011* (Activity Report 2011), at http://fpa.com.br/sic/documentos-institucionais/relatorio-de-atividades-2011 (hereafter, Fundação Padre Anchieta, *Relatório de Atividades 2011*) (accessed 20 August 2011).

47. The agreement involves the use of 30-minute slots during primetime for the broadcasting of weekly programs produced by the newspapers *Folha de São Paulo*, *Estado de São Paulo*, *Valor Econômico*, and the magazine *Veja*. See L.L. Leal, "Para Laurindo Lalo Leal, 'TV Folha' Privatiza Espaço Público" (For Laurindo Lalo Leal, 'TV Folha' Privatizes the public space), *Folha de São Paulo*, 13 March 2012, at http://www1.folha.uol.com.br/multimidia/videocasts/1060558-para-laurindo-lalo-leal-tv-folha-privatiza-espaco-publico.shtml (accessed 21 August 2012), and A. Dines, "Folha e Cultura, a Fórmula de um Desmonte" (Folha and Cultura, the formula for a dismantle), *Observatório da Imprensa*, No. 686, 20 March 2012, at http://www.observatoriodaimprensa.com.br/news/view/lt_i_gt_folha_lt_i_gt_e_cultura_a_formula_de_um_desmonte (accessed 21 August 2012).

48. Constitution of the Federative Republic of Brazil, Articles 220–224.

49. Law 8.977/95, Article 23, I.

50. Law 9.612/98, Article 1.

Some progress came in 2007 with the creation of the Brazilian Communications Company (*Empresa Brasileira de Comunicação*, EBC), which, despite its many flaws, has at least contributed to raising awareness regarding the urgent need to solve this decades-old problem. The EBC was created on a provisional basis in 2007, and then formalized by Law 11.652 in 2008. It was the direct result of a proposal drafted during the first Public Television Forum held in 2007 by members of civil society and non-commercial broadcasters, and presided over by the then Minister of Culture, Gilberto Gil. The EBC is an attempt to give life to the complementarity principle by organizing a national network of public broadcasters.

Structured as a state-owned company, the EBC was formed by the merger of Radiobrás—the state company that was responsible for managing the federal government's former stations—and the Educational Communications Association Roquette-Pinto (*Associação de Comunicação Educativa Roquette-Pinto*, ACERP), the organization that maintained TVE Rio. The merger between Radiobrás and ACERP, however, happened in name only, since the administrative structures of both institutions were kept under the EBC umbrella. The EBC is responsible for TV Brasil, a new channel created from the ashes of TVE Rio, nine radio stations, and an online news agency, Agência Brasil.

The EBC's institutional mission is to fill the void in Brazilian public service broadcasting by unifying and managing the federal government's television and radio stations, and articulating a National Public Communications Network that is editorially independent from the state and the market. Nevertheless, the company has structural flaws that might compromise this goal. The EBC is tied to the Brazilian Secretariat of Social Communication (*Secretaria de Comunicações Sociais da Presidência da República*, SECOM), an office responsible for the public communications of the federal government, and is also in charge of providing the federal government with services for its own channel, TV NBR, which broadcasts official government acts and programming about the government's activities. The fact that the EBC provides this service to the government under the name EBC Serviços does not change the reality that it is still a single company. Even if editorial lines are drawn to differentiate content produced for TV NBR and TV Brasil, the EBC is still a monolithic entity, responsible for two tasks that are inherently incompatible.

TV Brasil broadcasts general interest programming, some of which is acquired from TV Cultura and other sources. Almost half of its content (45.8 percent) is produced internally.[51]

The only available breakdown of TV Brasil's output by genre dates from 2008, and indicates that news represented 13.8 percent of total programming.[52]

51. EBC, *Frequently Asked Questions*, 2012, at http://www.ebc.com.br/acessoainformacao/perguntas-frequentes (hereafter, EBC, *Frequently Asked Questions*) (accessed 20 August 2012).

52. J. Valente, "TV Brasil Investe em Infantis, Jornalismo e Debates" (TV Brasil Invests in Children's Television, News and Debates), *Observatório do Direito à Comunicação,* 26 June 2008, at http://www.direitoacomunicacao.org.br/content.php?option=com_content&task=view&id=3632 (accessed 21 August 2012).

Audience ratings are extremely low for both TV Brasil and TV Cultura. According to the EBC's president, Nelson Breve,[53] IBOPE's national ratings are unable to demonstrate accurately TV Brasil's ratings at the national level, but they are undeniably low—0.1 percent in São Paulo, 0.7 percent in Rio de Janeiro, and 0.3 percent in Brasilia, for example. This may be due to a low level of awareness that TV Brasil even exists, and/or to a preference for the output of Globo, Record, or SBT. (See section *2.2.1*.)

TV Cultura's average ratings for São Paulo in 2011 were 0.9 percent (Monday to Sunday, 7 p.m.–12 a.m.), with a viewership share of 2.1 percent.[54]

Radio programming is mostly composed of news and music, according to a survey conducted by the Association of Public Radios in Brazil (*Associação das Rádios Públicas do Brasil*, ARPUB) among 30 public radio stations in 2007.[55] No audience data allowing comparison between public and commercial radio are publicly available.

2.1.2 Digitization and Services

Digitization has had little impact on the number of services provided by public service media. Most new services relate to the online streaming of radio and television content, since penetration of digital terrestrial television is still low, particularly where it concerns public service broadcasters.

The EBC maintains a web presence for its outlets, through which it streams real time content to the public. Live streaming of content is also provided by the National Congress channels (TV Câmara and TV Senado), the Ministry of Education's TV Escola, TV Cultura, and Univesp TV, an educational channel curated by TV Cultura and the government of São Paulo.

On-demand streaming is also available, usually through YouTube. TV Brasil, TV Cultura, STF's TV Justiça, and the Ceará State Legislative TV all have considerable video libraries hosted on their official YouTube channels. TV Cultura's partnership with Google—all content produced in high definition (HD) by Cultura is available on YouTube—provided modest revenues of US$ 52,733 in 2011.[56]

TV Cultura is the only public service broadcaster experimenting with simulcasting on digital terrestrial television. Cultura uses its digital channel to simulcast its main channel, TV Cultura, plus Univesp TV, and Multicultura to viewers located in the city of São Paulo.

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53. Interview with Nelson Breve, *Zero Hora*, 8 January 2012, at http://zerohora.clicrbs.com.br/rs/cultura-e-lazer/segundo-caderno/noticia/2012/01/precisamos-fazer-com-que-essa-programacao-seja-vista-diz-novo-diretor-da-tv-brasil-3624556.html (accessed 21 August 2012).

54. Fundação Padre Anchieta, *Relatório de Atividades 2011*.

55. 93.3 percent of respondents claimed to include news and Brazilian music in their broadcasts. The extremely generic category of "cultural programs" comes next with 83.3 percent, followed by "regional music" (80 percent), "educational/inclusive programs" (60 percent), "classical music" (60 percent), "entertainment" (56.66 percent), "sports programs" (33.33 percent), "popular science" (30 percent), "children's programming" (23.33 percent), "religious programming" (6.66 percent). See ARPUB, *Pesquisa Nacional Sobre Rádios Públicas do Brasil* (National Research on Public Radio in Brazil), 2007, at http://www.arpub.org.br/documentos/pesquisa_nacional_arpub.pdf (accessed 20 August 2012).

56. Fundação Padre Anchieta, *Relatório de Atividades 2011*.

2.1.3 Government Support

In 2009, the federal government made official a plan to build a common infrastructure that will be used to broadcast all of its channels, the "common network operator" (*operador comum de rede*). The operator will be built through partnerships between the public and private sectors, and has an estimated cost of 2.8 billion *reais* (BRL) or US$1.4 billion, to be spent within a time frame of 20 years.

The infrastructure will primarily be used by the National Congress channels (TV Câmara and TV Senado), the federal administration's channel (NBR), the Supreme Federal Court's channel (TV Justiça), TV Brasil, and three other channels established by the decree that set the rules for the Brazilian Digital Terrestrial Television System, but have yet to be created (the Education, Culture, and Citizenship channels, to be maintained by the Ministries of Education, Culture, and Communications, respectively).[57]

Broadcasters at the state level will be permitted to share the infrastructure once it is operational. The law that created the EBC authorizes partnerships between the company and other broadcasters, in order to build a National Network of Public Communications. The common network operator would dramatically expand the reach of these outlets, but nothing concrete has come out of the plans yet.[58]

As far as content production is concerned, the federal government funds most of the EBC's activities—either by direct budget allocations or through contracts for the production of programming for NBR—and has been gradually increasing its support since the company's foundation in 2007.

2.1.4 Public Service Media and Digital Switch-over

Digitization has certainly improved access to public service media, insofar as the internet allows viewers to make use of the services mentioned above, and provides opportunities for content to be experienced beyond the airwaves. The digital switch-over for digital terrestrial television, however, is progressing slowly and it is too early to evaluate its impact.

In December 2012, the Ministry of Communications published the rules for the implementation of the Citizenship Channel (*Canal da Cidadania*). The Citizenship Channel will actually multicast four channels, two to be taken by states and municipalities, and two by community channels. This would, in effect, allow the current community channels available through pay-TV to be broadcast free-to-air, and open up more space for an additional community channel.

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57. Ana Rita Marini, "O Que É o Operador de Rede Pública da TV Digital" (What Is Digital Television's Public Network Operator), *e-Fórum FNDC*, at http://www.fndc.org.br/internas.php?p=noticias&cont_key=501993 (accessed 21 August 2012).

58. TV Brasil's signal is currently available in 1,747 cities (out of a possible total of 5,561), and is part of a network of 55 primary stations ("geradoras"), 689 secondary stations ("retransmissoras"), across 23 states and the Federal District. TV Cultura has a network with 16 affiliates, reaching 10 states, 5,544,157 households, and 18,850,133 viewers. Through partnerships with the EBC and Rede Minas, Cultura's content is delivered to 22 states and the Federal District, 24,675,784 households, and 81,858,936 viewers. See EBC, *Frequently Asked Questions* and Fundação Padre Anchieta, *Relatório de Atividades 2011.*

2.2 Public Service Provision

2.2.1 Perception of Public Service Media

As a consequence of the diminished importance of public service media in Brazilian broadcasting history, commercial television has for a long time dominated the preferences of viewers. A survey by Datafolha shows TV Brasil at 1 percent and TV Cultura at 4 percent, in a response to an open-ended, multiple-answer question about frequently watched television channels.

Figure 17.

Frequently viewed channels (open-ended, multiple answers), 2009
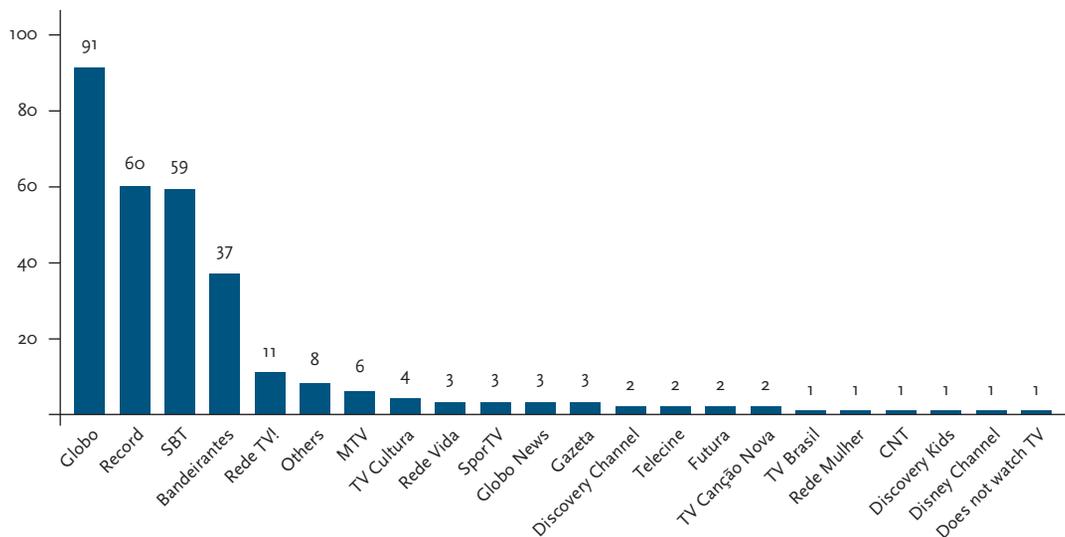
Source: Datafolha, *TV Brasil: Conhecimento e Avaliação* (Knowledge and Evaluation), 2009; on file with the authors

Of the 24 percent of viewers who know about TV Brasil's existence but do not watch it, 42 percent indicated technical issues as the reason, 27 percent claimed not to know the channel's number or schedule, 23 percent to dislike the programming, and 19 percent cited lack of time.

As pointed out by Moysés, Valente, and Silva,[59] despite historical periods in which TVE Rio and TV Cultura achieved substantial ratings, the concept of public service broadcasting is not well understood by Brazilian audiences, who are informed on the subject through commercial outlets and their often negative coverage of public media.

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59. D. Moysés, J. Valente, and S.P. da Silva, "Sistemas Públicos de Comunicação: Panorama Analítico das Experiências em Doze Países e os Desafios para o Caso Brasileiro" (Public Communication Systems: Analytical Overview of Experiences in Twelve Countries and Challenges for the Brazilian Case), in Intervozes (ed.), *Sistemas Públicos de Comunicação no Mundo: Experiências de Doze Países e o Caso Brasileiro* (Public Communication Systems in the World: Experiences of Twelve Countries and the Brazilian Case), Paulus, São Paulo, 2009, p. 309 (hereafter, Intervozes, *Sistemas Públicos de Comunicação no Mundo*).

2.2.2   Public Service Provision in Commercial Media

Article 221, I of the Constitution establishes, as a general principle, that educational, artistic, cultural, and informative content should be prioritized in radio and television programming and content production, even in commercial media. This principle did not, however, find its way into actual policy, with the exception of quotas for content and advertising that are never enforced, and requirements included in the tender procedure for commercial licensing, which are not really decisive for licenses being awarded.

Commercial broadcasters are required to schedule at least five hours a week of educational content, allocate at least 5 percent of their programming to news content, and not exceed a quota of 25 percent airtime for advertising.[60] Broadcasters, however, are known to disrespect these quotas. For instance, a 2009 report by the National Cinema Agency (*Agência Nacional do Cinema*, ANCINE) shows that TV Gazeta, Bandeirantes, and Record did not broadcast any of the five hours of educational programming.[61] The Ministry of Communications is responsible for enforcing these requirements; the fact that it fails to do so is another confirmation of the importance of commercial capture in the media sector.

The Ministry has only recently taken steps to improve its monitoring and enforcement, and has established in its 2012–2015 plan of action the goal of examining the regularity of 100 percent of current licenses. According to Ministry data, it applied 741 penalties to broadcasters in 2012, most of which were fines and suspensions, mostly (50.8 percent) imposed on community radios.[62] It remains to be seen if these efforts will result in better compliance with content-related requirements.

Criteria such as the number of hours dedicated to news, educational, and cultural programming are also taken into account in public tenders for commercial broadcasting licenses, and add to the score of the technical proposals submitted by contestants. Nevertheless, proposals are mostly decided exclusively on the highest bid (see section *5.1.1*), and contractual obligations suffer from the same lack of enforcement that affects the legal requirements mentioned above.

2.3   Assessments

Digitization may represent either a turning point in the history of public service broadcasting, or the definite consolidation of the commercial interests that have historically dominated radio and television. So far, with debate concerning the common network operator moving only slowly, the much hyped interactivity in digital terrestrial television is still a promise, and with the internet increasingly controlled by the same actors who dominate traditional media, the second scenario seems more likely than the first.

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60. Law 4.117/1962, Article 24, and Decreto-Lei (Executive Order) 236/1967, Article 16, §1.

61. ANCINE, "TV Aberta—Monitoramento da Programação 2009" (Free-to-air TV: Monitoring the schedule 2009), at http://oca.ancine.gov.br/rel_programastv2009.htm (accessed 21 August 2012).

62. B. Marinoni, "Ministério das Comunicações Aplica 741 Sanções a Emissoras em 2012" (Ministry of Communications Applies 741 Sanctions to Broadcasters in 2012), *Observatório do Direito à Comunicação*, 29 January 2013, at http://www.direitoacomunicacao.org.br/content.php?option=com_content&task=view&id=9596 (accessed 29 January 2013).

Nevertheless, despite the institutional problems that affect the EBC, for the first time since the promulgation of the 1988 Constitution, a serious attempt has been made to make the principle of complementarity between public, private, and state broadcasting a reality. One of the greatest merits of the EBC, according to Lima,[63] is that it defines itself institutionally as a public—not state, and not commercial—broadcaster, and that the definition of what that should entail is now a practical concern.

Public service broadcasting, after all, never had the chance to fully develop in Brazil, and as a result both broadcasters and audiences are playing catch up. As eloquently summarized by Eugênio Bucci, "Based on the examination of what takes place with TV Cultura and TV Brasil, the conclusion that we do not have public service broadcasting among us is evident. That does not mean that we are not set in that direction. It only means that this is a tortuous path, treacherous, and that there is more to be done than is normally admitted."[64]

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63. V.A. de Lima, *Regulação das Comunicações: História, Poder e Direitos* (Regulating Communications: History, Power, and Rights), Paulus, São Paulo, 2011, p. 41 (hereafter, V.A. de Lima, *Regulação das Comunicações*).

64. E. Bucci, "É Possível Fazer Televisão Pública no Brasil?" (Is it Possible to Make Public Television in Brazil?), *Novos Estudos CEBRAP*, No. 88, November 2010, pp. 5–18, at http://www.scielo.br/pdf/nec/n88/n88a01.pdf (accessed 29 January 2013).

3. Digital Media and Society

3.1 User-Generated Content (UGC)

3.1.1 UGC Overview

Brazilian web culture is heavily driven by the consumption of content published or found through web portals, and the use of a variety of social media. Four of the 10 most visited websites in Brazil in September 2013 are primarily UGC (Facebook, YouTube, Mercado Livre, and Wikipedia); another four are web portals (UOL, Globo.com, Live.com, and Yahoo!). The remaining two are Google search domains (Google.com.br and Google.com).

Table 11.
Top 10 most visited websites (September 2013)

Alexa rank	URL	Category
1	Google.com.br	Search
2	Facebook.com	Social network
3	Google.com	Search
4	Youtube.com	Online video
5	Uol.com.br	Web portal
6	Globo.com	Web portal
7	Live.com	Web portal
8	Yahoo.com	Web portal
9	Mercadolivre.com.br	Auctions
10	Wikipedia.org	Encyclopedia

Source: Alexa Top 500, Brazil, accessed 9 September 2013

Brazilians are known for being early adopters and heavy users of social media. This reputation dates back to 2004, when Orkut's (Alexa #99) user base became predominantly Brazilian.[65] Social networks, unsurprisingly,

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65.   S. Fragoso, "WTF a Crazy Brazilian Invasion," in C. Ess, F. Sudweeks, and H. Hrachovec (organizers), *CATaC 2006: Fifth International Conference on Cultural Attitudes Towards Technology and Communications,* Tartu, School of Information Technology, Murdoch University, 2006, vol. 1, pp. 255–274.

are the most popular type of UGC in Brazil, with Facebook (Alexa #2) dominating the market. According to IBOPE Nielsen Online, social networks had a penetration of 86.3 percent among Brazilian internet users in 2009.[66] ComScore numbers for the same year were more conservative, but still significant—77.9 percent for 2009, reaching 85.3 percent in 2010. In December 2012, Brazilians spent an average of 579 minutes a week on social networks, considerably above the worldwide average of 328.3 minutes.[67]

The video-sharing platform YouTube (Alexa #4) is extremely popular, as is online video consumption in general. According to comScore, six out of every seven Brazilian internet users watched videos online during July 2010, more than 85 percent of the online population. YouTube had the largest audience (28.3 million unique viewers), followed by the Organizações Globo websites (8.5 million), and UOL (5 million). In December 2011, Brazilians viewed 4.7 billion videos, an increase of 74 percent from December 2010, propelled by a 19 percent growth in unique viewers.[68]

Platforms for blogging and content sharing are also among the most visited sites in Brazil. Universal McCann's 2009 Wave 4 social media survey indicates that from a population of 22 million internet users between the ages of 16 and 54, 62 percent actively read blogs, and 51 percent have their own blog.[69] WordPress (Alexa #16), Blogger (#18), and Tumblr (#24) are the most popular blogging services.

Brazilian Tumblr traffic jumped from 313 million page views in June 2010 to 2 billion in January 2012. Brazilian blogs surged to 4 million by the end of 2011, a growth of 680 percent that year, as compared with 280 percent growth in the United States, Tumblr's largest market. In 2012, Brazil ranked second in the list of Tumblr's biggest audiences, with an average of 8 million unique viewers per month.[70]

Twitter (#14), a microblogging platform with a strong social component, is a good example of a service that combines two of the most prevalent types of UGC media in Brazil, blogs and social networks. The high number of unique visitors amassed by these platforms is consistent with Brazil's vivid, active, and well-established blogosphere.

66. "Redes sociais foram acessadas por 86% dos internautas ativos em fevereiro" (Social Networks were accessed by 86 percent of Active Internet Users in February), *IDG Now!*, at http://idgnow.uol.com.br/internet/2010/03/31/redes-sociais-foram-acessadas-por-86-dos-internautas-ativos-em-fevereiro-diz-ibope (accessed 22 August 2013).

67. ComScore, "2013 Brazil Digital Future in Focus," 15 March 2013, accessed 9 September 2013, at http://www.comscore.com/Insights/Presentations_and_Whitepapers/2013/2013_Brazil_Digital_Future_in_Focus (accessed 22 August 2013).

68. The 2010 World Cup, which ended on 11 July, may have affected the results. Nonetheless, online video is unquestionably popular among Brazilian internet users. Regardless of the peak in July 2010, YouTube in Brazil keeps growing. See "6 in 7 Brazilian Internet Users Watched Online Video in July," comScore, 27 August 2010, at http://www.comscore.com/Press_Events/Press_Releases/2010/8/6_in_7_Brazilian_Internet_Users_Watched_Online_Video_in_July (accessed 22 August 2012); A. Banks, *The Brazilian Online Audience: February 2011*, comScore presentation, at http://www.comscore.com/Press_Events/Presentations_Whitepapers/2011/State_of_the_Internet_in_Brazil (accessed 22 August 2012); and A. Banks, *2012 Brazil Digital Future in Focus*, comScore presentation at http://www.slideshare.net/rafinas/brazil-future-infocus-12121447 (hereafter, A. Banks, *2012 Brazil Digital Future in Focus*) (accessed 22 August 2012).

69. Universal McCann, "Power to the People Survey," at http://universalmccann.bitecp.com/wave4/Wave4.pdf (accessed 22 August 2013).

70. Data from a 2012 Tumblr presentation. See F. Serrano, "Brasil, o País do Tumblr" (Brazil, Tumblr's Country), *O Estado de São Paulo, Link,* 31 January 2012, at http://blogs.estadao.com.br/filipe-serrano/brasil-o-pais-do-tumblr (accessed 23 August 2012).

Websites of established media have adopted UGC to a limited degree. Globo.com, the portal for Organizações Globo's websites (including the site for the newspaper *O Globo*), UOL (owned by Grupo Folha, publishers of *Folha de São Paulo*), Estadao.com, the website for the *O Estado de São Paulo* newspaper, and Abril's site for the magazine *Veja* all accept user comments for some of the content they publish. Other than that, these websites are generally conservative regarding user production, despite the citizen journalism sections of the websites of *O Globo*[71] and *Folha de São Paulo*,[72] and *Estado*'s publishing of user-submitted photographs.[73] Use of social networks by established media is often one-way, to disseminate news content, or to produce quick "Twitter coverage" posts with compilations of tweets as thermometers for the repercussion of current events.

Despite the widespread use of social media and, in particular, of social networks, Brazilian internet culture is heavily reliant on commenting and spreading whatever is published by major web portals, most of which are controlled by traditional media outlets. The most representative web portals in Brazil are Grupo Folha's UOL, Microsoft's Live.com, Organizações Globo's Globo.com, Telefónica of Spain's Terra, Grupo Ongoing's iG, Grupo Record's R7, Grupo Abril's Abril.com.br, and Grupo Estado's Estadao.com.

A study by JWT—monitoring over 7,000 articles from weekly magazines *Veja* and *Época*, as well as reports from Globo's news program "*Jornal Nacional*" using Google Trends and data gathered from Facebook and Twitter—concluded that the average user of social networks and independent bloggers are predominantly guided by content published by major outlets. Bloggers who achieve independent success are usually hired and published by the web portals of traditional media groups, whose online operations have been extremely successful.[74]

3.1.2   Social Networks

As reported by comScore, Brazilians spent an average of 26.7 hours online in December of 2011—an increase of 10 percent over the same period in 2010—and the web portals of traditional media attract the highest level of engagement, with 39.2 percent of total online minutes. The share of time spent on social networks, however, has grown from 16.7 percent in December 2010 to 23 percent in December 2011.

Google's Orkut was, for a long time, not only the most accessed social network in Brazil, but also one of the most accessed sites in any category.[75] Orkut consistently appeared at the top of three different access rankings

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71. *Eu Repórter,* at http://oglobo.globo.com/participe (accessed 21 August 2012).

72. *Painel do Leitor*, at http://www1.folha.uol.com.br/paineldoleitor (accessed 21 August 2012).

73. *Foto Repórter*, at http://www.estadao.com.br/fotoreporter/foto_oquee.htm (accessed 21 August 2012).

74. M. Barbosa, "Mídias Sociais São Pouco Influentes no País" (Social Medias Have Little Influence in Brazil), *Folha de São Paulo,* 8 February 2011, at http://www1.folha.uol.com.br/mercado/872488-midias-sociais-sao-pouco-influentes-no-brasil-mostra-pesquisa.shtml (accessed 22 August 2012).

75. Developed by the then Google engineer Orkut Büyükkökten, Orkut is an atypical product for the company. It is not actively branded as a Google product (as opposed to, for example, Google Docs, Gmail, Google Earth, etc.), and was initially developed by Büyükkökten using the "20 %" of work time Google allows its engineers to pursue individual projects. It is hard to provide a convincing set of reasons for the popularity of Orkut in certain countries (Brazil, India, Estonia), but this seems to be part of the overall dynamics of online social networks. Online social networks tend to cluster around specific interests (e.g. Flickr, deviantART) or demographics (e.g. Multiply, currently popular in Southeast Asia), either by design or by accident. Since Google had the advantage of being well positioned to attract Brazilian users to social networking at a time when demand for such a service was high in the country, with no obvious competing alternative, the result was what became known as Orkut's "Brazilian invasion."

for Brazil (Alexa, Google AdPlanner, comScore), with a considerable advantage over its main competitors. This scenario changed in 2011, with Facebook's dramatic takeover of the top position in the social network rankings. Facebook's victory was first reported by IBOPE Nielsen, but disputed by comScore,[76] which confirmed it in December 2011.[77] Google is now trying to convince Orkut's user base to migrate to Google Plus.[78]

Table 12.

Top social network ranking (December 2012, aged 6+)

Social network	Total unique visitors ('000)
Facebook	43,986
Orkut	12,346
Twitter	9,168
Ask.fm	8,481
LinkedIn	7,942
Tumblr	6,115
Badoo	1,827
Deviantart	1,660
Vostu	1,411
Myspace	1,254

Note: This data measure the activity of users aged 6 and above; they do not include mobile traffic and public computers

Source: comScore Media Metrix, December 2012[79]

The use of Twitter has skyrocketed in Brazil, going from 413,000 in March 2009 to roughly 3.6 million in July of the same year (comScore, 2009). In June 2010, Brazil was the second biggest market in the world in terms of Twitter penetration (relative to the country's internet users), with 20.5 percent, right behind Indonesia's 20.8 percent.[80] It reached the first position during the Brazilian presidential campaign in October 2010. The numbers provided by comScore strictly refer to web access, and do not account for activity through Twitter API, which is used by programs such as TweetDeck, HootSuite, and other Twitter clients, including smartphone apps that are not web based. Twitter penetration, therefore, could be considerably higher.

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76. R. Sbarai, "Orkut e Facebook Iniciam Duelo pela Sobrevivência" (Orkut and Facebook Begin a Duel for Survival), *Veja*, 16 September 2011, at http://veja.abril.com.br/noticia/vida-digital/orkut-e-facebook-sobrevivem-juntos-no-pais-%E2%80%93-por-certo-tempo (accessed 23 August 2012).

77. A. Banks, *2012 Brazil Digital Future in Focus.*

78. T. de M. Dias, "Google Estimula Upgrade no Perfil do Orkut" (Google Boosts Profile Update on Orkut), *Estado de São Paulo, Link*, 31 July 2012, at http://blogs.estadao.com.br/link/google-estimula-upgrade-no-perfil-do-orkut (accessed 23 August 2012).

79. Vostu is a social gaming company, producing games for Orkut and Facebook. See "Facebook Blasts into Top Position in Brazilian Social Networking Market Following Year of Tremendous Growth," comScore, 17 January 2012, at http://www.comscore.com/Press_Events/Press_Releases/2012/1/Facebook_Blasts_into_Top_Position_in_Brazilian_Social_Networking_Market (accessed 23 August 2012).

80. "Indonesia, Brazil and Venezuela Lead Global Surge in Twitter Usage," comScore, at http://www.comscore.com/Press_Events/Press_Releases/2010/8/Indonesia_Brazil_and_Venezuela_Lead_Global_Surge_in_Twitter_Usage (accessed 23 August 2012).

A geolocation analysis of Twitter accounts by Semiocast ranked Brazil as the second largest Twitter population worldwide in January 2012, in terms of number of accounts (33.3 million, behind the United States with its 107.7 million accounts), but as 13th in overall activity.[81] From January to July 2012, the number of Brazilian accounts grew to 41.2 million, and despite two Brazilian cities being included in the world rank of 20 top cities by number of tweets (São Paulo and Rio de Janeiro), there remains a gap between Brazil's high number of accounts and relatively low rate of activity.[82]

3.1.3   News in Social Media

Television is still the main source of news among Brazilians, with the internet ranking second, above radio, print newspapers, and magazines. Social networks rank second in terms of preferred news source among Brazilian internet users (51 percent), slightly below the use of search engines (55 percent). Blogs rank seventh as preferred online sources for news (7 percent). The use of social networks and search engines as news sources is more prevalent among users under 24 years of age. Users aged 60 and above are the group that most often mentions blogs and websites of traditional news outlets as the main online sources for news.[83]

3.2   Digital Activism

3.2.1   Digital Platforms and Civil Society Activism

It is clear that the internet provides Brazilians with a set of unquestionably important tools for activism and political participation. However, the lack of major studies with a systematic approach to the role of digital platforms for civil society activism in Brazil makes it hard to gauge the impact of digitization on activism. The internet provides environments and opportunities for coordination and information exchange that are not necessarily easy to map and evaluate.

Tools such as listservs, for example, have uses that are hard to assess in the absence of empirical research. This is true regarding any means of online communication belonging to the "deep web"—content that search engines are unable to trawl and retrieve, and consequently difficult to data mine and study.

It was nevertheless evident from the 2013 protests that social media had a key role to play in the organization, coordination, and development of the demonstrations. Protests were often announced on Facebook events, information from the ground collected from numerous tweets posted by protesters, and post-event reflections and analyses propagated through posts on blogs and social networks.

81. "Brazil Becomes 2nd Country on Twitter, Japan 3rd, Netherlands Most Active Country," Semiocast, 31 January 2012, at http://semiocast.com/publications/2012_01_31_Brazil_becomes_2nd_country_on_Twitter_superseds_Japan (accessed 31 January 2012).

82. "Twitter Reaches Half a Billion Accounts. More than 140 Million in the US," Semiocast, 30 July 2012, at http://semiocast.com/publications/2012_07_30_Twitter_reaches_half_a_billion_accounts_140m_in_the_US (accessed 23 August 2012).

83. F/Nazca, "F/Radar," 11th edn, April 2012.

The most visible manifestations of mobilization occur through the means of online petitions, blog posts, and social network campaigns. The Petição Pública (Public Petition)[84] site hosts several petitions, with goals such as protesting against pay rises for politicians[85] and demanding the impeachment of the mayor of the city of Salvador, Bahia.[86] The international organization Avaaz has also been very active in the country since late 2011, and has staff working in the country to interface directly with Brazilian authorities and press, and hand deliver the petitions collected through its website.

Facebook has also become, as of mid-2011, an expressive online locus for the organization of public gatherings. Their goals range from protesting against the State of São Paulo relocating the planned construction site of a subway station[87] to asserting the rights to freedom of expression after a public demonstration arguing for the decriminalization of marijuana was met with police action in the city of São Paulo.[88] These public protests make use of a specific tool Facebook offers its users: the ability to set up event pages and distribute invitations to the social network's user base.

The subway station protest in São Paulo is a good illustration of the dynamics of the online organization of offline protests. A new subway station was planned in the high-income neighborhood of Higienópolis in São Paulo. The Higienópolis neighborhood association protested against the construction of the station, and the State of São Paulo revoked its plans. Some of the statements by members of the neighborhood association were seen as discriminating against the lower-income passengers who would be served by the new station. One of the residents claimed the station would bring in "drug addicts, bums, and 'different' people" to the neighborhood in an interview to the newspaper *Folha de São Paulo*. This led Facebook user Danilo Saraiva to create an event page inviting people to protest by hosting a public barbecue in the neighborhood. After the Military Police and the Transit Department of São Paulo raised concerns due to the planned location, Mr Saraiva tried to cancel the event, but was unsuccessful. It had gone viral, and 50,000 people had already confirmed attendance; 600 actually showed up.

Twitter is often used by campaigners in a strategy called "tuitaço" (roughly translated as "mass twittering"), which involves getting certain hashtags to appear on the trending topics list, in order to capture press and public attention regarding certain causes. This mode of action gained attention when the Twitter campaign *Fora Sarney* ("out with Sarney"), focused on accusations of corruption that were widely covered by the press during 2009 involving Senator José Sarney, one of Brazil's most well-known politicians. The campaign

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84. See http://www.peticaopublica.com.br/default.aspx (accessed 21 August 2012).

85. See http://www.peticaopublica.com.br/PeticaoVer.as px?pi=P2010N4596 (accessed 21 August 2012).

86. See http://www.peticaopublica.com.br/PeticaoVer.aspx?pi=JOAONETO (accessed 21 August 2012).

87. "'Churrasco de Gente Diferenciada' Reúne Centenas de Pessoas em SP" ('Barbecue of Differentiated People' gathers hundreds of people in São Paulo), *Último Segundo*, 14 May 2011, at http://ultimosegundo.ig.com.br/brasil/sp/churrasco+de+gente+diferenciada+reune+centenas+de+pessoas+em+sp/n1596952519276.html (accessed 21 Agust 2012).

88. Several instances of what became known as the "Marchas da Liberdade" (Liberty Walks) occurred in around 40 Brazilian cities on 18 June 2011, which were coordinated on Facebook, Twitter, and other platforms. These events were a direct response to the police action that dissolved the "Marcha da Maconha" (Marijuana Walk), and only took place undisturbed after the Brazilian Supreme Court ruled unanimously on 15 June 2011 that public demonstrations defending the decriminalization of drugs do not constitute an act of apology for crime (which is itself a crime in Brazil). See http://www.marchadaliberdade.org; and for background information, http://noticias.r7.com/cidades/noticias/marcha-da-liberdade-ocorre-hoje-em-mais-de-40-cidades-20110618.html (accessed 21 August 2012).

managed to get the hashtag #forasarney into the world trending topics, and despite not having any concrete results other than keeping the Sarney case current, it became one of the most cited examples of online-mediated activism in Brazil. The Twitter profile for @forasarney[89] had around 10,500 followers as of August 2012, and the use of the hashtag #forasarney is still frequent.[90] Offline protests were also part of the campaign during its most active months in 2009.[91] A website named after the Twitter hashtag concentrates news and information regarding Sarney, and acts as a coordination hub for the campaign.[92] Similar protests were carried out against Senator Renan Calheiros after he was elected president of the Federal Senate, while being the target of serious criminal accusations; a petition hosted by Avaaz collected 1.5 million signatures demanding Senator Calheiros's impeachment.[93]

The question of how these visible manifestations of online activism translate into pressure, awareness building, and effective policy change are an entirely different matter, as is the degree of organization and coordination behind each campaign, and how reliant they are on online platforms. Abelardo Bayma, former president of the Brazilian Institute for the Environment and Renewable Natural Resources (*Instituto Brasileiro do Meio Ambiente E Dos Recursos Naturais Renováveis*, IBAMA),[94] for example, resigned in January 2011, refusing to issue an environmental permit that would allow the construction of the controversial Belo Monte hydroelectric plant in the Amazon. How this development relates to an ongoing online campaign against Belo Monte is difficult to evaluate,[95] and it is equally hard to get a clear picture of the constellation of personal and institutional relations that underlie the campaign, with all of their offline ramifications.

Visits to news websites and blogs, as well as the use of Twitter, experienced peaks during the 2010 elections (comScore, 2011), stressing the popularity of politics as a topic for online discussion; the transparency and accountability agenda is also on the rise. Open government data and access to information are an increasingly central issue, as is the push for the development of infrastructure and applications with the goal of narrowing the informational gaps that exist between administrators, legislators, judges, and civil society. Transparência Hacker (Thacker),[96] an NGO focused on public transparency, regularly engages in data mining of government

89. See http://twitter.com/forasarney (accessed 21 August 2012).

90. See http://twitter.com/search?q=%23forasarney (accessed 21 August 2012).

91. A. Sadi, "Campanha 'Fora Sarney' Sai do Twitter e Ganha as Ruas do País," ('Out With Sarney' Campaign Leaves Twitter and Takes the Streets of the Country), *O Estado de São Paulo,* 1 July 2009, at http://www.estadao.com.br/noticias/nacional,campanha-fora-sarney-sai-do-twitter-e-ganha-as-ruas-do-pais,396175,0.htm (accessed 23 August 2012).

92. See http://forasarney.com.br (accessed 23 August 2012).

93. C. Campanerut, "Petição contra Renan será etregue hoje no Senado; ONG que abriga manifesto arrecada US$ 25 mi em cinco anos" (Petition against Renan Will Be Delivered Today at Senate: NGO Hosting Campaign Collects US$ 25 Million in Five Years), *UOL Notition*, 20 February 2013, at http://noticias.uol.com.br/politica/ultimas-noticias/2013/02/20/peticao-contra-renan-sera-entregue-hoje-no-senado-ong-que-abriga-manifesto-recebe-us-25-mi-em-cinco-anos.htm (accessed 4 October 2013).

94. Brazilian Institute for the Environment and Renewable Natural Resources, a government organization linked to the Ministry of the Environment.

95. See the online petition hosted by Avaaz, at https://secure.avaaz.org/po/pare_belo_monte/?cl=912906811&v=8189 (accessed 23 August 2012). Bayma's successor, Curt Trennepohl, would later declare in an interview with Australian TV that he was comfortable with the decision of authorizing Belo Monte's construction, and then was recorded off record making questionable analogies between the impact of the plant's construction on Brazilian indigenous communities and past Australian policies targeting that country's Aboriginal people. See C. Angelo, "Presidente do IBAMA Causa Polêmica em Entrevista a TV Australiana" (IBAMA President Causes Controversy in Interview to Australian TV), *Folha de São Paulo,* 15 July 2011, at http://www1.folha.uol.com.br/ambiente/943942-presidente-do-ibama-causa-polemica-em-entrevista-a-tv-australiana.shtml (accessed 23 August 2011).

96. See http://thacker.com.br (accessed 23 August 2012).

data and has projects that involve coding applications to better inform citizens of the activities of their political representatives. The Brazilian federal government has also, of late, heavily invested in platforms for public consultation, mainly through the Ministry of Justice's Office of Legislative Affairs (*Secretaria de Assuntos Legislativos*, SAL).

The cases reported below provide examples of the use of digital platforms for civil society activism in Brazil:[97]

The "Azeredo Bill," the Mega Não Movement, and the Marco Civil

Cybercrime Bill 84/99, also known as the "Azeredo Bill," after the senator who became its main supporter, is at the center of one of the most interesting cases of political mobilization through the internet in Brazil. Partly inspired by the Council of Europe's Budapest Convention on Cybercrime[98] —which entered into force in 2004 and of which Brazil is, of course, not a signatory—the bill was criticized by members of public interest NGOs and academics as being problematic on several counts.[99]

Brazil currently lacks legislation for many important areas of internet regulation, including internet service provider (ISP) liability and data retention. In the absence of a civil legislative framework for internet regulation, the Azeredo Bill would be the first major law on the internet in Brazil, approaching the subject through a strictly criminalizing angle, with serious technical flaws.

After the Chamber of Deputies approved the Azeredo Bill in 2008, the Senate changed the text. This led to a procedural impasse.

The online campaign against the bill, called Mega Não (literally, "Mega No," as in "A mega 'No' to the Azeredo Bill"), became well known through the press and thanks to several online and offline protests coordinated via social networks, listservs, blogs, and articles in the traditional media.[100] Reaction against the Azeredo Bill ultimately resulted in President Lula asking the Ministry of Justice to set up an online collaborative process, formatted as a public consultation, to debate what an ideal civil framework for internet regulation should be like—the internet's "Marco Civil": a civil, rather than criminal, regulatory framework.

Through an online platform, curated by the Ministry of Justice's Legislative Affairs Office (SAL) and the Center for Technology and Society at the Fundação Getulio Vargas Law School in Rio de Janeiro,[101] two 45-day periods of consultation were opened to public participation. In the first 45 days, general principles for internet regulation were discussed, and with the input received, a draft bill was written and subjected to another 45 days of consultation. The resulting text incorporated comments received in the second period of consultation, and was sent to Congress some time in 2011.

The Marco Civil process involved constant debates outside its dedicated online platform, including through Twitter, interaction with the blogosphere, the traditional press, and offline events.

A watered down version of some of the Azeredo Bill provisions were incorporated by another proposal by Deputy Paulo Teixeira, and approved in 2012 (Law 12737/2012).

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97. Full disclosure: the authors of this report, as members of the Center for Technology and the Society of Fundação Getulio Vargas Law School, Rio de Janeiro, are personally involved in two of the cases reported below (Marco Civil and Copyright Reform).

98. See http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=185&CL=ENG (accessed 23 August 2012).

99. See Lemos et al., 2009.

100. See http://meganao.wordpress.com (accessed 23 August 2012).

101. See http://culturadigital.br/marcocivil (accessed 25 August 2012).

The "Ficha Limpa" Bill

Massive support for Bill 518/2009, also known as the "Ficha Limpa" (Clean Records) Bill, was garnered during 2008–2010 through an online campaign coordinated by the organization Movement for Combating Electoral Corruption (*Movimento de Combate à Corrupção Eleitoral*, MCCE).[102]

The campaign for the bill—which considerably steps up the requirements applicable to potential candidates for public office, and rejects a candidacy in the presence of certain judicial records—started in 2008, when a draft bill was presented in Congress through a citizens' initiative process,[103] after the collection of 1.3 million signatures in its support.[104] An online campaign, reaching out to Twitter, Orkut, and Facebook, resulted in the collection of an additional 500,000 signatures in support of the bill; 300,000 more were collected through Avaaz. The bill was passed into law in June 2010, and has been applicable since October 2012.

Falha de São Paulo versus *Folha de São Paulo*

Brothers Lino and Mário Ito Bocchini maintained a satirical blog targeting the major Brazilian newspaper *Folha de São Paulo*, called Falha (Fail) de São Paulo. *Folha de São Paulo* sued the Bocchini brothers based on accusations of trademark violation, with the purpose of taking the site offline. *Folha*'s lawsuit has so far been successful, since an injunction was granted. The Bocchinis, however, set up an online campaign, Desculpe a Nossa Falha (Apologies for Our Failure),[105] which chronicles the ongoing lawsuit, gathers news and repercussions surrounding the case, and serves as an information hub for a campaign against what is seen as an act of censorship by *Folha*. It is not certain when a final decision will be reached—the brothers lost the first appeal—but the campaign has brought a lot of attention to the case, which is a powerful illustration of the clash between an independent blog and what until last year was the newspaper with the largest circulation in Brazil.

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102. See http://mcce.org.br (accessed 25 August 2012).

103. The Constitution establishes in Article 61, § 2º that bills may be presented to Congress by citizens if the number of signatures corresponds to 1 percent of the national electorate, across five different states, with no less than 3/10 of the electorate of each of these states.

104. R. Mendonça, "Para Juiz Que Defende Reforma Política, Sistema Eleitoral Tem Defeitos 'Imperdoáveis'" (According to a Judge Defending Political Reform, the Electoral System Has 'Unforgivable' Flaws), *Folha de São Paulo*, 1 September 2013, at http://www1.folha.uol.com.br/poder/2013/09/1334998-entrevista-com-marlon-reis.shtml (accessed 4 October 2013).

105. See http://desculpeanossafalha.com.br (accessed 25 August 2012).

Copyright Reform

The Marco Civil process—described in the first case study above—inaugurated a wave of public consultation processes that make use of online platforms to gather comments and input on bills and policy. These initiatives have mostly been organized by the Ministry of Justice through its Office of Legislative Affairs,[106] but the Ministry of Culture used the same technology and roughly the same procedural rules for the discussion of a draft bill for copyright reform, gathering around 7,800 comments between June and August 2010.[107] Debates were intense and polarized, with the creation of two groups supporting[108] and opposing[109] the Ministry of Culture's initiative.

Online campaigns were a strong component of the group supporting reform. The draft bill and the consultation process were the result of a long process that involved a series of events collectively named the National Authors' Rights Forum; the text was the result of an eight-year process under the administration of culture ministers Gilberto Gil and Juca Ferreira, during which time copyright policy assumed a central role in the activities of the Ministry of Culture. After Dilma Rousseff succeeded Luiz Inácio Lula da Silva as the President of Brazil, a new minister, Ana de Hollanda, was appointed to the Ministry of Culture. Ms Hollanda has ties to the central collecting rights office, ECAD, and the music industry,[110] and has signaled that she will take the Ministry in a direction that is diametrically opposed to the one set by Messrs Gilberto Gil and Juca Ferreira.[111] Online activism demanding policy continuity by the new administration has been vigorous.

As always, the most visible manifestations are online petitions, but much has been happening under the surface with intense activity in mailing lists, listservs, social networks, and offline meetings, and broad coverage by Brazilian newspapers.[112]

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106. Consultations were opened on a draft bill on data protection (http://culturadigital.br/dadospessoais) and the content ratings system for film, television, and electronic games, at http://culturadigital.br/classind, which falls under the authority of the Ministry of Justice.

107. See http://www.cultura.gov.br/consultadireitoautoral/consulta (accessed 21 August 2012).

108. Rede pela Reforma da Lei de DireitosAutorais (Network for Copyright Law Reform). This includes NGOs (Ação Educativa, Intervozes, IDEC, NUPEF Institute, among others) and academia (Center for Technology and Society, Fundação Getulio Vargas Law School; Research Group on Public Policy for Information Access, University of São Paulo), at http://www.reformadireitoautoral.org (accessed 21 August 2013).

109. Comitê Nacional de Cultura e Direitos Autorais (National Committee on Culture and Authors' Rights). This includes copyright industry associations and performing rights collection societies (Central Collection and Distribution Office—*Escritório Central de Arrecadação e Distribuição,* ECAD—and its associates).

110. A. Miranda, "Em trocas de e-mails, diretores de associações que compõem o Ecad tratam da relação próxima com a atual gestão do Ministério da Cultura" (Exchanging e-mails, Directors of Associations on ECAD address the close relationship with the Ministry of Culture), *O Globo,* at http://oglobo.globo.com/cultura/mat/2011/05/02/em-trocas-de-mails-diretores-de-associacoes-que-compoem-ecad-tratam-da-relacao-proxima-com-atual-gestao-do-ministerio-da-cultura-924364751.asp (accessed 21 August 2012).

111. See http://www.istoedinheiro.com.br/noticias/50093_NAO+HA+COMO+DISTRIBUIR+CULTURA+SEM+O+DIREITO+AUTORAL (accessed 21 August 2012).

112. See http://www1.folha.uol.com.br/ilustrada/878742-caetano-e-gil-discordam-sobre-nova-lei-autoral.shtml, http://www.estadao.com.br/estadaodehoje/20110127/not_imp671565,0.php (accessed 21 August 2012).

3.2.2 The Importance of Digital Mobilizations

A wide range of topics is covered by digital mobilizations in Brazil, as a cursory glance at the issues that are covered by online petitions on a monthly basis will show. The 2013 protests offer an eloquent example of how important online tools are for the organization of crowds on the streets.

As Brazil's online population grows and matures, it is expected that the range of topics covered by online activism will diversify even further, and that individuals who were not previously inclined to engage in activism will find themselves included in initiatives with varying degrees of organization, and will become more knowledgeable about how to mobilize themselves online to advance their interests.

The 2013 Protests and Digital Mobilizations

The first of the June 2013 protests focused on public transport, particularly in São Paulo, where bus fares had recently gone up. Organized by the Movimento Passe Livre (Free Fare Movement), these protests had a very precise agenda, with a clear demand and an identifiable target: a request for the BRL 0.2 (US$0.1) increase in the municipal bus fare to be cancelled, directed at the government of the city of São Paulo.

13 June was a turning point. The level of police brutality aimed at the protesters—and unrelated bystanders—shocked both citizens and traditional media, which had opposed the demonstrations. Only that same day, *Folha de São Paulo*, Brazil's highest-circulation newspaper, had called the protesters "marginal and sectarian," "opportunists," "youths predisposed to violence," who felt that a quixotic, "pseudo-revolutionary" cause—free public transport—justified terrible acts of vandalism and public disorder. As a response, *Folha* suggested, Avenida Paulista, where the protesters were supposed to gather, should be "reclaimed" through the "force of law".

The violence used by the Military Police of São Paulo to disperse protesters was extreme. Predictably, members of the press were also severely injured. The following week, several protests were organized across the country, as a response to 13 June and the police brutality, and as an outlet for other demands. By 20 June, public transport was no longer the focus, and the demonstrations no longer had a clear left-wing slant.

Protesters condemned Brazil's role as the host country for the 2014 World Cup and the 2016 Olympic Games, complaining about corruption in politics, requesting improvements in health and education, denouncing specific bills, and demanding respect for minority rights. Some of these protests were organized by existing social movements, with established networks of activists, leveraged through the power of social media—not necessarily enabled, but strengthened by the use of digital tools. Others were a direct product of ad hoc mobilization via Facebook: it is easy to set up an event and make it go viral, particularly if there is the expectation that some sort of protest might take place in the upcoming days.

By August 2013, protests were still a daily occurrence throughout the country, summoned with varying degrees of success on Facebook and Twitter.

3.3   Assessments

Digitization has certainly contributed to the overall news offer. The availability and quantity of news have definitely improved, but sources mostly remain the same. The top-ranking news websites in Brazil are controlled by the same actors that controlled pre-internet media, and while there is relevant content production by independent bloggers and NGOs, who have their constituencies and followers, traditional media groups continue to exert strong control over how popular opinion is shaped (see section *1.3.1.3*).

Nevertheless, the phenomenon of massive social network penetration and the popularity of blogs and Twitter in Brazil are a force to be reckoned with. It remains to be seen how traditional news providers and the Brazilian online population will interact in the future, and whether these interactions will lead to positive change. Impact assessment necessarily depends on future evaluation and further empirical studies.

There is an enormous risk that the Brazilian online public sphere may become an echo chamber for news produced by the same players who dominate the traditional media. Yet there are signs that a different future is possible. While it still has a long road ahead of it, digital activism in Brazil has the potential to grow in maturity and impact. Furthermore, the use of online platforms for civil and political activism is already bridging the gap between populations with very unequal income levels.[113]

It is also cause for concern that Brazil has become over-reliant on foreign technologies and platforms in the online environment. Facebook, Google, Apple, and Amazon are responsible for many crucial services related to content distribution, hosting, social networking and web search, which increasingly shape most of Brazil's media consumption. Beyond economic vulnerability, privacy is also an issue, particularly after the NSA leaks in 2013.

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113. For example, when the Complexo do Alemão favela was invaded by Rio de Janeiro police and the army in November 2010 (*O Estado de São Paulo*/BBC, 2011), 17-year-old Rene Silva—on the staff of the community newspaper *A Voz da Comunidade* (The Voice of the Community)— used Twitter to inform the general public about the invasion (*O Globo*, 2010). The coverage provided by Silva, with constant Twitter updates on the state of the invasion, was built in a tone that was very different to that of traditional newspapers. And it also had an effect on the way that Silva himself interacts with local authorities: "I used to email City Hall and not even receive a reply. Around Christmas, I posted that a street at Complexo do Alemão needed to be paved, and on the same day a team came and started working." (*Tagiarolli*, 2011) See http://oglobo. globo.com/rio/mat/2010/11/28/rene-silva-jovem-do-morador-do-morro-do-adeus-twittou-em-tempo-real-invasao-da-policia-ao-complexo-do-alemao-923134429.asp; http://tecnologia.uol.com.br/ultimas-noticias/redacao/2011/01/20/apos-relatar-invasao-tuiteiro-do-morro-do-ale-mao-usa-rede-para-ajudar-a-comunidade.jhtm; and http://www.estadao.com.br/noticias/nacional,policia-e-exercito-iniciam-invasao-no-com-plexo-do-alemao,646417,0.htm (accessed 21 August 2012).

4. Digital Media and Journalism

4.1 Impact on Journalists and Newsrooms

4.1.1 Journalists

Digitization has undeniably had a profound impact on the way journalists carry out their work, and changes are as drastic in Brazil as in any other place where ICT has achieved a considerable degree of presence and influence in daily life. The velocity with which news content is now pushed at audiences demands that many professionals adopt a "real-time journalism" approach in relation to much of their output. Additionally, the diversity of media and formats and the portability of the technology with which to capture and transmit information have also provided journalists with increased competition, either from amateur journalists or their professional peers. Such speed and diversity have impacted journalism both as a business and as a profession.

Traditional news outlets have unleashed an aggressive campaign to occupy the digital environment, and are increasingly expanding the number of platforms through which their content is distributed. The search for new business models has led to the production of multimedia output, so that text is often delivered alongside audiovisual and interactive content. The high penetration of social networks in Brazil (see sections *3.1.1* and *3.1.2*) has established social network management as a permanent fixture of news outlets, with people in charge of the specific task of mediating news content through these platforms. This involves not only disseminating stories, but also actively interacting with the audience. *Folha de São Paulo*, for example, has set up Twitter accounts for individual supplements/sections of their print and online content, as well as for its ombudsman, and has a strong Facebook presence with a profile and a dedicated app.

The journalists interviewed for this report offer a somewhat pessimistic view in relation to some aspects of the current scenario, especially with regards to work conditions and quality of output.[114] Mainly as a result of the 1999–2001 crisis of the Brazilian currency, newsrooms have become leaner, and the average number of journalists working in newsrooms has decreased. Digitization and the convergence of print and digital

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114. This section of the report is informed by online and face-to-face interviews conducted with journalists who are working, or have worked in the past, at *Folha de São Paulo Online*, *O Globo*, *Grupo Abril*, *Revista Piauí*, *Revista Trip*, *iG*, and *Reuters*.

platforms have worsened work conditions, since journalists are required to take over additional roles and functions, often without being paid for extra work such as adapting print content for digital delivery. Pervasive connectivity, furthermore, keeps journalists in practically uninterrupted contact with their supervisors, and they often work overtime from home.

The quality of news has also been compromised by an editorial workflow that privileges speed over accuracy. The race to deliver news as fast as possible can lead to deficient revision practices and inconsistent fact checking, along with a tendency to reproduce content as it is received—in the format of, for example, press releases—as opposed to properly finding and checking sources. On the other hand, the emergence of certain online tools, platforms, and databases has enabled faster and more efficient means of fact checking, and greater scrutiny by readers.

Some journalists welcome this change and see great advantages to digitization, even if it arguably can provide incentives for practices that decrease news quality. Giving voice to minorities that had greater difficulty being heard in the print-only world of the past, and the democratic advantages of broader participation in the process of news production and criticism were mentioned as positive aspects of the current environment.

4.1.2 Ethics

Unethical behavior by journalists, as elsewhere, has always occurred in Brazil, and continues to take place.[115] Digital technologies, however, make it easier for specific types of unethical behavior to occur. According to the interviews, violations of the right to privacy due to the large amounts of personal information being made available online—as well as new means to obtain potentially sensitive data—can be an issue.

Another complex subject is the personal use of social networks by journalists. Comments posted by journalists on their private blogs or Twitter accounts can sometimes have ethical ramifications if they involve professional activity. In Brazil, there have been recent cases of journalists being fired for posting information that relates to their job, or the outlet they work for, on Twitter.[116] In many situations, this involves moral gray areas and conflicts over what could be considered the exercise of a personal right to freedom of expression as opposed to unethical professional behavior.

Examples of conflict over ethical behavior among journalists can be seen during the coverage of election campaigns. According to media academic Rogério Christofoletti,[117] people had great expectations for the use of the internet in the 2010 election campaigns, but what could mostly be seen were candidates and parties

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115. Brazilian journalists have self-regulated their activities through a code of ethics maintained by the National Federation of Journalists (*Federação Nacional dos Jornalistas*, FENAJ), published in 1987 and updated in 2007. According to the code, journalists should not publish information for the pursuit of personal gain or economic advantage, and should not promote content that violates human rights, at http://www.fenaj.org.br/federacao/cometica/codigo_de_etica_dos_jornalistas_brasileiros.pdf (accessed 21 August 2012).

116. I. Vasconcelos, "Jornalistas demitidos por comentários no Twitter" (Journalists Fired for Commentaries on Twitter), *Observatório da Imprensa*, 5 April 2011, at http://www.observatoriodaimprensa.com.br/news/view/jornalistas-demitidos-por-comentarios-no-twitter (accessed 21 August 2011).

117. See http://www.nupef.org.br/sites/default/files/Politicsoito_tres.pdf (accessed 22 February 2013).

with specific strategies for social media platforms, as well as a "virtual army" spreading misinformation, lies, and rumors about their adversaries. In this context, journalists and electors were surrounded by gossip, calumny, and misleading histories, such as fake accounts being created on Twitter to promote debates trying to connect their candidates with the trending topics of the social network, for example.

Amid this whirl of information, some journalists did not take enough care to check the facts and published news that had nothing to do with the public interest, thereby stirring discussions about ethics and the behavior of both journalists and the media regarding valid issues around election coverage. Besides the technical skills needed to cover the electoral campaigns, it is also necessary for journalists to have a solid ethical commitment to the information they are making public.

In general, journalists have noted, however, that new technologies can actually improve ethical journalistic behavior and can provide greater transparency regarding information manipulation, since access to more information and a large amount of data can avoid making false information public without the necessary background checks.

4.2   Investigative Journalism

4.2.1   Opportunities

Big media in Brazil are generally conservative and little interested in giving visibility to certain controversial topics. They have also provided tools that help journalists working with investigative stories to network and exchange experiences and information. The Brazilian Investigative Journalism Association (*Associação Brasileira de Jornalismo Investigativo*, ABRAJI), currently with over 2,000 members, was founded in 2002 and maintains a mailing list on the subject.[118]

Repórter Brasil (Reporter Brazil),[119] an NGO founded in 2001 by journalists, political scientists, and educators to promote research and investigative journalism about slavery and forced labor, serves as a good illustration of the opportunities provided by digitization for investigative journalism. Due to the difficulties in getting major media companies to produce news about corporations involved in slavery and environmental problems, the NGO has been using the internet as an important channel to distribute its work (see sections *4.2.3* and *4.2.4*).

Some journalists pointed out that the essence of investigative journalism has not changed. The activities involved remain the same: investigating, writing, and editing. Digitization has, however, increased the amount of available sources and the speed with which information can circulate around the globe. Large amounts of data can be processed and examined, and the opportunities for dissemination have improved

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118. See http://www.abraji.org.br (accessed 25 August 2012).

119. See http://www.reporterbrasil.org.br (accessed 25 August 2012).

considerably. Data-driven journalism is certainly a topic of interest, and the newspaper *Estado de São Paulo* has recently created *Estadão Dados,* a division dedicated to the tasks of mining and creating visualization tools for publicly available information.[120]

Another opportunity created by the internet is to provide for stronger checks on government transparency and accountability. Since there is improved access to public data and people willing to process this information, platforms maintained by the government and civil society are making it easier for journalists to keep a closer watch on government. New legislation passed in 2011[121] will be instrumental in forcing the government to systematically disclose data and documents that would have hardly seen the light of day in previous decades. Offices, agencies, and public companies at all levels of the federation are already creating departments to process information requests, which can be submitted by any interested party.

Transparência Brasil (Transparency Brazil),[122] an association of individuals and NGOs, was created in 2000 to provide empirical research and online tools to monitor corruption in Brazil. The information gathered by *Transparência Brasil* greatly facilitates and accelerates the groundwork journalists must do for investigative stories involving Brazilian politicians, and it includes a thorough database containing up-to-date profiles on parliamentary activity, campaign financing, and government spending.

4.2.2 Threats

The digitization process has improved the day-to-day work of investigative journalists in some sense, bringing greater visibility to both cases and journalists. The consequences of this can be double-edged, however. While increased awareness of the work of investigative journalists can provide them with additional protection against retaliation, visibility can also facilitate persecution. Figure 18 shows that violence against journalists, including those working with digital platforms, is on the rise. While this can be expected—given that the role of the internet is increasingly prevalent—it is also a worrying trend, since it affects the profession as a whole.

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120. "Estadão Dados Une Transparência e Interatividade" (Estadão Data joins Transparency and Interactivity), *O Estado de São Paulo,* 12 May 2012, at http://www.estadao.com.br/noticias/nacional,estadao-dados-une-transparencia-e-interatividade,872163,0.htm (accessed 25 August 2012).

121. Law 12.525/2011.

122. See http://www.transparencia.org.br (accessed 25 August 2012).

Figure 18.

Violence against journalists by type of platform (% of total cases), 2006–2011

| | Print media | Television | Radio | Blogs and websites | Unidentified |
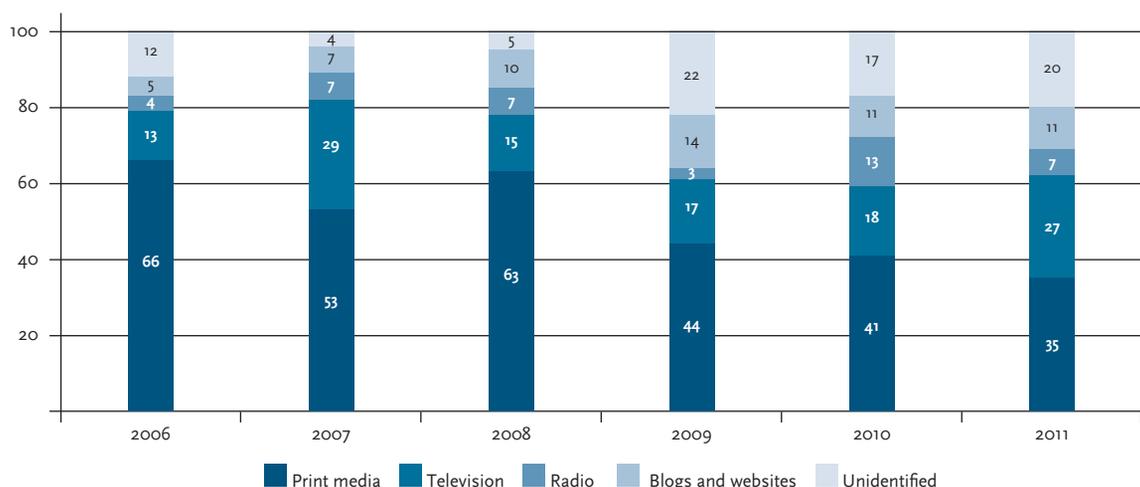
Source: National Federation of Journalists (*Federação Nacional dos Jornalistas*, FENAJ), "Violence and press freedom in Brazil," Journalist's Report, 2006–2011

According to a Press Emblem Campaign (PEC) report,[123] Brazil holds the equal third place in a list of the most dangerous countries for journalists (six journalists were killed there between January and June 2012), after Syria (20 journalists), Mexico (eight), Somalia (six), and Pakistan (six). In another ranking prepared by the Latin American Federation of Journalists, Brazil occupies the second worst place in Latin America, just behind Mexico. According to this source, seven journalists were killed in the country from January to August 2012.[124] (Neither of these rankings estimates the impact of digitization on violence against journalists.)

According to the report "Attacks on the Press in 2010"[125] released by the Committee to Protect Journalists (CPJ), the Judiciary has subjected the press to extensive censorship over recent years. Judges in state courts have prohibited dozens of outlets from covering extremely relevant news, including issues involving the October 2010 general elections. Hundreds of lawsuits were filed by businesses, politicians, and public officials on the grounds of defamation, leading to content being withdrawn or not even published. Various platforms and media were targeted, including newspapers, broadcasters, news websites, and blogs. A prominent case involves the newspaper *O Estado de São Paulo* and its website, which has been under a judicial gag order since July 2009 and is prohibited from publishing information concerning a corruption scandal involving businessman Fernando Sarney, the son of Senator José Sarney.[126]

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123. PEC Press Release, "PEC Reports an Increase of 33 Percent in the Number of Journalists Killed in 6 months," at http://www.pressemblem. ch/10399.html (accessed 21 August 2012).

124. "Levantamento Mostra que 32 Jornalistas Foram Assassinados na América Latina em 2012" (Survey Shows that 32 Journalists Were Killed in Latin America in 2012), Portal Imprensa, 3 August 2012, at http://portalimprensa.uol.com.br/noticias/internacional/52331/levantamento+-mostra+que+32+jornalistas+foram+assassinados+na+america+latina+em+2012 (accessed 21 August 2012).

125. CPJ, "Attacks on the Press in 2010—A Worldwide Survey by the Committee to Protect Journalists," New York, 2011, at http://www.cpj. org/2011/02/attacks-on-the-press-2010.php (accessed 21 August 2012).

126. F. Recondo, "Justiça Censura Estado e Proíbe Informações sobre Sarney" (Justice Censoring Estado and Prohibits it to Give Information about Sarney), *O Estado de São Paulo*, 31 July 2009, at http://www.estadao.com.br/noticias/nacional,justica-censura-estado-e-proibe-informacoes-so-bre-sarney,411711,0.htm (accessed 21 August 2012).

A case worth noting is the recent conflict between the journalist André Caramante, who worked for *Folha de São Paulo*, and an ex-military policeman who became a municipal representative, Paulo Telhada. On 14 July 2012, Caramante alleged that Telhada (then a candidate for the municipal legislative chamber) was using his Facebook profile to encourage violent acts by his followers, then numbering over 37,000.[127] The journalist then started to receive threats (both by telephone and online, mainly through social networks) from several people, saying they were going to kill his family or kidnap him. Until October, the threats—mostly alleged to have been made by policemen on the internet—continued to be directed at Caramante and his family.[128] He decided to go into exile with his family and spent three months living abroad until December 2012. The case mobilized a significant level of support among the Brazilian media, on the ground that this kind of situation was a threat not only to investigative journalism, but also to freedom of expression as a whole.

4.2.3   New Platforms

Despite the popularity of blogs among Brazilian internet users, investigative journalism produced by independent bloggers in Brazil barely exists. Social networks and online platforms are frequently used to denounce and expose socially relevant problems, but the systematic activity of investigative journalism remains the domain of traditional media companies or independently funded professional journalists.

Investigative journalism requires significant resources and demands work that is hard to execute outside a professional environment. But the case of *Repórter Brasil* is a pertinent example of investigative journalism that is only possible in Brazil because of the internet and digitization. Forced labor and slavery on Brazilian farms is a delicate subject—especially in northeastern Brazil, where landowners also own or have political control of the press—and coverage as thorough as that provided by *Repórter Brasil* can be considered a direct product of digitization.

4.2.4   Dissemination and Impact

Digitization has helped investigative journalists to improve the dissemination—and hence the effectiveness—of their work.

Social networks and content-sharing platforms have broadened the opportunities for dissemination of journalistic content to an unprecedented degree. As a consequence, investigative journalism has also found new ways to reach audiences, especially if it deals with issues that are thorny and are neglected by major outlets.

A case worth noting is that of Publica,[129] the first news agency for investigative journalism in Brazil, founded

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127. A. Caramante, "Ex-chefe da Rota vira Político e Prega a Violência no Facebook" (Former Head of Rota Becomes a Politician and Spreads Violence on Facebook), *Folha de São Paulo,* 14 July 2012, at http://www1.folha.uol.com.br/fsp/cotidiano/54441-ex-chefe-da-rota-vira-politico-e-prega-a-violencia-no-facebook.shtml (acessed 15 December 2012).

128. J. Francisco Neto, "Repórter da Folha Relata Ameaças Depois de Denúncias Contra a PM" (Journalist from Folha Reports Threats After Accusations Against a Military Policeman), at http://www.brasildefato.com.br/node/10144 (accessed 3 October 2013).

129. See http://apublica.org (accessed 2 September 2012).

in March 2011 with content support from WikiLeaks and funds from organizations like CLUA (Climate and Land Use Alliance), Fundação Carlos Chagas, Ford Foundation, and the Open Society Foundations. Publica's goal is to foster investigative journalism that cannot usually be found in traditional outlets, with a multi-platform approach, bringing quality information to the public using digital tools, and making it as widely available as possible through open licensing practices. Natalia Viana,[130] one of Publica's founders, conceived the agency on the basis of her previous experience with the Center for Investigative Journalism and the Center for Investigative Reporting. Publica is composed of a small staff of journalists and collaborators, and has an advisory council formed by prominent journalists. According to Ms Viana, Publica's non-profit nature is an experiment that needed to be carried out in Brazil, due to the deficiencies in investigative reporting carried out by commercial outlets:

> The commercial model normally used to produce journalism brings benefits and harms; one of the problems that we see is a result of the crisis faced by the news agencies who have reduced the number of journalists, pay way less than they used to, and shrunk newsrooms. [Investigative journalism] demands lots of effort, takes a longer time to produce results, and ends up being cut from the news agencies […] This process is due to the profit expected from those enterprises, and the nonprofit model does not need to be attached to this […], it is guided by quality.[131]

Publica is opening up a space in Brazil for organizations, foundations, and research institutions interested in supporting this kind of work. The agency also has around 30 partners working in content production, and it distributes its content through many outlets, including EBC and Yahoo! By early August 2013, Publica had crowd-funded 10 awards of financial aid to be distributed to journalists for independent investigations.

Digitization has also provided space for a boom in live, independent coverage of the 2013 protests by smartphones and direct broadcasting via social media. The best such coverage was by the collective Mídia NINJA. NINJA, an acronym for *Narrativas Integradas de Jornalismo e Ação* (Integrated Narratives of Journalism and Action), is a media activism project hosted by the nationwide network of cultural producers and artists, Fora do Eixo (literally "Off the Axis," as in "out of the Rio–São Paulo axis"). While there is a lot of controversy surrounding Fora do Eixo itself,[132] and the nature of the coverage—is it, in the end, journalism or not? If yes, what type of journalism? Is it financially sustainable?—it is hard to deny that NINJA's coverage of the protests was often the most thorough and reliable available, even with its limitations. NINJA's output is frequently incorporated into regular coverage by the traditional press, and the model it established gave rise to other similar independent groups, such as Coletivo Mariachi in Rio de Janeiro.

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130. Interview with Natalia Viana, Publica's strategy coordinator and special reporter, Rio de Janeiro, 3 March 2012.

131. Interview with Natalia Viana, Publica's strategy coordinator and special reporter, Rio de Janeiro, 3 March 2012.

132. S. Garland. "'The Space, the Gear, and Two Big Cans of Beer': Fora do Eixo and the Debate over Circulation, Remuneration, and Aesthetics in the Brazilian Alternative Market," *Journal of Popular Music Studies*, 24(4) (2012), pp. 509–531.

4.3   Social and Cultural Diversity

4.3.1   Sensitive Issues

According to the journalists interviewed for this report and general observations of the Brazilian media, the most sensitive issues in Brazil over recent years are:

- freedom of expression on traditional media platforms;

- homosexuality and LGBTTT (Lesbian, gay, bisexual, transvestite, transsexual, transgender) rights;

- piracy and copyright;

- abortion;

- the political ties between religious institutions and politicians to media and the state;

- racial and ethnic issues, including those related to indigenous peoples and their territorial rights;

- housing development policies, land reform, and ownership;

- drug-trafficking, violence, and organized crime;

- corruption and disparity of punishment between offenders coming from different social or economic backgrounds;

- gender discrimination;

- communications policy.

4.3.2   Coverage of Sensitive Issues

Sensitive issues tend to appear on the agenda of traditional media only when triggered by specific events—for example, murders, accidents, riots, etc.—or when they emerge from particular economic and political interests. Even though coverage of such topics may be frequent, the approach is in many instances biased toward readily identifiable interests.

Some of these sensitive issues—in particular news regarding homosexuality and LGBTTT rights—have received more respectful treatment then previously from some quarters, but in a still somewhat conservative and superficial way. Television coverage tends to be more problematic, which is troubling given the role of television in shaping the Brazilian public sphere. According to a 2007 report by NGO Intervozes,[133] Brazilian television systematically violates human rights by promoting—usually through entertainment programming—gender discrimination and disrespect toward minorities and specific individuals, usually under the guise of humor. This raises the issue of the conflict between the constitutional right to freedom of expression (Article 5, IV and IX, and 220) and a number of constraints on speech that the Brazilian Constitution contains.

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133. Intervozes, *A sociedade ocupa a TV: O caso Direitos de Resposta e o controle público da mídia* (Society Occupies the TV: The Case of Right to Response and the Public Control over the Media), 2007.

Besides a general prohibition of racism (Article 5, XLII), the endorsement of privacy rights (Article 5, V and X), and a general principle of respect for human dignity (Article 1, III), all radio and television broadcasters must respect "the ethical and social values of individuals and families" (Article 221, IV), which is a universal principle but has special resonance for specific communities and minorities. These general obligations, however, have not been regulated by legislation, and remain at the constitutional level, with low levels of enforcement.

"Tarde Quente"

The *"Tarde Quente"* (Hot Afternoon) case is an exception to the free rein broadcasters have been given with regards to abusive programming in the past. With an audience of over 20 million viewers a day, *"Tarde Quente"* was a daily variety show hosted by comedian João Kléber and broadcast by Rede TV! Kléber's attempts at humor frequently involved jokes at the expense of homosexuals and other minorities, as well as blatantly misogynistic content and the public humiliation of the individuals who were caught by its hidden camera sketches. In 2005, the Federal Prosecution Service and six NGOs filed a lawsuit against Rede TV! and an injunction was granted against the broadcaster. Rede TV! would have to suspend airing *"Tarde Quente"* for 60 days, showing instead, and for the same period of time, programming on human rights. *"Tarde Quente"* would also have to be rescheduled to a late evening time slot.

Rede TV! did not obey the injunction, which led to its signal being shut down for 48 hours. After this measure was taken, the broadcaster had no choice but to comply. A series of 30 one-hour programs called *Direitos de Resposta* (Rights of Reply)[134] produced by the plaintiffs and associated NGOs was broadcast on the rights of people with disabilities, indigenous communities, women, homosexuals, and other related subjects. Rede TV! eventually halted production of *"Tarde Quente."*

Besides the constitutional provisions already mentioned, broadcasters and certain types of audiovisual content, such as film and videogames, are subject to a mandatory ratings system under the supervision of the Ministry of Justice. The Brazilian advertising industry is subject to the Brazilian Consumers Code, and is also self-regulated through a code and regulatory body, the National Council of Advertisement Self-regulation (*Conselho Nacional de Autoregulamentação Publicitária*, CONAR).

As of 2007, NGO Intervozes operates the Observatory on the Right to Communication, with a special section on content and programming. Civil society monitoring is also carried out by a coalition of NGOs in association with the Human Rights and Minorities Commission of the House of Deputies; complaints against questionable content on television are collected through a hotline or the internet, and an annual ranking of television shows based on the number of complaints received is published.[135]

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134. The title reflected the constitutional "right to respond," which is granted to individuals—and by judicial decision, extended to communities— as a response to offenses against personal image (Brazilian Constitution, Article 5, V).

135. See http://www.eticanatv.org.br (accessed 30 August 2012).

4.3.3 Space for Public Expression

The groups affected by the aforementioned sensitive issues either do not have much space on traditional media or tend to suffer from biased coverage. The internet has provided these communities with a technology that enables them to cogently express their concerns and to better assert their rights. The *Voz da Comunidade* case mentioned in a footnote to section *3.3* is the emblematic example in Brazil of the changes brought about by digitization. As the Complexo do Alemão favela was being invaded by the police and the army in November 2010, *Voz da Comunidade* transcended its reach as a community newspaper through the use of Twitter, with constant updates of the invasion going out to a wider readership. The coverage provided by *Voz da Comunidade* was very different in tone from that of the major newspapers and television; it was a live account of the invasion created by actual members of the community. *Voz da Comunidade* has since expanded its online presence to *Vozes das Comunidades*, and now serves as a portal for news from four other communities in Rio.[136]

Almost all the minority groups listed use the internet for internal communication and to spread news and information about themselves, especially through social networks such as Facebook. Some minority groups specifically concerned with housing development policies, land reform, and ownership are also starting to use internet platforms to give voice and a perspective to their struggle that traditional media platforms do not provide. The Assentamento Milton Santos, a settlement in a rural area where more than 68 families have been living for years in the city of Americana (State of São Paulo), has been threatened with eviction by the alleged owners of the land since 2012. They created a website and a Facebook page to post news and information about protests, judicial decisions, pictures, and more, with the clear intention to promote the debate about the use of idle rural properties in the public interest domain, as much as to defend themselves against the criticism that usually falls on the *Movimento dos Sem Terra* (Landless Movement) in Brazil.[137]

It must be stressed, however, that internet penetration in Brazil is low. The opportunities offered by digitization for a more democratic public sphere are unquestionable, but access to digital technologies remains an issue. Moreover, in most of the cases, the visibility and impact of these online outlets is limited to groups that advocate the same causes and people already involved in these sensitive issues. It would appear that the internet has facilitated their internal communication and organization more than their influence on other media outlets or on traditional newsmaking.

4.4 Political Diversity

4.4.1 Elections and Political Coverage

Brazil has gone through recent legislative changes regarding the use of the internet for political campaigns. Bill 5.498 was passed into law in 2009 allowing, among other things, political parties to receive donations through the internet and to use online platforms for campaign advertising.

136. See http://www.vozdascomunidades.com.br (accessed 30 August 2012).

137. See http://www.assentamentomiltonsantos.com.br (accessed 29 January 2013).

Previous versions of the bill were somewhat restrictive regarding the use of the internet for political campaigns, reflecting the strict regulation of the use of television and radio for the same purposes. The internet's architecture, the challenges it provides to regulation, as well as the opportunities for democratic dialogue, were not lost on legislators, and the bill was amended to allow free use of the internet for political campaigns. Online video consumption, visits to news websites, and Twitter experienced significant spikes in 2010 in a period that coincided with the Brazilian elections (see section *3.2.1*), and showed a definite willingness by Brazil's internet users to engage with the political process through digital means.

4.4.2 Digital Political Communications

All of the major candidates in Brazil's presidential election of 2010 made heavy use of the internet in their campaigns, which included aggressive social media strategies and specialized campaign staff. Candidates with negligible airtime in television slots reserved for campaign advertising likewise attempted to win the vote of electors by using the internet. By any account, the political map is more diverse on the internet than on television, since the playing field is much more level.

Digital media give candidates from small parties or with a limited budget the opportunity to greatly amplify the reach of their campaigns through social media and blogs. Another important point to stress is the emergence of new patterns of communication between political parties, politicians, and voters. Some Brazilian candidates have made extensive use of Twitter, Facebook, and blogs during the elections, and have continued to use these tools afterwards. Either by hiring staff to mediate communications, or by directly using social media—particularly Twitter—these politicians have established a direct channel with their electors and other interested parties.

Marina Silva's campaign for the presidency in the 2010 elections is the first representative example of a candidate making extensive use of digital media in Brazil. In Brazil, free-of-charge airtime is provided for candidates on FTA television and radio, but it is dependent on the number of party affiliates, coalitions, and other stringent rules. Ms Silva, the presidential candidate for the Green Party (*Partido Verde*, PV), had little airtime for campaigning, but made efficient use of the internet to receive donations, publicize her political agenda, and interact with electors. Silva also made systematic use of social media, mainly through Twitter, and ended up as the third most popular candidate, with 19.3 percent of votes.

The same model has been adopted by other politicians, with Rio de Janeiro's Marcelo Freixo campaigning for mayor in the 2012 elections being a comparable example. Despite the mobilization on social networks to support Freixo and the entire buzz caused by his campaign, Eduardo Paes was elected mayor with 28 times more money for his campaign (collected in traditional ways). These examples reflect a marginal change in the interest in politics among various public groups (that are directly supporting their candidates through the internet). But it is important to stress that digital media debates are detached from the broader political landscape.

Digitization has also increased transparency in the coverage of news during the election. Information manipulation and biased coverage are as common as ever, but digital tools and the internet now allow for greater scrutiny of political communications.

The *Bolinha de Papel* Affair

The *Bolinha de Papel* (Little Paper Ball) affair occurred during Brazil's 2010 presidential elections. On 20 October 2010, a confrontation between supporters of the Brazilian Social Democracy Party (*Partido da Social Democracia Brasileira*, PSDB) and the opposing Workers' Party (*Partido dos Trabalhadores*, PT) occurred during a public appearance by the PSDB's presidential candidate, José Serra, in Campo Grande, a neighborhood in Rio de Janeiro. During the conflict, Mr Serra was hit on the head by an unidentified object, but carried on with his walk around Campo Grande. Later on, after receiving a phone call, Mr Serra canceled his walk and the rest of his Rio de Janeiro agenda and checked himself into a hospital for examination, claiming to have been hit by a tape roll in an act of political aggression orchestrated by PT supporters.

Globo's "*Jornal Nacional*" aired a piece in the evening corroborating Mr Serra's statement,[138] and similar pieces were published by newspapers *Folha de São Paulo*[139] and *Estado de São Paulo*,[140] and on weekly magazine *Veja*'s website.[141] Stories broadcast by the news bulletins of Record and SBT television, however, denied this version of the event and showed footage of Mr Serra being hit with an object resembling a paper ball, hinting that the entire affair was staged minutes later, immediately after Mr Serra received a phone call from his campaign staff.

It is still unclear what version of the facts is true. Corrected versions of the story were later published by *Folha de São Paulo*[142] and *O Estado de São Paulo*,[143] affirming that Mr Serra was actually hit twice on the head—first by the paper ball, and later by a heavier object. The examinations Mr Serra underwent in hospital, however, did confirm that whatever hit him did not cause any bodily harm, and there is a counter thesis that images which supposedly show Mr Serra being hit for the second time were manipulated.[144] The blogosphere and supporters of both the PT and the PSDB chose whatever version better suited their cause, and President Lula da Silva decried Mr Serra's behavior as a farce.[145]

138. See http://www.youtube.com/watch?v=zcLH6lLWi4k (accessed 29 January 2013).

139. I. Nogueira, C. Seabra, "Serra Leva Pancada na Cabeça em Confusão com Militantes do PT no Rio" (Serra is Hit in the Head During Confusion with PT's Militants), *Folha de São Paulo*, 20 October 2010, at http://www1.folha.uol.com.br/poder/817469-serra-leva-pancada-na-cabeca-em-confusao-com-militantes-do-pt-no-rio.shtml (accessed 29 January 2013).

140. L.N. Leal, "Serra é Agredido por Petistas no Rio" (Serra Attacked by Petistas in Rio), *O Estado de São Paulo*, 21 October 2010, at http://www.estadao.com.br/estadaodehoje/20101021/not_imp627615,0.php (accessed 30 January 2013).

141. C. Ritto, M. Dias, L. Marques, "Militantes do PT Agridem Jose Serra e Apedrejam Van" (PT Militants Attack Jose Serra and Stoning his Van), *Veja*, 20 October 2010, at http://veja.abril.com.br/blog/eleicoes/veja-acompanha-jose-serra/militantes-do-pt-agridem-jose-serra-e-apedrejam-van (accessed 30 January 2013).

142. "Vídeo que mostra bola de papel atingir Serra é anterior a arremesso de outro objeto" (Video that Shows Paper Ball hitting Serra is Prior to the Throwing of Another Object), *Folha de São Paulo*, 21 October 2010, at http://www1.folha.uol.com.br/poder/818166-video-que-mostra-bola-de-papel-atingir-serra-e-anterior-a-arremesso-de-outro-objeto.shtml (accessed 30 January 2013).

143. "Serra foi Atingido Duas Vezes Durante Caminhada no Rio" (Serra Hit Twice While Walking in Rio), *O Estado de São Paulo*, 21 October 2010, at http://blogs.estadao.com.br/radar-politico/2010/10/21/serra-foi-atingido-duas-vezes-durante-caminhada-no-rio (accessed 30 January 2013).

144. A video on YouTube makes this case, at http://www.youtube.com/watch?v=9NLzAYYr-ao (accessed 30 January 2013).

145. F. Recondo, K. Mendes, "Para Lula, blogs desmontaram 'farsa da bolinha' na eleição" (To Lula, Blogs Dismounted the 'Paper Ball Farce' of Elections), *O Estado de São Paulo*, 18 June 2011, at http://www.estadao.com.br/estadaodehoje/20110618/not_imp733882,0.php (accessed 30 January 2013).

Regardless of what actually happened, digitization contributed greatly to the analysis of wildly different versions of the facts, with blogs, Twitter, YouTube, and social networks providing lively discussion around the coverage of the events in Campo Grande, generating a degree of noise that even the outlets involved in the conflict were not able to ignore.[146] It also raised the degree of awareness of the potential for the misuse of media for political purposes, and generated interesting UGC, including YouTube videos with a breakdown of the images broadcast by Globo, SBT, and Record,[147] as well as satirical content, including a Flash-based game[148] and a fake profile on Twitter impersonating the paper ball that supposedly hit Mr Serra.[149]

4.5   Assessments

Nothing in recent decades has had a greater impact on journalistic work than digitization. Information flows faster than ever, and from a greater number of sources; journalists have to adapt to an environment that demands immediate coverage of events, sometimes privileging speed over content. Traditional news outlets have diversified the ways in which they make their content available, and new skills are now required of journalists. Mastering the use of social networks and Twitter, for example, is unavoidable in the current scenario.

Some journalists, however, while recognizing the opportunities offered by digitization, pointed out that working conditions in Brazil have been negatively impacted over the last decade, since journalists are required to work extra hours and assume new roles to accommodate demands that derive from digital news delivery. Quality of news can also be said to have generally decreased, given the speed with which content must reach audiences. However, greater access to information and databases, as well as greater visibility, can provide good control over news production in a connected world, and can actually improve quality.

Diversity and new opportunities for expression are certainly harnessed by digitization. Marginalized groups and sensitive issues can now be heard and receive proper coverage. The low barriers to entry in the online public sphere are particularly noticeable when one compares political campaigning on television or radio with the innovative ways the internet was used during the Brazilian elections of 2010. It is difficult not to

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146. "Suposta agressão a Serra vira bate-boca político e na web" (Alleged Attack on Serra Turns in Political Discussions and on the Web), *O Estado de São Paulo*, 21 October 2010, at http://www.estadao.com.br/noticias/nacional,suposta-agressao-a-serra-vira-bate-boca-politico-e-na-web,627 997,0.htm (accessed 30 January 2013).

147. See http://www.youtube.com/watch?v=jDLGwXEnZZ0 (accessed 30 January 2013).

148. See http://jogosonline.uol.com.br/bolinha-de-papel-no-serra_1931.html (accessed 30 January 2013).

149. The twitter profile @Bolinha_dePapel, currently with 2,900 followers, followed a single Twitter account during the weeks when the story was hot: @joseserra himself. See http://twitter.com/#!/Bolinha_dePapel (accessed 30 January 2013).

have an optimistic view of the contributions of digitization to democracy, particularly if comparisons with the pre-internet era are made.

There are, nevertheless, considerable challenges ahead. Only a relatively small portion of the population has access to high bandwidth internet, and television remains the primary channel through which Brazilians obtain information and entertainment. Television, furthermore, is hardly a progressive medium in Brazil, and is affected by considerable regulatory problems.

5. Digital Media and Technology

5.1 Broadcasting Spectrum

5.1.1 Spectrum Allocation Policy

Radio and television broadcasting in Brazil are regulated separately from telecommunication services, through a Byzantine thicket of laws and decrees that is impenetrable to the average citizen and confusing even to specialists. This separation occurred in 1995, when Constitutional Amendment 8 split the previously monolithic system established by the Brazilian Telecommunications Code (BTC) of 1962. Originally, a broad reform of the entire communications framework was envisioned during Fernando Henrique Cardoso's first mandate as president, with the creation of a National Communications Agency. Aggressively effective lobbying from broadcasters resulted in a partial reform, affecting telecommunications exclusively, with the privatization of the state Telebrás system, and the foundation of Anatel, the National Telecommunications Agency.[150]

The BTC still regulates radio and television broadcasting, but telecommunication services are now regulated by the General Law of Telecommunications (*Lei Geral de Telecomunicações*, LGT) of 1997, which differentiates between services that are provided under a public regime (landline telephony), and are deemed essential and universal, and those provided under a private regime (which include mobile telephony, and cable, MMDS, and DTH television). Anatel is in charge of technical regulations, general spectrum management, and telecommunications licensing. Licenses for radio and television broadcasting are managed by the Ministry of Communications through procedures that also involve the office of the Chief of Staff to the President of Brazil and both houses of the National Congress. As of 2007, Anatel is also responsible for the supervision of the technical aspects of spectrum use, through an agreement with the Ministry of Communications, which remains directly in charge of supervising content-related requirements.

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150. C.A. Lopes, "Regulação das Outorgas de Radiodifusão no Brasil: Uma Breve Análise" (Regulation of Broadcasting Concessions in Brazil: A Short Analysis), Câmara dos Deputados, Consultoria Legislativa, Brasília, 2009, at http://www2.camara.leg.br/documentos-e-pesquisa/publicacoes/estnottec/tema4/2009_10868.pdf (accessed 26 September 2013).

According to the nature of the service provided, licenses are categorized as commercial, educational, or community broadcasting, and can be national, regional, or local, for the purposes of broadcasting, rebroadcasting, or relaying programming.[151] Commercial broadcast licenses were once free of charge and granted on the basis of discretionary political criteria by the Ministry of Communications. This changed with the passing of Decree 2.108 in 1996, which inaugurated a public tender mechanism for broadcasting, according to financial and technical criteria.

Educational broadcast licenses, awarded to states, municipalities, universities, and private foundations (see section *2.1*), licenses for rebroadcasting content, and for community radio follow different procedures, which currently involve the publication of a "notice of habilitation," and the ranking of applicants according to a variety of criteria. These include, in the case of community radio, for instance, how "representative" the association is based on the number of declarations of support it is able to gather from institutions and individuals in the community.

The Ministry of Communications can decide on a discretionary basis if a call for tender is to be published, even if channels are available. Interested parties can induce the Ministry to evaluate whether a call for a specific license can be made. Calls for tender must establish a minimum price for the license, objective criteria for the evaluation of the proposals, as well as the requirements for licensee eligibility. Participants are scored according to the highest bid for a technical proposal, which must address content-related items such as the number of weekly hours dedicated to cultural and educational programming and news. After the winner is selected, both the federal Executive and Legislative branches participate in validating the result, through the office of the Chief of Staff to the President of Brazil and the National Congress.

This is a much better system than the previous one, which was entirely political. Nevertheless, according to a study by Lopes, most of the tenders are resolved exclusively on a price basis, favoring incumbent actors who have managed to secure, under the previous system, an economic advantage over new entrants.[152] Lopes found that, out of 905 tenders between 1997 and 2002 involving more than a single bidder, the highest bid was the only determining criterion in 846 of them, since most proposals receive the maximum score for technical requirements, which are thus made irrelevant in practice.

The participation of the National Congress in the licensing process, established by Brazil's 1988 Constitution, did not result in any improvements. This is far from surprising, since political use of broadcast licenses and broadcasting itself are entrenched features of Brazilian political life, sometimes quite explicitly.[153] One of the less subtle examples took place during José Sarney's presidency (1985–1988). Mr Sarney and his Minister of

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151. Licensing occurs via three different modalities, which assume different features in Brazilian administrative law: concession, permission, and authorization. Licensing for broadcasting stations, which are the only ones that can generate their own content, occurs through concessions.

152. C.A. Lopes, "Licitações nas Outorgas de Rádio e TV: A Ineficácia dos Critérios Técnicos" (Licensing in Radio and TV concessions: The Ineffectiveness of Technical Criteria), Intercom: XXXI Congresso Brasileiro de Ciências da Comunicação, Natal, September 2008, at http://www.intercom.org.br/papers/nacionais/2008/resumos/R3-0386-1.pdf (accessed 26 September 2013).

153. See, for an overview, V.A. de Lima and C.A. Lopes, "Coronelismo Eletrônico de Novo Tipo" (New Type of Electronic 'Coronelismo'), in V.A. de Lima, *Regulação das Comunicações*.

Communications, Antônio Carlos Magalhães, awarded 1,028 licenses over roughly three and half years, 25 percent of them on 28 September 1988, only six days before the promulgation of the 1988 Constitution. Most of the 59 licenses granted that day were given to members of Congress—directly or through family members or partners—in exchange for political support for some of Mr Sarney's proposals, in particular the extension of the presidential mandate to five years. Of the 91 members of the Constituent Assembly who were awarded at least one radio or television license, 82 voted for term extension.[154]

Fraud is also an issue. An investigation by the newspaper *Folha de São Paulo*,[155] based on 91 companies that were awarded a broadcast license between 1997 and 2010, found that 44 companies were not operating from the addresses registered with the Ministry of Communications. Low-income workers often appeared listed as owners, some of whom admitted to *Folha de São Paulo* that they had lent their names to the real owners. None admitted to having received money in exchange, but in cases involving religious groups, churches were successful in convincing individuals from their constituencies to authorize the use of their names for "evangelization" purposes. Some of these licenses were even illegally put on sale online, through legitimate looking websites.[156] As a response, the federal government passed Decree 7670/2012, requiring that participants demonstrate they meet certain financial requirements.

After 1996, educational broadcast licenses assumed greater importance as political currency, due to the fact that they did not require a tender, and that enforcement of content-related obligations was non-existent.[157] In 2011, however, the Ministry of Communications established procedures for educational licenses that mirror those for community radio, with publicity and the opportunity for participation secured through "notices of habilitation," which invite eligible parties to express interest in the licenses and define the criteria for ranking proposals. In the case of educational licenses, public universities, states, and municipalities have preferential status.

It remains to be seen how well the habilitation mechanism will improve fairness in educational licensing. The experience of community radio—a licensing category created in 1998—has not been encouraging. The process for obtaining a license for community radio is extremely bureaucratic and slow, and there is a high chance for proposals to be archived due to documentation requirements. As demonstrated by Lima and Lopes, 80 percent of proposals submitted between August 1998 and 2004 were archived for such reasons, and applicants have relied on sponsorship by allies with political connections to see that their proposals are

154. P. Motter, "O Uso Político das Concessões das Emissoras de Rádio e Televisão no Governo Sarney" (The Political Use of Radio and TV Broadcasting Concessions during Sarney's Government), *Comunicação & Política*, 1 (1), pp. 89–115.

155. E. Lobato, "Laranjas Compram Rádios e TVs do Governo Federal" (Proxies Buy Radio and TV Stations from the Federal Government), *Folha de São Paulo*, São Paulo, 27 March 2011, at http://www1.folha.uol.com.br/fsp/poder/po2703201102.htm (accessed 26 September 2013).

156. E. Lobato, "Comércio Ilegal de Rádio e TV Funciona sem Repressão" (The Illegal Commerce of Radio and TV Operates Without Repression), *Folha de São Paulo,* São Paulo, 28 March 2011, at http://www1.folha.uol.com.br/poder/894797-comercio-ilegal-de-radio-e-tv-funciona-sem-repressao.shtml (accessed 26 September 2013).

157. E. Lobato, "FHC Distribuiu Rádios e TVs Educativas para Políticos" (Fernando Henrique Cardoso (FHC) Distributes Educative Radio and TV licenses to Politicians), *Folha de São Paulo*, São Paulo, 24 August 2002, at http://www1.folha.uol.com.br/folha/brasil/ult96u36586.shtml (accessed 26 September 2013); E. Lobato, "Governo Lula Distribui TVs e Rádios Educativas a Políticos," *Folha de São Paulo,* São Paulo, 18 June 2006, at http://www1.folha.uol.com.br/folha/brasil/ult96u79613.shtml (accessed 26 September 2013).

processed quickly and end in approval.[158] In 2003 and 2004, of 1,822 proposals without a political sponsor, 146 were approved, as opposed to 357 from a pool of 1,010 proposals backed by a politician.[159]

License renewal is yet another problem. Licenses are only valid for 10 (radio) or 15 (television) years, with renewal depending on evaluation by the Ministry of Communications and their explicit non-renewal by two-fifths of the National Congress, in nominal voting (Brazilian Constitution, Article 223, paragraph 2). It takes years for the government to evaluate renewals, and Congress has never received or voted a renewal. Even if it were to vote, one must take into account that many lawmakers directly or indirectly own radio and television stations, and they would hardly cast a nominal vote for the non-renewal of a license. If the licensee formally requires renewal and there is still no decision from the competent authorities after its date of expiry, the renewal is automatically granted according to Decree 88.066/1983, Article 4. As a result, the norm in Brazil is that licenses always get renewed.[160]

Finally, enforcement of content obligations is seriously lacking. According to the BTC, broadcasters are not allowed to dedicate more than 25 percent of airtime to advertising. It is often the case, however, that this limit is exceeded, with airtime "rented" to infomercial television programs. TV Gazeta went as far as broadcasting these shows in 55.3 percent of its overall airtime in 2009, according to ANCINE. Educational content requirements are also not enforced (see section *2.2.2*).

5.1.2 Transparency

Spectrum is awarded in Brazil through supposedly public procedures. Transparency issues, nonetheless, are considerable. Official acts related to broadcast licensing are published through the government printing office, and companies are required to file their articles of incorporation in the state where they are incorporated. However, this hardly leads to actual transparency when the difficult task of collecting and systematizing data is left to the general public, and when not all of the data are available from online sources. A specific example is the fact that a full list containing the names of all recipients of broadcast licenses in Brazil was only first published in 2003. This list was then mysteriously taken down in 2007, only reemerging in 2011.

Increasing access to data scraping and mining technologies might eventually solve this problem, but it is the government's responsibility to provide information in ways that ensure full transparency of every step of the spectrum allocation and licensing processes. Documents that are not published in the official press but are available to interested parties should also be digitized and made available.

Another issue is that when information is made available, it is often contained in documents that do not allow uncomplicated mining, computer-processing, or even less sophisticated forms of analysis. What useful information one can find on the Ministry of Communications' and Anatel's website usually comes in the form

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158. V.A. de Lima and C.A. Lopes, "Coronelismo Eletrônico de Novo Tipo" (New Type of Electronic 'Coronelismo'), in V.A. de Lima, *Regulação das Comunicações*.

159. Political sponsorship was determined using an internal database prepared by the Ministry of Communications containing requests made by politicians to track specific community radio licensing processes.

160. V.A. de Lima, *Regulação das Comunicações*.

of PDFs, from which it is hard to extract information, or from systems that are difficult to integrate for the purpose of joint analysis. Good examples of these are Anatel's user-unfriendly databases SIACCO and SISCOM.

The Ministry of Communications seems to be slowly updating its website in order to comply with the recently approved Information Access Law (Law 12.527/2011), which requires government agencies and offices to make public interest information easily available online. There is still much to be done, but this is an encouraging development, and the law also allows any interested individual to file an information request, which could further induce both the Ministry of Communications and Anatel to disclose more relevant data, and to improve both quantitatively and qualitatively what is available to the public without request.

5.1.3 Competition for Spectrum

Auctions for the 2.5 GHz bandwidth, allocated to MMDS television, took place in June 2012. Telecoms Claro, Oi, Vivo, and Tim acquired licenses with a national reach, while Sky and Sunrise (now renamed On Telecom) acquired regional licenses. Sunrise, currently a small operator in the pay-TV market in the countryside outside São Paulo, was purchased by George Soros earlier in 2012,[161] and there are plans to shift its business from television to internet service provision.[162] MMDS licensees still occupy part of the band, but will either be transferred to other frequencies or compensated to waive the licenses.[163] The costs will be borne by the new 4G licensees. A total of 54 of 269 available lots were acquired;[164] the remaining lots will be auctioned again.

After being suspended in 2006 due to problems over the minimum price defined by Anatel,[165] auctions for the 3.5 GHz bandwidth, allocated to WiMAX, are currently being planned. A new proposal was put to public consultation in 2011 and drew heavy criticism. Broadcasters affirmed that the use of WiMAX, as defined by Anatel for the 3.5 GHz band, could interfere with the reception of broadcast signals through parabolic antennae. Small ISPs claimed that the proposal favors the major telecoms companies, namely Vivo (Telefónica), Tim, Oi, and Claro, since the licenses are for large areas, and consequently do not attract smaller players.[166] This appears to be the rule in spectrum licensing, with competition occurring strictly among the major companies that dominate the sector.

161. J. Wiziack, "Megainvestidor George Soros Compra Empresa de TV no Brasil" (Mega Investor George Soros Buys TV Company in Brazil), *Folha de São Paulo*, 29 May 2012, at http://www1.folha.uol.com.br/mercado/1097034-megainvestidor-george-soros-compra-empresa-de-tv-no-brasil.shtml (accessed 26 September 2013).

162. R. Glasberg, "On Telecom (Antiga Sunrise), Quer Espectro para 4G em Grandes Capitais" (On Telecom (Former Sunrise) Wants Spectrum for 4G in Largest Capitals), *Tela Viva*, 30 November 2012, at http://www.telaviva.com.br/30/11/2012/on-telecom-antiga-sunrise--quer-espectro-para-4g-em-grandes-capitais/pt/314202/news.aspx (accessed 26 September 2013).

163. L.O. Grossman, "Ressarcimento ao MMDS Será Por Livre Negociação entre Empresas" (The Reimbursement to MMDS will be through Free Negotiation Between the Companies), *Convergência Digital,* 12 April 2012, at http://convergenciadigital.uol.com.br/cgi/cgilua.exe/sys/start.htm?infoid=30065&sid=8 (accessed 26 September 2013).

164. E. Rodrigues and A. Warth, "Apenas 54 de 269 Lotes do Leilão de 4G Foram Licitados" (Only 54 of 269 4G Lots in Auction were Licensed), *O Estrada de São Paulo*, 13 June 2012, at http://economia.estadao.com.br/noticias/economia-geral,apenas-54-de-269-lotes-do-leilao-de-4g-foram-licitados,115945,0.htm (accessed 26 September 2013).

165. The prices were deemed to be too low by the Court of Accounts of the Union (*Tribunal de Contas da União*, TCU), the federal accountability office, which is tied to the federal legislative. See P. Zimmermann, "Plenário do TCU mantém suspenso leilão de internet" (TCU's Plenary keeps Internet Auction suspended), *Folha de São Paulo*, 5 September 2006, at http://www1.folha.uol.com.br/folha/dinheiro/ult91u110800.shtml (accessed 26 September 2013).

166. E. Soares, "Ministro discutirá entrada de provedor de web em leilão de 3,5 GHz" (Minister Discusses the entrance of internet providers in Auction of 3.5 GHz), *Computerworld*, 31 July 2012, at http://computerworld.uol.com.br/telecom/2012/07/31/ministro-discutira-entrada-de-provedor-de-web-em-leilao-de-3-5-ghz (accessed 26 September 2013).

Despite considerable pressure from broadcasters,[167] the 700 MHz band freed up after the digital switch-over will be auctioned to 4G broadband services. A preliminary proposal was put to public consultation by Anatel in February 2013, with the expectation that auctions will be carried out in February and March 2014.[168]

5.2   Digital Gatekeeping

5.2.1   Technical Standards

The standardization process for digital television in Brazil can be traced back to the early 1990s. In 1991, a working group within the Ministry of Communications, COM-TV, began to study technical standards for HD television. In 1994, through ABERT,[169] the broadcasting sector struck a partnership with the Brazilian Society of Television and Telecommunications Engineering (*Sociedade Brasileira de Engenharia de Televisão e Telecomunicações*, SET), to analyze the standards for digital television available at the time (ATSC and DVB-T). Anatel entered the digital television debate in 1998, taking over from COM-TV, and authorized ABERT/SET to test the systems, which included, by 1999, the more recent ISDB-T.[170] Tests would run from 1998 to 2000, and Mackenzie University was brought in by ABERT/SET[171] to measure and evaluate the systems, with support from NEC Brasil, the Ministry of Science and Technology, and the Center for Research and Development in Telecommunications (CPqD).[172]

The Mackenzie report concluded in favor of ISDB-T, but this did not lead to a public commitment to the standard. Broadcasters were not able to push for the digital switch-over at the beginning of the last decade, since the sector was struggling through a period of economic turbulence. It was only during Miro Teixeira's months as Minister of Communications (2003–2004), at the beginning of Luiz Inácio Lula da Silva's first mandate as president, that the SBTVD (Brazilian System of Digital Television) began to be designed. President Lula signed Decree 4.901, formally creating the SBTVD, on 26 November 2003. The decree listed a series of public interest goals for digital television in Brazil, such as "promoting social inclusion," creating a "universal network for distance learning," and fostering "the expansion of Brazilian technologies" and "the national information and communications industry."

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167. L.O. Grossman, "700 MHz: Radiodifusores Não Vão Abrir Guarda para as Teles" (700 MHz: Broadcasters Will not Open Guard for Teles), *Convergência Digital*, 22 June 2012, at http://convergenciadigital.uol.com.br/cgi/cgilua.exe/sys/start.htm?infoid=30862&sid=8 (accessed 26 September 2013).

168. A. Warth and E. Rodrigues, "Leilão para ampliar a cobertura de 4G no País fica para 2014" (The Auction to Expand 4G Coverage in the Country will be in 2014), *O Estado de São Paulo*, 6 February 2013, at http://economia.estadao.com.br/noticias/economia-geral,leilao-para-ampliar-cobertura-de-4g-no-pais-fica-para-2014,143237,0.htm (accessed 26 September 2013).

169. ABERT is the older of the two major broadcasters' associations in Brazil, formed when a greater need for coordination was felt after the sector united to lobby against a number of presidential vetoes of provisions of the Brazilian Telecommunications Code of 1962. ABRA, the second major association, was founded in 2005 by ABERT dissidents Rede TV! and Bandeirantes.

170. See http://www.mc.gov.br/tv-digital/apresentacao-do-grupo-tecnico-abert (accessed 26 September 2013).

171. Convênio Mackenzie/SET/ABERT, 1998–2000, at http://www.mackenzie.br/ee_atividades_hdtv_set-abert.html (accessed 26 September 2013).

172. CPqD used to be the Center for Research and Development of the Telebrás system. It was privatized in 1998.

Decisions on technology were to be taken only after a period of research, supervised by the SBTVD Development Committee. Twenty-two consortia between universities and industry were set up, involving 105 institutions, backed by a government grant of BRL 50 million (US$ 25 million), with an output of 147 reports.[173] An additional BRL 15 million (US$7.5 million) were awarded to CPqD. The idea of developing a new Brazilian standard floated around for a while, but the technical debate became entirely political by 2005, when Hélio Costa, a former journalist and executive at Globo, was named Minister of Communications. From the beginning, Mr Costa openly campaigned for the adoption of ISDB-T. Initially only supported by Globo, ISDB-T soon garnered the support of the entire broadcasting sector.

The technical debate on standardization did involve a number of public events and the participation of civil society through SBTVD's governance bodies, but the broadcasters' lobbying influence took complete control of the standardization process in 2006. A memorandum of understanding with the Japanese government was signed in April, and on 29 June 2006, President Lula signed Decree 5820, officially adopting ISDB-T with a few modifications. The modified system, ISDB-Tb, adopts the MPEG-4 codec over MPEG-2 for video compression, and open source middleware Ginga[174]—the only legitimate Brazilian innovation in the specifications—as a platform for interactive applications.[175] ISDB-Tb was subsequently adopted by Argentina, Bolivia, Costa Rica, Chile, Ecuador, Nicaragua, Paraguay, Peru, and Venezuela.

A period of seven years was determined for the digital switch-over, ending in 2013. Complete analog switch-off was scheduled for 2016—now 2018—and an additional 6 MHz channel was secured for each broadcaster to ensure simultaneous analog and digital transmissions for 10 years. Four channels were reserved for public service television (see section *2*).

One advantage of ISDB-Tb for broadcasters is in the mobile space, since reception is good on mobile devices, and entirely independent of telecoms infrastructure.[176] Another advantage, from the point of view of incumbent actors, is that the adoption of HD (in ISDB-Tb) means that almost the entire 6 MHz band is needed to broadcast one channel. Broadcasters were able, as a consequence, to obtain additional 6 MHz bands for simulcasting during the switch-over. Multicasting, which would allow for the simultaneous transmission of four channels in the same band, multiplying the potential number of broadcasting actors, is done in standard definition (SD), while the public debates on digital television were all about hyping the quality of HD transmissions.[177]

173. E.D.T. Cabral and A.V. Cabral Filho, "TV Digital Terrestre no Brasil: Oportunidades Perdidas" (DTT in Brazil: Lost Opportunities), *Cuadernos de Informacima—Facultad de Comunicaciones (Impresa),* 31 (2012), pp. 89–100, at http://comunicaciones.uc.cl/prontus_fcom/site/artic/201 30114/asocfile/20130114135115/art7_brasil.pdf (accessed 26 September 2013).

174. Ginga was assembled from projects developed at UFPB and PUC-RJ, and is comprised of two different subsystems (Ginga-J and Ginga-NCL). ITU-T adopted Ginga-NCL in recommendation H.761 for multimedia applications in IPTV.

175. For an overview of the potential offered by interactive programming, see C. Castro, "Pensando a Produção de Conteúdos para TV Digital Pública a Partir da Interatividade e da Convergência Tecnológica" (Thinking about Content Production for Public Digital TV from the Perspective of Interactivity and Technological Convergence), *Cuadernos de Información,* 31 (2012), pp. 39–52.

176. Globo is particularly interested in expanding its reach to mobile devices. See C. Padiglione, "Globo Trata TV Móvel como Aliada" (Globo Treats Mobile TV as an Ally), *O Estado de São Paulo,* 12 August 2012, at http://www.estadao.com.br/noticias/impresso,globo-trata-tv-movel-como-aliada-, 915328,0.htm (accessed 4 October 2013).

177. R. Cruz, *TV Digital no Brasil: Tecnologia versus Política* (Digital TV in Brazil: Technology vs. Politics), Editora Senac, São Paulo, 2008, pp. 101, 116–118.

Since broadcast licensing in Brazil presents several issues of concern (see section *5.1.1*), the entrance of new broadcasters into the digital television market would be a welcome, democratizing change. By steering the standards process toward ISDB-Tb, broadcasters ultimately conquered a 10-year moratorium on their business models, effectively protecting the current structures of the broadcasting market against the threat of new entrants. Broadcasters can now occupy two 6 MHz channels and make the case that HD transmissions serve the public interest better than multicasting in SD.

Two of the public interest arguments advanced by the Brazilian government for the adoption of ISDB-T proved to be misleading. The first centered on the benefits to be gained with interactivity, and the second on the potential transfer of technology from Japanese companies as a consequence, including the much publicized construction of a semiconductor plant in Brazil—which no party involved in the negotiations was in a position to guarantee. Both remain a promise, and to this date, little support has been provided for the implementation of Ginga in STBs and the development of interactive applications. Access to functional return paths, moreover, remains a problem for most of the population.

Standardization for digital radio is still in its infancy. Discussions date back to 2005, when the first tests were carried out. In 2010, the Ministry of Communications formally instituted the Brazilian Digital Radio System (*Sistema Brasileiro de Rádio Digital*, SBRD). It is unclear what standard is going to be adopted. Both IBOC (In Band On Channel) and DRM (Digital Radio Mondiale) broadcasting systems are included in the debate.[178]

5.2.2 Gatekeepers

The digital switch-over is progressing slowly in Brazil, and the SBTVD has so far been an exercise in maintaining the status quo in broadcasting. Given this scenario, not much can be said about the emergence of new digital gatekeepers in digital television.

5.2.3 Transmission Networks

Broadcasters in Brazil have control of their own transmission networks. The idea of a shared network of transmission stations, to be used by all broadcasters—who would become strictly programmers—was raised during the SBTVD discussions, but was ultimately abandoned. It remains a possibility for public service television.

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178. In Band On Channel (IBOC) is also known as "HD Radio" and it is a proprietary standard for digital radio owned by iBiquity; it allows a hybrid transmission of both digital and analog signals at the same time. Digital Radio Mondiale (DRM) is the universal, openly standardized digital broadcasting system for all broadcasting frequencies, including LW, MW, SW, band I, II (FM band), and III (above 30 MHz).

5.3   Telecommunications

5.3.1   Telecoms and News

While FTA television remains the main source of news for most of the population, subscriptions for paid television are on the rise. Expansion has been constant from 1998 to 2011, and substantial from 2005 onwards.[179] Between 2009 and 2011, Brazil witnessed a major increase in DTH penetration, accounting for 52.7 percent of a total number of 11.8 million subscribers as of September 2011, against 45 percent for cable and 2.1 percent for MMDS.[180]

Figure 19.
Subscriptions to pay-TV platforms ('000), 2000–2011
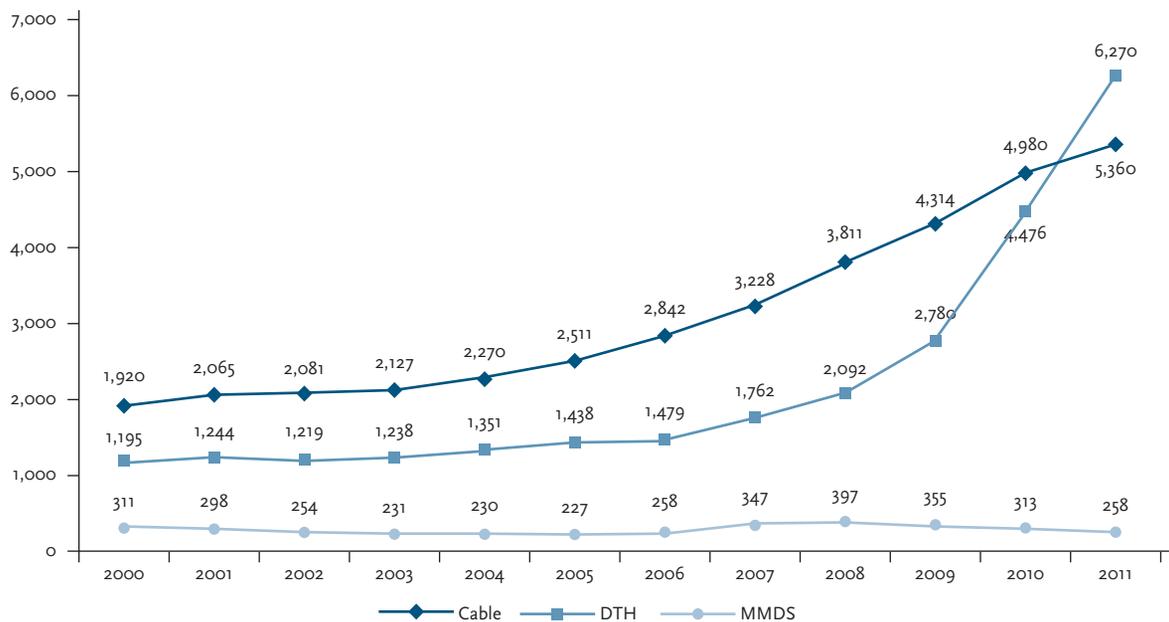
Note: This figure does not take into account the so-called "special subscription TV service" (TVA)—encrypted UHF broadcasting, not to be confused with TVA, the subscription TV operator formerly owned by Abril—the first pay-TV service to be regulated in Brazil, in 1988. TVA is currently irrelevant as a service, but remains a problem from a spectrum-allocation standpoint, since 25 licenses still stand, occupying precious spectrum space[181]

Source: Anatel, *Panorama*

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179. Distribution among states, however, is highly uneven. São Paulo alone concentrates 40.5% of subscriptions, and Rio de Janeiro 14.4%. See Anatel, *Panorama dos Serviços de TV por Assinatura* (Overview of Pay-TV Services), 46th edn, Brasília, 2011 (hereafter, Anatel, *Panorama*).

180. Anatel, *Panorama*.

181. Anatel reports no more than 3,549 subscribers as of June 2012, across 25 active operators, including major players such as Globo, RBS, Abril, and O Dia. These TVA licenses were granted in the late 1980s/early 1990s—when licenses for commercial broadcasting did not require a public tender—and were automatically renewed due to lapses from Anatel and the Ministry of Communications over uncertainties regarding which body was responsible for TVA services. It turned out that when the Ministry of Communications decided that it was Anatel's mission to oversee these services, it was already too late to avoid automatic license renewal. Unencrypted broadcasting was allowed up to a ratio of 25%, later expanded to 35% and finally, in 2004, to 45%. Anatel is currently considering the possibility of allowing these licenses to be used for mobile, on-demand TV. See M. Aquino, "Anatel em Xeque pelas Licenças de TVA" (Anatel Questioned over TVA Licenses), *Telesíntese*, 5 April 2010, at http://www.telesintese.com.br/index.php/indice-geral-miriam-aquino/3475-anatel-em-xeque-pelas-licencas-de-tva); S. Possebon, "Novas Regras para Serviços de TVA Devem Sair Até o Final do Semestre" (New Regulation for TVA Services Should be Released Until the End of the Semester), *Teletime*, 19 April 2011, at http://www.teletime.com.br/19/04/2011/novas-regras-para-licencas-de-tva-devem-sair-ate-o-final-do-semestre/tt/221452/news.aspx; G. Gindre, "A Farsa das TVAs: Você Conhece Algum Assinante?" (The Farce of TVAs: Do you Know any Subscribers?), *Blog do Gindre*, 22 June 2012, at http://gindre.com.br/a-farsa-das-tvas-voce-conhece-algum-assinante (accessed 26 September 2013).

Until very recently, cable television, DTH, and MMDS were the object of separate, sometimes conflicting regimes. Law 12.485/11, approved in September 2011, represents a major overhaul of regulation, and sets forth a more cohesive, unified legal framework for subscription-based television.[182] The law is applicable to "conditional access audiovisual communications" regardless of the technology employed, as long as linear programming is involved. The law thus deliberately refrains from regulating over-the-top services.

The entrance of telecoms companies in the cable television market was already a trend before the approval of Law 12.485/11, authorized by Anatel. In 2007, Telefónica obtained the approval of Anatel to acquire 100 percent of the MMDS operations of the company TVA, previously controlled by Grupo Abril, as well as 49 percent of the shares related to TVA's cable operations in the areas outside Telefónica's contract, and 19.9 percent in the areas where it also provided landline telephony services. Also in 2007, the fixed and mobile telephony company Oi was authorized by Anatel to acquire WayTV, a cable service from the State of Minas Gerais.[183] With legal barriers removed, quadruple play packages are now being offered.

Must-carry rules, previously present only in cable television regulation, have been maintained in the new framework, and extended to the other conditional access services regulated by Law 12.485/11. These include the mandatory distribution of local FTA channels, as well as a number of state and public service channels.

Figure 20.
Pay-TV market shares (% of total subscriptions), June 2012
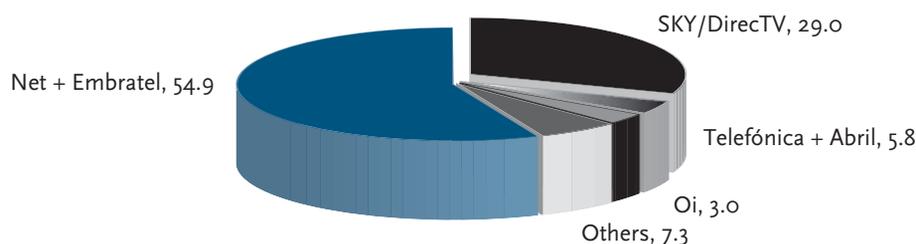
Source: Anatel, *Panorama dos Serviços de TV por Assinatura* (Overview of Pay-TV Services), 49th edn, Brasilia, June 2012

With regards to content production, Telefónica is the owner of the highly popular web portal Terra, which provides a wide variety of content, including news. Oi used to own iG, another popular web portal with news content, but it then sold it to Ejesa, the publisher of the financial newspaper *Brasil Econômico*. Broadcasters claim Telefónica's ownership of Terra is illegal, since online news outlets should also observe the 30 percent limit on foreign capital allowed by Constitutional Amendment 36; Telefónica claims the limit does not apply to online outlets (see section *6.1.1*).

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182. Law 12.485, approved by President Dilma Rousseff on 12 September 2011, at http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2011/Lei/L12485.htm (accessed 20 March 2013).

183. ANCINE, *TV Paga: Mapeamento 2010* (Pay TV: Mapping 2010), 6 April 2011, at http://www.ancine.gov.br/media/SAM/Estudos/Mapeamento_TvPaga_Publicacao.pdf (accessed 26 September 2013).

5.3.2 Pressure of Telecoms on News Providers

Net and Sky, both of which have links to Globo, have refused to carry news channels from Rede Record, a Globo competitor, and are allowed to do so under current legislation. Net, as a cable operator, is only required to carry the Record channels if they happen to be generated by a station situated in the same area of its license. Sky, as a provider of DTH and MMDS services, was not subject to any must-carry rules before Law 12.485/2012 came into force.

As the National Broadband Deployment is implemented, broadband penetration increases, and media convergence is consolidated, network neutrality is set to become a major area of concern. Users of broadband services have been claiming for years that p2p traffic is heavily manipulated by some ISPs,[184] and the entrance of streaming services such as Netflix in Brazil, coupled with the already voluminous online video traffic (see section *3.1.1*), is bound to result in more aggressive use of DPI[185] and traffic management technologies. Bill 2126/11, and a draft Anatel regulation, analyzed in detail in section *7.1.2*, both contain provisions on net neutrality.

5.4 Assessments

Brazil has a lot of homework to do concerning its confusing, opaque, archaic spectrum licensing system. The thicket of laws and regulations amassed over 50 years, lax enforcement of existing rules, promiscuous relationships between politicians and commercial broadcasters, transparency issues, and the complete disregard of the constitutional provisions included in the 1988 Constitution to pave the path for a reform agenda, are challenges that must be urgently faced (see section *6.4*).

The current system restricts competition in the broadcasting sector, where concentration has been a fixture of the Brazilian media landscape since the 1930s. While accessibility to FTA television is certainly universal, the plurality of voices and points-of-view required for a healthy and functional public sphere are lacking.

While a number of NGOs and scholars are actively involved in media reform debates, the general public is generally oblivious to the matters related to spectrum allocation, and more effort should be made to better inform the population.

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184. G. Felliti, "Traffic Shaping: Entenda a Polêmica sobre Restrição de Banda Larga" (Traffic Shaping: Understand the Controversy about Broadband Restriction), *IDG Now!*, 17 April 2008, at http://idgnow.uol.com.br/mobilidade/2008/04/16/traffic-shaping-entenda-a-polemica-sobre-restricao-de-banda-larga (accessed 22 August 2013).

185. Deep packet inspection (DPI) involves the use of various technologies to provide filtering of packets in computer networks. DPI can have legitimate applications in network traffic, but is also a core practice in potentially problematic, anticompetitive business models, and a major concern in the net neutrality debate.

6. Digital Business

6.1   Ownership

6.1.1   Legal Developments in Media Ownership

The 1988 Constitution explicitly prohibits the formation of monopolies and oligopolies in the communications industry when it determines that "[t]he means of social communication may not, directly or indirectly, be subject to monopoly or oligopoly."[186] This constitutional provision, nevertheless, has had no impact on the Brazilian media landscape, and has not been translated into effective legislation to this day. Hence, the existing restrictions are neither strong enough, nor enforced. When it comes to media ownership, Brazil suffers from a discouraging mix of regulatory voids, innocuous legislation, and lax enforcement. There have been no major changes in regulation since 2005, with the exception of a small number of new ownership rules in the context of subscription-based television introduced by Law 12.485/11.

Perhaps the most significant change in Law 12.485/11 is the elimination of previous restrictions on the entrance of telephone companies into the cable television market. A related—and equally important—feature of the new framework is the drawing of clear regulatory boundaries between the activities of production, programming, packaging, and distribution of content, something that can be immediately grasped from examining the media ownership provisions of Law 12.485/11.

Broadcasting, production, and programming companies are not allowed to own more than 50 percent of the voting shares of telecommunications companies; telecommunications companies, on the other hand, may not control more than 30 percent of the voting shares of broadcasting, production, and programming companies. A previous 49 percent limit on the foreign ownership of voting shares of cable television companies was also eliminated, as well as the prohibition on telecommunication companies from entering the cable television market in the same areas where they have been granted licenses for landline telephony services. These changes do not necessarily relate to digitization, but Law 12485/11 does attempt to pave the way for platform convergence, even if it leaves out what could arguably become, in the near future, one of the most prevalent modes for content delivery: over-the-top or web-based services such as Netflix and YouTube. It is still too early to evaluate the law's impact on diversity of media ownership.

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186. Brazilian Constitution, Article 220, 5.

6.1.1.1 Broadcasting

Article 12 of Decree 236 of 1967 still in effect represents the first and only attempt to establish limits on the ownership of owned-and-operated stations in Brazilian broadcasting history.

Table 13.

Limits on owned-and-operated stations (radio and FTA TV)

Category		Maximum no. of stations that can be owned
Radio (local)	AM	4
	FM	6
Radio (regional)	AM	3, limited to 2 per state
	Tropical band	3, limited to 2 per state
Radio (national)	AM	2
	Shortwave	2
TV		10, no more than 5 of which in VHF, limited to 2 per state

Source: Executive Order (Decreto Lei) 236/67, Article 12

The Broadcasting Services Regulation Decree 52795 of 1963 (repeatedly amended throughout the years) incorporated the rules of Decree 236/67 in a way that hints that they are applicable to both companies and individual shareholders or partners;[187] the Ministry of Communications, however, interprets "entity" as meaning "individual," completely disregarding family ties between licensees, in a media landscape characterized by family ownership of networks and media groups.[188]

Grupo RBS (Rede Brasil Sul de Comunicação), a Globo affiliate controlled by the Sirotsky family, owns a total of 18 television stations, a number well above the permitted 10, in the southern States of Rio Grande do Sul and Santa Catarina. In 2008, the Federal Prosecution Service took action against RBS for, among other claims, violating Article 12 of Decree 236/67, but was met with an unfavorable decision by the Court. Since the 18 stations are owned by different companies, with different shareholders, the judge took the view that there was no violation of Article 12, even if some of them belonged to the same family.[189]

The issue of affiliate networks is also entirely sidestepped. Decree 236/67 prohibits the subordination of licensees in a network that operates under common "direction or orientation" (Article 12, 7), but contractual ties between affiliates are not assessed under this rule.[190] Five FTA television networks with national reach currently dominate Brazil: Rede Globo, Rede Record, SBT, Band, and Rede TV! Each of these networks generates and broadcasts content that is rebroadcast, along with local programming, by regional affiliate networks. This system allows for a degree of control equivalent to the direct ownership of several stations by a

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187. Article 15, 1, c, Nos 1 and 2.

188. V.A. de Lima, *Regulação das Comunicações*, p. 86.

189. Ação Civil Pública No. 2008.72.00.014043-5/SC, published 5 December 2011. Decision available at http://www.trf4.jus.br/trf4/processos/visualizar_documento_gedpro.php?local=jfsc&documento=3534035&DocComposto=49064&Sequencia=13&hash=7dd2558a22b411358f0afec86bf799b3 (accessed 1 October 2013).

190. V.A. de Lima, *Regulação das Comunicações*, p. 86.

single group. In some cases, local affiliates struggle to produce even a single weekly hour of local programming, and limit themselves chiefly to rebroadcasting content generated by the head of the network.

As a third complication, the numbers established by Decree 236/67 do not apply to rebroadcasting stations, which are subject to a different type of license. These stations may not generate their own content, and are to be strictly used for the retransmission of content originated elsewhere.

6.1.1.2 Cross-media Ownership

Brazil has no checks on cross-media ownership, with the minor exception of recent limits established by Law 12485/11, which establishes a single legal regime for paid television, previously regulated according to technology—with different regimes for DTH, MMDS, and cable content delivery (see section 5). Telecommunications companies may not directly develop activities related to the broadcasting, programming, and production of audiovisual content, and they are limited to a maximum of 30 percent interest in the companies of these sectors. Broadcasters, programmers (i.e. companies that bundle programs into channels), and producers, on the other hand, may not directly develop activities related to platform distribution (akin to cable or satellite provision), and are limited to a maximum of 50 percent interest in such companies.

Other than these limits—which are still very recent and narrow—there are no legal barriers on the ownership of multiple types of outlets by any given corporation. The big Brazilian media groups are active in a wide range of businesses, encompassing FTA and paid television, radio, newspapers, magazines, book publishing, cinema, recorded music, internet service provision, web portals, as well as ancillary businesses, such as printing, logistics, and IT infrastructure.

6.1.1.3 Foreign Ownership

A major turning point in Brazil's tradition of completely prohibiting foreign ownership of journalistic and broadcasting companies took place in 2002. The Brazilian Constitutions of 1934 (Article 131), 1946 (Article 160), 1967 (Article 166), 1969 (Article 174), and 1988 (Article 222) have all included provisions to this effect. In 2002, however, Constitutional Amendment 36 modified Article 222 of the 1988 Constitution to allow up to 30 percent foreign ownership of Brazilian journalistic and broadcasting companies.

Constitutional Amendment 36 was a response to the scenario of economic turbulence that affected several Brazilian media companies in the late 1990s and early 2000s, in the wake of the devaluation of the Brazilian *real* against the U.S. dollar. Media companies were overly optimistic in the period of stable parity between the dollar and the *real* following the implementation of the economic policies of the Real Plan, and ended up with over 10 billion *reais* (US$5 billion) in debt.[191] To solve this crisis, the admission of foreign actors into Brazilian companies turned out to be inevitable.

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191. C. Bolaño and V.C. Brittos, *A Televisão Brasileira na Era Digital* (Brazilian Television in the Digital Age), Paulus, São Paulo, 2007; E. Lobato, "Mídia Nacional Acumula Dívida de R$ 10 Bilhões" (National Media Accumulates R$10 Billion in Debts), *Folha de São Paulo*, 15 February 2001, at http://www1.folha.uol.com.br/folha/dinheiro/ult91u80746.shtml (accessed 1 October 2013).

Brazil's history of formal prohibition of foreign ownership, however, has never meant complete independence from foreign capital, and is punctuated by a number of controversial episodes.[192] If not for the financial and technical assistance of Time-Life, Globo would not have been able to enter the television market in the 1960s to become the first network with national coverage in Brazil, ultimately driving Diários Associados's TV Tupi out of business.[193] Assis Chateaubriand, the founder of Diários Associados—and in his time one of the foremost advocates of the interests of foreign industrials in Brazil—certainly depended on foreign capital to sustain the aggressive acquisitions strategy that would transform him into the first Brazilian media mogul; he allegedly tried to strike a deal with ABC before Globo signed with Time-Life.[194]

Both the Brazilian Association of Broadcasting Companies (*Associação Brasileira de Empresas de Rádio e Televisão*, ABERT) and the National Association of Newspapers (*Associação Nacional de Jornais*, ANJ) are currently campaigning to extend the 30 percent limit to companies providing journalistic content over the internet. One of the main targets is Terra Networks, owned by Telefónica of Spain, which produces news content for its web portal. ABERT and the ANJ filed a complaint against Telefónica and Terra with the Federal Prosecution Service in 2010, which decided not to take action, arguing that the internet should not be subject to Article 222, given its international, decentralized, and multidirectional nature.[195]

Rumors concerning the creation of a Brazilian edition of the *Huffington Post* have nevertheless provoked the ANJ to insist on pressuring government to extend the rule to internet-only outlets; the Ministry of Communications was expected to give its opinion on the issue in 2012,[196] but did not. The *Huffington Post* decided to work on its Brazilian website in partnership with Abril, to avoid controversy.[197]

In 2013, the federal government published a provisional measure—a government act with the same status as a law, and subsequently confirmed or repealed by the National Congress—that defined a "journalistic company" in a way that includes "content portals on the internet." This could effectively make the 30 percent limit applicable to web portals controlled by foreign corporations.[198]

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192. N.W. Sodré, *História da Imprensa no Brasil* (History of the Press in Brazil), 2nd edn, Graal, Rio de Janeiro, 1977, pp. 471–516.

193. D. Herz. *A História Secreta da Rede Globo* (The Secret History of Globo Network), Porto Alegre: Tchê! Editora, 1986; C. Bolaño, *Mercado Brasileiro de Televisão* (Brazilian Television Market), 2nd edn, São Paulo/Aracaju, 2004.

194. F. Morais, *Chatô: O Rei do Brasil* (Chatô: The King of Brasil), Companhia das Letras, São Paulo, 1994.

195. "Para Procuradoria da República de SP, Restrições ao Capital Estrangeiro Não Se Aplicam à Internet" (According to the Federal Prosecution Office at São Paulo, Restrictions on Foreign Capital Are Not Applicable to the Internet), *Convergência Digital,* 17 August 2010, at http://convergenciadigital.uol.com.br/cgi/cgilua.exe/sys/start.htm?infoid=23481&sid=4 (accessed 1 October 2013).

196. S. Fernandes, "Governo Quer Definir Limites para Sites Estrangeiros de Notícias" (The Government Wants to Define Limits to Foreign News Websites), *Folha de São Paulo*, 14 February 2012, at http://www1.folha.uol.com.br/mercado/1048495-governo-quer-definir-limites-para-sites-estrangeiros-de-noticias.shtml (accessed 1 October 2013).

197. P. Bezerra, "Grupo Abril Anuncia Parceria com The Huffington Post" (Abril Group Announces Partnership with The Huffington Post). Exame.com, 30 September 2013, at http://exame.abril.com.br/negocios/noticias/grupo-abril-anuncia-parceria-com-the-huffington-post (accessed 4 October 2013).

198. G. Gindre, "Portal de Internet Agora É Empresa Jornalística?" (Are Web Portals Now Journalistic Companies?), *Blog do Gindre*, 17 July 2013, at http://gindre.com.br/portal-de-internet-agora-e-empresa-jornalistica/ (accessed 4 October 2013).

6.1.2 New Entrants in the News Market

The Portuguese conglomerate Grupo Ongoing and the South African group Naspers are the only major players to have entered the Brazilian news market in recent years. Both have benefited from Constitutional Amendment 36 and the new 30 percent limit for the participation of foreign capital in Brazilian media companies.

In 2006, Abril sold around 30 percent of Abril S.A., the parent company for all of its enterprises to Naspers. The only company that is not part of the deal is Abril Educação S.A., a publicly traded company that was spun off from Abril S.A. to control Abril's education empire, which includes major publishers, schools, and producers of educational content and services. Abril is one of the major players in the Brazilian media landscape, owning the most read, widest circulating weekly magazine (*Veja*), and an outdoor advertising company, among other properties.

Grupo Ongoing founded Ejesa (*Empresa Jornalística Econômico*) in 2009, of which it owns 29.9 percent— just a whisker under the 30 percent limit for foreign capital. Ejesa's flagship publication is the financial newspaper *Brasil Econômico*, launched to compete with the current market leader, *Valor Econômico*, published jointly by Globo and Folha.

Ejesa has also firmly positioned itself in the growing market for tabloids in 2010, with the acquisition, from the Tavares de Carvalho family, of publisher O Dia and its publications *O Dia*, *Meia Hora*, and *Campeão*, a sports tabloid, later rebranded *Marca Brasil* (after a deal with Spain's Unidad Editorial). *Meia Hora* is currently the third ranking tabloid according to the IVC (*Instituto Verificador de Circulação*), with an average circulation of 157,700 copies, behind Organizações Globo's *Extra* (238,200) and *Super Notícias* (295,700). In 2012, Ejesa shut down *Marca Brasil,* just a few days after Grupo Estado announced it would also stop publishing its afternoon paper *Jornal da Tarde*.[199]

The ANJ has accused Grupo Ongoing of violating the 30 percent limit on foreign ownership of journalistic companies by exercising *de facto* control of Ejesa, based on the marriage between Brazilian national Maria Alexandra Mascarenhas Vasconcelos, who holds a controlling interest in Ejesa, to Nuno Vasconcellos, the president of Grupo Ongoing. The Public Prosecution Service has opened an investigation to verify this claim.[200] To make matters more complicated, Ongoing acquired the web portal iG from Oi Telecom in 2012. Given the ANJ's and ABERT's current campaign for the extension of the 30 percent limit to online journalism—mainly targeting Telefónica's portal Terra—the political confrontations surrounding this issue will probably increase in the near future.

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199. "Grupo Ejesa Anuncia que jornal Marca Deixara de circular no Brasil" (Ejesa Group Announces that Marca newspaper no Longer circulates in Brazil), *G1*, 7 December 2012, at http://g1.globo.com/economia/midia-e-marketing/noticia/2012/11/grupo-ejesa-anuncia-que-jornal-marca-deixara-de-circular-no-brasil.html (accessed 1 October 2013).

200. F. Murad, "Ejesa Entra na Mira do Ministério Público Federal" (Ejesa has been targeted by The Federal Public Ministry), Meio & Mensagem, 27 April 2011, at http://www.mmonline.com.br/home/midia/noticias/2011/04/27/20110427Ejesa-entra-na-mira-do-MPF.html (accessed 1 October 2013).

A number of high profile foreign outlets are considering launching websites with content in Portuguese in 2013, targeting Brazilian audiences. The *Huffington Post*, as mentioned above (section *6.1.1.3*), will open a Brazilian edition of the site in partnership with Abril. The *New York Times* and *Financial Times* have also announced their intention to create Portuguese-language websites, with local news and translations of content from the English-language outlets. *The Wall Street Journal* already has a Portuguese-language section on its website, and so does the BBC. The Brazilian *New York Times* site will not have a paywall and will be entirely free. Also planning to expand operations in the country are CNN, the *Los Angeles Times*, Al Jazeera, and Xinhua, although it is unclear whether this will lead to Portuguese-language websites.[201]

6.1.3   Ownership Consolidation

Serious flaws in the regulatory framework for broadcasting, the political misuse of licensing, and a lack of checks on cross-media ownership have turned media concentration into a feature of the Brazilian media scene. This is a scenario that can be relative according to region, company, and type of outlet, and sometimes manifests itself in subtle and not always transparent ways (see section *6.1.5*).[202]

According to the *Donos da Mídia* (Media Owners) database,[203] there are 41 media groups in Brazil with national reach (active in more than two states), controlling 551 outlets—among television broadcasting stations, pay-TV channels, radio stations, newspapers, and magazines—and connected to 142 regional groups (active in one or two states), who in turn control 688 outlets. These numbers do not include rebroadcasting stations, which generally retransmit content from the top five television networks—Globo, Record, SBT, Band, and Rede TV!—or internet outlets. These networks can be seen as the backbone of media conglomerates that operate by extending their reach to regional groups (see section *6.1.1.1*), and directly or indirectly influence their outlets, which include local radio and newspapers, often owned by families of politicians.[204] While 41 media groups seems like a lot, there is a definite concentration of outlets per group, with Abril controlling 74 of the 551, Globo 69, Bandeirantes 47, the federal government's Brazilian Communications Company (*Empresa Brasileira de Comunicação*, EBC) 46, Igreja Universal do Reio de Deus (linked to Record) 27, and Diários Associados (linked to SBT) 19.

Also relevant are groups whose domain constitutes mostly print media: Grupo Folha, Grupo Estado, and Abril. Only Abril, of the three big publishing groups, used to be a major player in broadcasting, controlling the MTV Brasil network, before rights over the trademark reverted to Viacom in 2013. In order not to lose

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201. "NY Times Lança em 2013 Site em Português" (NY Times Launches Site in Portuguese in 2013), *Folha de São Paulo*, 15 October 2012, at http://www1.folha.uol.com.br/fsp/poder/72136-quotny-timesquot-lanca-em-2013-site-em-portugues.shtml (accessed 22 August 2013).

202. Globo, for example, has a strong grasp of the newspaper market in Rio, but not in São Paulo. In 2013, Infoglobo (Globo's newspaper company) settled with the Brazilian antitrust agency Administrative Council for Economic Defense (*Conselho Administrativo de Defesa Econômica*, CADE), paying BRL 1.94 million to avoid penalties for anticompetitive practices related to advertisement prices. See "Acordo com CADE Evita Condenação da Infoglobo" (Agreement with CADE Avoids Infoglobo's Sentencing), *Folha de São Paulo*, 6 September 2013, at http://www1.folha.uol.com.br/fsp/mercado/127771-acordo-com-cade-evita-condenacao-da-infoglobo.shtml (accessed 4 October 2013).

203. See http://donosdamidia.com.br (accessed 22 August 2013).

204. J. Gugust, "Proposta de um Modelo sobre os Conglomerados de Comunicacao no Brasil" (Central Media System: Proposal for a Model Regarding Communications Conglomerates in Brazil), Brmidia.com, 2013. Dissertation presented at the Federal University of Rio Grande do Sul (UFRGS), Porto Alegre, 2009.

its licenses, which it plans to sell, it will continue to broadcast programming unrelated to the MTV brand. All three main groups, along with Globo and Record, have a considerable internet presence, owning web portals that are among the most visited websites in Brazil (see section *3*).

There have been no significant horizontal or vertical mergers or ownership consolidation in recent years, which have either restricted or contributed toward a greater plurality of voices. Between 75 and 90 percent of television programming across the entire country is produced in São Paulo or Rio de Janeiro, where 26 out of the 34 networks with national reach are located.[205] The distribution of outlets across these networks is highly concentrated within the Globo, SBT, Bandeirantes, and Record networks. Diversity has always been a problem in the Brazilian media, and it continues to be so in the digital era.

6.1.4   Telecoms Business and the Media

The past five years have witnessed major changes in the ownership structure of corporations providing subscription-based television services. As a consequence of the crisis triggered by the devaluation of the *real* in the late 1990s, Globo (Sky and Net) and Abril (TVA) started to phase out their participation in the distribution side of pay-TV, in order to focus on content production.

Sky and DirecTV merged operations in Brazil in 2004, retaining the name Sky. The merger took place after News Corp acquired a controlling interest in DirecTV in 2003. In the process, Globo reduced its participation in the company to 28 percent, transferring its control to DirecTV, along with US$ 200 million in debt. In 2010, Globo further reduced its interest to 7 percent, and may entirely withdraw from Sky by 2014.

Transfer of ownership also took place in another Globo company, the cable/DTH provider Net Serviços. América Móvil—through Telmex-owned Embratel—became a shareholder of Net in 2004, and controlled 37.7 percent of the company by 2006, when the acquisition was approved by the antitrust authority, the Administrative Council for Economic Defense (*Conselho Administrativo de Defesa Econômica*, CADE). As a consequence of Law 12485/11, América Móvil was finally able to become the controller of Net in 2012; the previous Cable TV Law only authorized control of up to 49 percent of cable companies by foreign owners, a limit that was eliminated by the new statute.

In a similar development, Telefónica acquired a substantial part of TVA from Abril in 2006. The entirety of Abril's MMDS operations were purchased by the Spanish group—the ownership limits for cable did not apply to MMDS and DTH broadcasting—as well as 49 percent of TVA's cable business. Now that the 49 percent limit is gone, Telefónica will conclude the acquisition process initiated in 2006, by taking over the remaining shares from Abril.[206]

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205. See http://donosdamidia.com.br/lugares (accessed 22 August 2013).

206. S. Valle, "Telefônica Aguarda Resposta da Anatel para Assumir TVA" (Telefonica is Waiting for a Response from Anatel to Take Over TVA), *O Estado de São Paulo,* 18 October 2011, at http://economia.estadao.com.br/noticias/negocios+servicos,telefonica-aguarda-resposta-da-anatel-para-assumir-tva,88694,0.htm (accessed 1 October 2013).

Though mainly focused on distribution, two telecoms companies are involved in content production for the internet. Telefónica owns the massive web portal Terra, which distributes a great quantity of third party material, but also produces its own news content. Similarly, Brazilian telecom Oi owned web portal iG, following the same model as Terra, but sold it to Ejesa in 2012.

In 2013, two major events in the global telecommunications sector were announced: Telefónica, which owns Vivo in Brazil, would increase its participation in Telecom Italia, owner of TIM; and Oi and Portugal Telecom would merge. These developments will certainly have consequences in and for the Brazilian market, and will provoke antitrust concerns.[207]

6.1.5   Transparency of Media Ownership

It is difficult to draw a clear, comprehensive and up-to-date map of media ownership in Brazil, due to the fragmentation of the relevant data—which are spread across different databases—and the challenges in collecting, assembling, and cross-referencing sparse, often outdated information. The formats through which data are usually presented to the public pose a further complication. Lists and reports in the form of PDF documents and image files of graphs, for example, often require considerable effort in order to extract data that can be effectively processed and translated into meaningful information.

Data on the ownership of broadcasting stations can be extracted from three Anatel databases: SRD, SIACCO, and SISCOM. There is no way, however, to cross-reference the data in these systems; the ownership structure of specific companies has to be found on a case-by-case basis, and is often incomplete.[208] The Ministry of Communications published a complete list of individual and corporate owners of broadcasting licenses in 2003, but then mysteriously pulled it off its website in 2007. Such a list was only published again in 2011, in a PDF file with more than 900 pages; again, a format that slows down the analysis of data.

Besides the issue of *access* to ownership information, there is the matter of the *accuracy* of data due to fraud. An investigation by *Folha de São Paulo* journalist Elvira Lobato revealed that out of the 91 companies that were awarded the highest number of licenses between 1997 and 2010, 44 do not operate from the address given to the Ministry of Communications, and they list as owners individuals who have a level of income that is incompatible with the price paid for the licenses. Some of these individuals admitted to *Folha de São Paulo* that they had lent their names to religious leaders so that they could "spread the Gospel" to politicians and to family members.[209] A related phenomenon is the sale of licenses to third parties, without the obligatory

207. "Fusão de Telefônicas Vai Beneficiar Consumidor, Afirma Ministro" (Merger of Telecom Companies Will Benefit the Consumer, Affirms Minister), *Jornal do Brasil*, 2 October 2013, at http://www.jb.com.br/economia/noticias/2013/10/02/fusao-de-telefonicas-vai-beneficiar-con sumidor-afirma-ministro (accessed 4 October 2013).

208. V.A. de Lima, *Regulação das Comunicações*; E. Lobato, "Mídia Nacional Acumula Dívida de R$ 10 Bilhões" (National Media Accumulates R$10 Billion in Debt), *Folha de São Paulo,* 15 February 2004, at http://www1.folha.uol.com.br/folha/dinheiro/ult91u80746.shtml (accessed 1 Octo-ber 2013).

209. E. Lobato, "Laranjas Compram Rádios e TVs do Governo Federal" (Proxies Buy Radio and TV Stations from the Federal Government), *Folha de São Paulo,* 27 March 2011, at http://www1.folha.uol.com.br/fsp/poder/po2703201102.htm (accessed 1 October 2013).

authorization of the Ministry of Communications and the National Congress, or the lapse of the obligatory five-year operational period required for transfer of ownership.[210]

Since the mid-1980s, the *Donos da Mídia* project has been doing extensive work to build a publicly available database of ownership information in Brazil, including data concerning network affiliation, print media, political affiliation of owners, and territorial reach. The database and visualization tools provided by *Donos da Mídia* are an invaluable resource, but they depend on the integrity of the information contained in Anatel's SRD and SIACCO databases, which in some instances have proved to be unreliable and outdated.

The Constitution forbids the ownership and management of media outlets by members of the legislature,[211] but this has not prevented deputies and senators from owning media companies. In fact, there are deep ties between politicians and the communications sector in Brazil ownership-wise. According to the *Donos da Mídia* project,[212] a total of 271 politicians are currently partners or directors in 324 media outlets. This happens mostly at the municipal level, where 55 percent of all Brazilian mayors own media outlets. Cases of ownership of broadcasters by politicians are most numerous in the northeastern region of Brazil.

In May 2011, the Ministry of Communications released a list with the names of all the owners and directors of the 291 television stations, 3,205 radio stations, and 6,186 rebroadcasting chains of Brazil. They included 56 federal deputies and senators or members of their families,[213] which is expressly prohibited by Article 54 of the Constitution. Once again, this is in part the legacy of ex-President Sarney and former Minister of Communications, Antonio Carlos Magalhães, who awarded a wide range of licenses for political reasons before the Constitution of 1988 was approved (see section *5.1.1*). Due to the close relationship between the major media conglomerates and the National Congress, these licenses have been repeatedly renewed. In the meantime, other licenses have been awarded to outlets with links to other politicians.

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210. T. Bretanha, "Contratos de Gaveta Formalizam Outorgas à Margem da Lei" (Secret Agreements Formalize Licenses against the Law), *Mídia ComDemocracia* (7), October 2007, pp. 9–11, at http://www.fndc.org.br/download/edicao-n-7/publicacoes/187/arquivo/200802-07.pdf (accessed 4 October 2013); E. Lobato, "Comércio Ilegal de Rádio e TV Funciona sem Repressão" (The Illegal Commerce of Radio and TV Operates Without Repression), *Folha de São Paulo*, 28 March 2011, at http://www1.folha.uol.com.br/poder/894797-comercio-ilegal-de-radio-e-tv-funciona-sem-repressao.shtml (accessed 1 October 2013).

211. Brazilian Constitution, Article 54, I, a.

212. See http://donosdamidia.com.br (accessed 17 February 2013).

213. See http://www.mc.gov.br/images/dados-sobre-outorgas/Relao_de_Scios_e_Diretores_por_Entidade.pdf (accessed 17 February 2013).

Figure 21.

Broadcasting outlets owned by politicians (type of outlet as a %), 2009
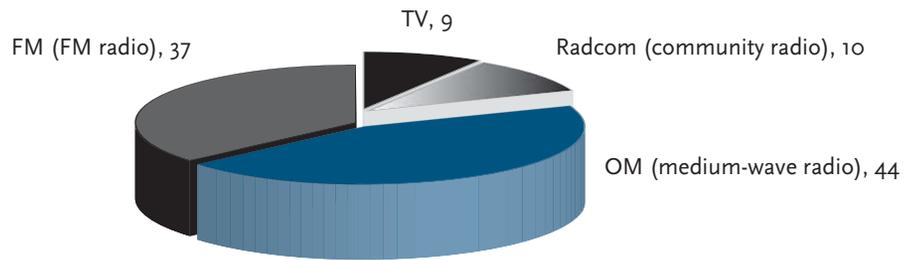
Source: *Donos da Mídia* project[214]

It is very likely that the *Donos da Mídia* data underestimate the actual number of politicians controlling media outlets, mostly because these may be registered in the names of family members or political allies, practices that have been common not only among politicians, but also among religious leaders. In March 2011, *Folha de S*ão Paulo published a report proving that bids held by the Ministry of Communications for the exploitation of public broadcasting services were won by so-called "oranges,"[215] who in fact were not real operators of radio and television channels.[216]

In 2011, the civil society organization Intervozes, in partnership with the Party of Socialism and Freedom (PSOL), submitted to the Supreme Court an Action for Breach of Fundamental Precept (*Ação por Descumprimento de Preceito Fundamental*, ADPF) against grants and renewals of concessions, permissions, or authorizations in respect of broadcasting licenses linked to politicians directly or through partners or associates. The court has yet to decide the case.[217]

A recent important development in terms of governmental transparency, the new legislation on access to public information (Law 12.527/11 and Decree 7.724/12) will be key instruments in identifying real owners of media companies and hidden internal connections between these companies and policymakers. The legislation establishes various measures to increase transparency, mandating the government and its correlated entities (such as public foundations, public companies, etc.) to publish various sorts of information ranging from financial records to detailed information on contractors. Additionally, citizens may file requests for the disclosure of information that is not yet available. While the law also targets the Legislative and branches of the Judiciary, the Decree addresses only the federal Executive, and further regulation for these other branches is still required. (See also section *5.1.2.*)

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214. See http://donosdamidia.com.br/levantamento/politicos (accessed 20 March 2013).

215. The term "laranja" (orange) has been used to refer to a person who illegally acts as a proxy, lending his or her name for the purpose of conducting business transactions.

216. E. Lobato, "Laranjas compram rádios e TVs do governo federal" (Proxies Buy Radio and TV Stations from the Federal Government), *Observatório da Imprensa*, 29 March 2011, at http://www.observatoriodaimprensa.com.br/news/view/laranjas_compram_radios_e_tvs_do_governo_federal (accessed 20 February 2013).

217. See http://intervozes.org.br/acao-contra-concessoes-de-radio-e-tv-e-protocolada-no-stf (accessed 20 February 2013).

6.2 Media Funding

6.2.1 Public and Private Funding

Advertising revenues have mostly risen steadily in the past five years. All media segments in Brazil, with the exception of phone books, guides, and cinema, have either experienced yearly increases in gross advertising income between 2007 and 2011, or have remained relatively stable.

Table 14.

Gross advertising revenues by media sector (US$ billion), 2007–2011

	2007	2008	2009	2010	2011
FTA TV	6.47	7.25	7.80	9.49	10.36
Newspapers	1.79	1.96	1.80	1.86	1.94
Magazines	0.93	1.05	0.98	1.13	1.17
Internet	0.30	0.44	0.55	0.70	0.84
Pay-TV	0.37	0.46	0.47	0.58	0.69
Radio	0.44	0.52	0.57	0.63	0.65
Out-of-home advertising	0.31	0.34	0.38	0.44	0.49
Phone books, guides	0.28	0.25	0.20	0.19	0.18
Cinema	0.04	0.05	0.05	0.05	0.05
Total	10.93	12.32	12.81	15.07	16.37

Note: The total revenue in the table accounts for 90 percent of the total advertising industry

Source: Inter-Meios Project/Meio & Mensagem/PricewaterhouseCoopers[218]

Free-to-air television, as might be expected as a result of its two-sided market business model and high penetration rate in Brazil, receives most of the advertising money. Internet-related advertising is experiencing considerable growth, amounting to 5 percent of total revenues in 2011. Overall, advertising funding does not seem to present problems to broadcasters, at least in the short term. Over the medium to long term, however, FTA television will face strong competition from internet giants such as Google.[219]

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218. See http://www.projetointermeios.com.br/inicial (accessed 20 March 2013).

219. G. Gindre, "Google Tem a Maior Receita em Publicidade do Mundo; Globo é 17º" (Google Has the Highest Ad Revenue in the World; Globo Is 17th), Blog do Gindre, 15 September 2013, at http://gindre.com.br/google-tem-a-maior-receita-em-publicidade-do-mundo-globo-e-a-17 (accessed 3 October 2013). Worldwide, Google was the top-ranking company in media revenue in 2011 according to the ZenithOptimedia's Top Thirty Global Media Owners report, grossing US$ 37.9 billion. Globo ranked 17th, with US$ 4.7 billion; see http://www.zenithoptimedia.com/wp-content/uploads/2013/07/Top-30-Global-Media-Owners-2013-28_5.pdf (accessed 4 October 2013).

Figure 22.

Distribution of advertising spend (% per medium), 2011
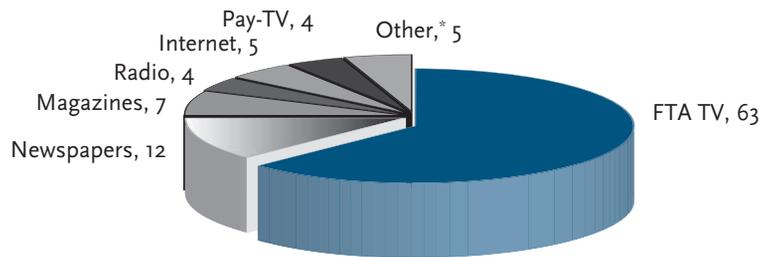
Note: * The category "Other" includes out-of-home advertising, cinema, and phone books and guides
Source: Inter-Meios Project/Meio & Mensagem/PricewaterhouseCoopers[220]

While the advertising spend on television in Brazil is still the highest by an overwhelming margin, the internet is making steady inroads into resources that were previously directed to other media. According to estimates by the Internet Advertising Bureau (IAB), the internet was already the second most lucrative platform for advertising revenue in 2012: a growth of 32 percent over the previous year. It was expected to grow at the same rate in 2013.[221]

The federal government is a major advertiser in Brazil. Government spending increased in 2010 due to the elections held that year. In 2010, the total combined federal spending in the media surged by over 30 percent year on year. The following year, it fell by more or less the same percentage.

Beginning in 2003, the federal government attempted to diversify advertising expenditure. In that year, a total of 499 outlets (television, newspapers, magazines, radio, outdoor advertising, the internet) across 182 cities received advertising funds from the federal government; by 2010, the numbers had jumped to 8,094 outlets across 2,733 cities. The trend continued in 2011 (8,519 outlets in 3,450 cities) and 2012 (8,932 outlets in 3,570 cities).

220. See http://www.projetointermeios.com.br/inicial (accessed 20 March 2013).

221. "Mercado Digital Cresce 32% em 2012, Atingindo R$ 4,5 bi em Publicidade" (Digital Market Grows 32% in 2012, Reaching BRL 4.5 billion in Advertisements), *IAB Brasil*, 27 March 2013, at http://iabbrasil.net/portal/mercado-digital-cresce-32-em-2012-atingindo-r-45-bi-em-publi cidade (accessed 4 October 2013).

Figure 23.

Federal government advertising (US$ million), 2007–2011
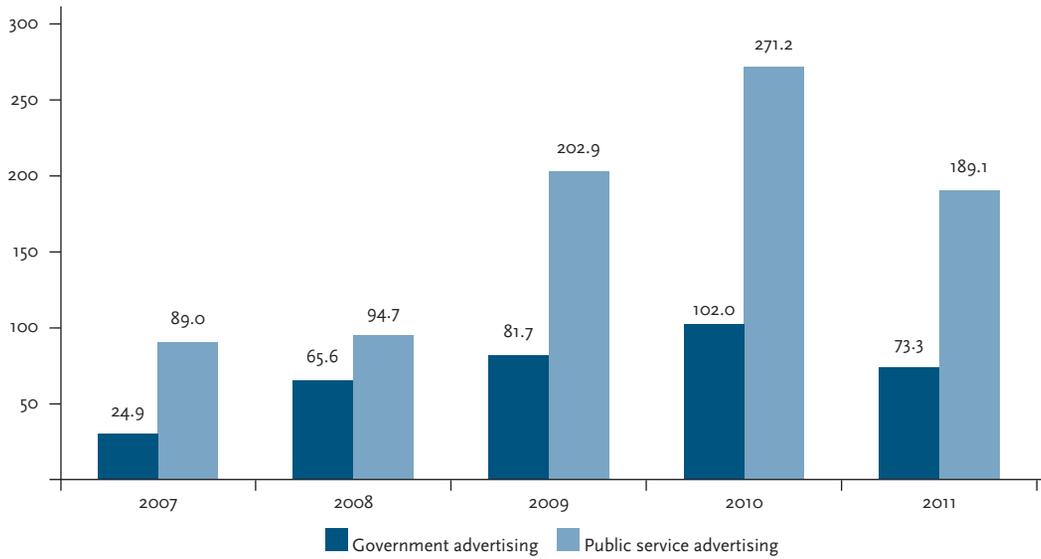
Note: The figures include expenses related to direct institutional advertising (related to specific government actions), as well as public service campaigns sponsored by the federal government (such as health warnings)

Source: Contas Abertas/SIAFI

Figure 24.

Distribution of government advertising (municipalities and outlets), 2003–2010
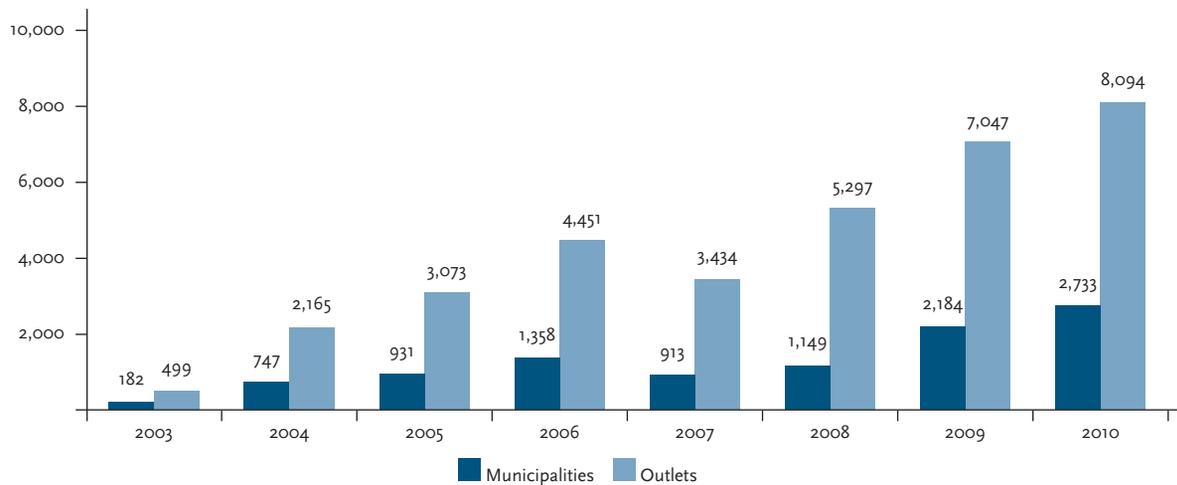

Source: SECOM[222]

By far, newspaper and magazines benefited most from the diversification of state advertising spending. Between 2005 and 2010, 1,433 more newspapers started to receive state advertising: a growth of 215 percent. Radio

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222. See http://www.secom.gov.br/sobre-a-secom/acoes-e-programas/midia/regionalizacao/regionalizacao-1 (accessed 20 March 2013).

stations and newspapers dominate among media outlets that receive state advertising in Brazil, accounting all together for almost two-thirds of all the media businesses that received money from this source in 2010.

Figure 25.

Distribution of government advertising by type of outlet, 2003–2010
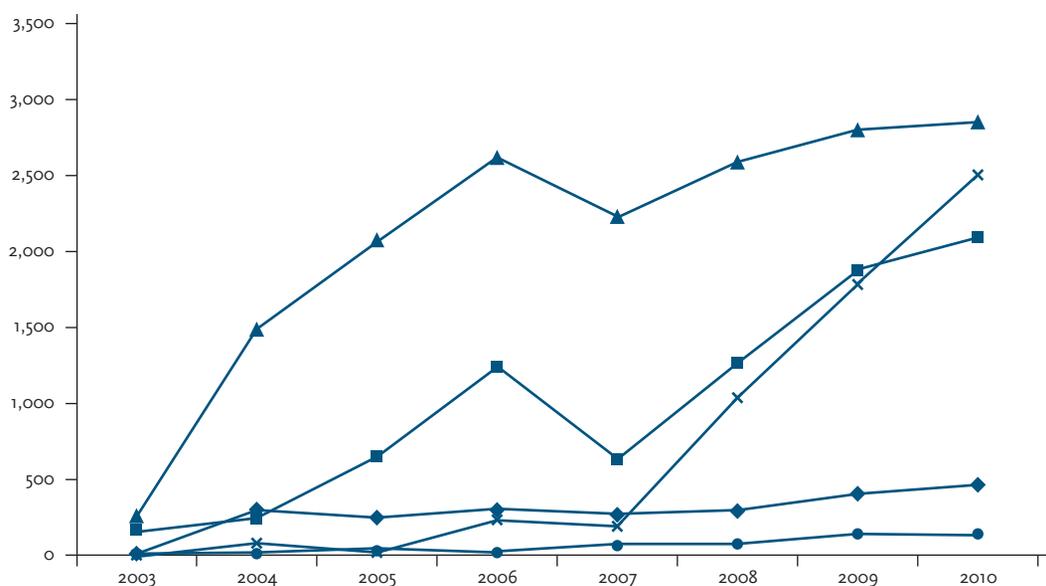
	2003	2004	2005	2006	2007	2008	2009	2010
Radio	270	1,497	2,085	2,627	2,239	2,597	2,809	2,861
Newspapers	179	249	664	1,247	643	1,273	1,883	2,097
TV	21	310	257	307	276	297	414	473
Magazines	18	20	39	27	73	84	150	151
Others	11	89	28	243	203	1,046	1,791	2,512

Source: SECOM[223]

Concerning the advertising spend on television only, Globo has consistently received the lion's share of the federal government budget, broadly in line with audience levels:

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223. See at http://www.secom.gov.br/sobre-a-secom/publicidade/midia/regionalizacao (accessed 20 March 2013).

Table 15.

Federal state advertising—TV broadcasters (BRL $)

Broadcasters	2012			2000–2012	
	Total advertising spend in 2012*	TV advertising spend as % of total budget in 2012	% of total TV audience, 2012**	Total spend on TV advertising, 2000–2012*	TV advertising spend as % of total budget, 2000–2012
Globo	495,270,915.28	43.98	43.7	5,863,488,865.02	54.7
Record	174,382,548.15	15.49	14.3	1,571,067,107.79	14.7
SBT	153,552,688.48	13.64	12.2	1,643,631,418.59	15.3
Band	100,549,938.34	8.93	5.4	913,779,773.38	8.5
Rede TV!	39,777,101.16	3.53	1.7	371,837,027.61	3.5
Other broadcasters	49,563,103.30	4.40	—	556,084,890.32	5.2
Pay-TV	112,953,614.07	10.03	—	737,712,200.05	6.9
Total	1,126,049,908.78	100.0	100.0	10,716,883,603.20	100.0

Notes: * Data from the Institute for Monitoring Advertising (*Instituto para Acompanhamento da Publicidade*, IAP), prepared by SECOM; ** IBOPE, PNT—annual average—Target: Income levels ABCDE, 18+, male/female, from 6 a.m. to 12 a.m.

Source: SECOM, in Fernando Rodrigues, "Globo teve R$ 5,9 bi de propaganda federal desde 2000" (Globo got R$ 5.9 billion in federal propaganda since 2000), 22 April 2013, at http://fernandorodrigues.blogosfera.uol.com.br/2013/04/22/globo-r-59-bi-de-verbas-estatal-de-propaganda-federal-desde-2000/ (accessed 30 October 2013)

With a couple of exceptions, spending on internet advertising tends to be directed to large web portals, but still represents a small fraction of the resources spent on television:

Table 16.

Federal state advertising—internet (BRL $)

Web portal	Spend on the 20 leading web portals	% of federal advertising spend on all 20 portals	% of total federal spend on portal and website advertising
Terra	9,819,564.55	14.82	10.27
UOL	9,734,216.46	14.69	10.18
MSN	9,078,014.97	13.70	9.49
Globo.com	7,752,803.12	11.70	8.11
IG	5,738,331.76	8.66	6.00
Yahoo!	4,933,706.33	7.44	5.16
R7	4,042,953.59	6.10	4.23
Facebook	3,394,960.95	5.12	3.55
Viaje Aqui Online	1,770,665.58	2.67	1.85
Estadao.com	1,498,298.19	2.26	1.57
Casa.com	1,375,235.67	2.07	1.44
Eband	1,361,136.91	2.05	1.42
Google	968,150.61	1.46	1.01
Carta Maior	830,132.92	1.25	0.87

Web portal	Spend on the 20 leading web portals	% of federal advertising spend on all 20 portals	% of total federal spend on portal and website advertising
Hotwords	829,275.55	1.25	0.87
Folha Online	780,359.55	1.18	0.82
Conversa Afiada	628,806.14	0.95	0.66
Abril.com	586,041.77	0.88	0.61
Bolsa de Mulher	580,377.38	0.88	0.61
Ópera Mundi	573,875.62	0.87	0.60
Total of these 20 portals	66,276,934.82	100.0	69.32
Total spend on internet advertising, 2012	95,614,065.68		

Source: SECOM , in Conversa Afiada, "Helena da SECOM esconde o que gasta na Globo" (Helena's SECOM hides spending on Globo), 3 July 2013, at http://www.conversaafiada.com.br/brasil/2013/07/03/helena-da-secom-esconde-o-que-gasta-na-globo/ (accessed 30 October 2013)

At the state level, an analysis by *Folha de São Paulo* estimated that between 2006 and 2011, the 26 states of the Brazilian federation and the Federal District spent a total of BRL 10.5 billion (US$ 5.25 billion) in advertising. This amount does not include spending on advertising by publicly owned companies.[224] According to an investigation by *O Estado de São Paulo*, the State of São Paulo alone spent BRL 2.44 billion (US$ 1.22 billion) in advertising, including adverts for its companies.[225]

The EBC, the national state-owned public broadcaster created in 2007, is directly funded by the federal government through budget allocation, and by communications services that are provided to the government—mainly maintaining NBR TV (see section *2.1*). The budget for 2010 was BRL 435 million (US$ 217.5 million), but the EBC has operated at a loss since the start.[226] (See section *2.*)

It is clear that state advertising, across all levels of the federation, constitutes a major revenue stream for many news outlets, and this should be a cause for concern. As Eugênio Bucci remarked, apropos the recent campaigns for media policy reform:

> The abusive use of state advertising has allowed growing interference in the means of communication. Although the federal government has maintained these expenses at relatively stable levels in years, the governments of states and municipalities have expanded theirs without any limit. The occasion of revising the regulatory framework [for media] would be an opportunity to also tackle this subject. Without any restrictions, government

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224. N. Nery and B. Costa, "Estado Menor Tem Mais Despesas com Propaganda" (Smallest States Spent More on Advertising), *Folha de São Paulo*, 27 February 2013, at http://www1.folha.uol.com.br/poder/1237494-estado-menor-tem-mais-despesas-com-propaganda.shtml (accessed 1 October 2013).

225. F. Gallo, "Em SP, R$ 2,4 bi em uma Década" (In São Paulo, BRL 2,4 Billion in One Decade), *O Estado de São Paulo*, 11 August 2013, at http://www.estadao.com.br/noticias/nacional,em-sp-r-24-bi-em-uma-decada,1063027,0.htm (accessed 12 August 2013).

226. F. Rodrigues, "Os Números da EBC—Orçamento, Pessoal e Audiência" (The numbers of EBC—Budget, Personnel and Audience), Blog do Fernando Rodrigues, 26 February 2012, at http://fernandorodrigues.blogosfera.uol.com.br/2012/02/26/os-numeros-da-ebc-orcamento-pessoal-e-audiencia (accessed 22 August 2013).

advertisement contributes to unbalance and distort the market, ruining the environment for freedom of the press.[227]

6.2.2 Other Sources of Funding

Other than the new revenue streams provided by sales and subscriptions of digital content and online advertising (see section *6.3.1*), no new significant sources of funding have appeared.

6.3 Media Business Models

6.3.1 Changes in Media Business Models

All of the traditional media groups in Brazil have more or less embraced the online environment, and some have shown themselves to be extremely capable in navigating the transition from print to digital without getting lost in the disruptiveness of the new scenario. Most mainstream outlets seem to have adapted well and have securely occupied the online environment. Nevertheless, achieving a strong online presence does not necessarily equate to a healthy business model. According to an analysis by Gustavo Gindre, among the major Brazilian media companies, only Globo appears financially strong enough to survive unscathed in the long run,[228] and with the strength to compete against foreign media conglomerates such as Google, Amazon, Apple, and Netflix. The other groups will have to specialize and occupy small niches, or be absorbed in one way or another.[229]

The National Association of Neswpapers (*Associação Nacional de Jornais*, ANJ) is extremely vocal in raising concerns about the sustainability of revenue streams for newspapers in a context where information is expected to be freely available. ANJ is a strong advocate of paywall models, and has recommended that its 154 affiliates withdraw their content from Google News.[230]

These two preoccupations seem to closely reflect what ANJ associates believe. The newspapers *Folha de São Paulo*, *O Estado de São Paulo*, *Correio Braziliense*, and *Zero Hora* have all implemented systems for conditional access to users, who either pay a monthly fee or register for a free account. All of the major news outlets, furthermore, have prohibited Google from featuring even as much as a link to their content.[231]

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227. E. Bucci, "O PT Não Está de Todo Errado" (PT Is Not Entirely Wrong), *O Estado de São Paulo*, 7 March 2013, at http://www.estadao.com.br/noticias/impresso,o-pt-nao-esta-de-todo-errado,1005438,0.htm (accessed 23 August 2013).

228. According to Gustavo Gindre, Globo is the only major media group in Brazil with a chance of survival against foreign media conglomerates. Globo's net profit in 2012 (BRL 2.948 billion, US$ 1.474 billion) was the sixth greatest in Brazil, excluding non-financial institutions, and the greatest, when only considering privately held companies. See G. Gindre, "Lucro Líquido da Globo É o Sexto Maior Entre Empresas Não Financeiras" (Globo's Net Profit The Sixth Greatest Among Non-Financial Institutions), Blog do Gindre, at http://gindre.com.br/lucro-liqui-do-da-globo-e-o-sexto-maior-entre-empresas-nao-financeiras (accessed 4 October 2013).

229. G. Gindre, "Analisando o Ranking dos Maiores Grupos de Comunicação do Brasil" (Analysing the Ranking of Largest Communication Groups in Brazil), Blog do Gindre, 20 August 2013, at http://gindre.com.br/analisando-o-ranking-dos-maiores-grupos-de-comunicacao-do-brasil (accessed 22 August 2013).

230. ANJ, *Relatório de Atividades e de Liberdade de Expressão: Agosto de 2010 a Julho de 2011* (Report of Activities and Freedom of Expression: August 2010 to July 2011), 2011, at http://www.anj.org.br/programas-e-acoes/relatorios/relatorios-de-atividades/RELATORIO%20DE%20ATIVIDADES%202010-2011.pdf (accessed 1 October 2013).

231. V. Daraya, "Foi Bom Sair do Google News, Diz ANJ" (It was Good to Leave Google News, Says ANJ), *INFO Exame,* 28 October 2012, at http://info.abril.com.br/noticias/internet/foi-bom-sair-do-google-news-diz-anj-28102012-7.shl (accessed 1 October 2013).

The major print outlets have adopted the practice of simultaneously offering content through print editions, digital editions, websites, and mobile apps, heavily relying on Facebook and Twitter to divulge content, sometimes segmenting profiles on the basis of each supplement of their print publications. Abril, Estado, Folha, and Globo also have a strong portfolio of online services going well beyond the content of their main outlets.

In 2013, however, Globo declared war against Facebook, and adopted an internal policy that prohibits the sharing of direct links to Globo content through the official Facebook fanpages of outlets such as *O Globo*, *G1*, and *Época* magazine. Instead of posting links, Globo now only posts pictures and a summary of news items, and simply asks readers to visit its websites. The main rationale for the policy is that Globo is not pleased with the rate with which content gets posted to users' personal news feeds, since only a fraction of users who like a specific page or user profile get exposed to content posted by these sources, as defined by Facebook's algorithms and business model of sponsored posts. Globo is also concerned about Facebook's direct access to its audience's preferences and habits, and the social network giant's ability to advertise directly to that audience.[232]

Besides Estado.com.br, and the mobile apps and digital editions related to the print edition of *Estado de São Paulo*, Grupo Estado also maintains a web portal targeted at adolescents, Limao.com.br, and the news agency Agência Estado, which provides news as well as information services related to the financial market, and through a partnership with Microsoft, provides content to the MSN portal. These digital products accounted for 23 percent of Grupo Estado's revenues in 2010.[233]

Grupo Folha is the owner of UOL (Universo Online), Brazil's biggest online content and internet service provider. UOL purchased Diveo Broadband Networks in 2010—a data center company—and withdrew itself from the São Paulo Stock Exchange soon after, leading to speculation that UOL will pursue a more aggressive IT strategy, dependent on secrecy for competitive advantage, and thus incompatible with the openness required of publicly traded companies.[234] Before purchasing Diveo, UOL already provided dial-up internet access, website hosting, and cloud computing services, acquiring six other IT companies between 2007 and 2010. On the content side, UOL hosts material from Folha and several other publications, including a number of regional newspapers, all under the umbrella of its web portal.

In March 2012, Abril opened a new online store, Iba.com.br, for the sale of editions and subscriptions of digital newspapers, magazines, as well as e-books, and targeting Brazil's nascent tablet user base.[235] Iba was

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232. T. Levin, "Globo explica saída do Facebook" (Globo explains why it left Facebook), Meio & Mensagem, 8 May 2012, at http://www.meioemen-sagem.com.br/home/midia/noticias/2013/05/08/Globo-explica-saida-do-Facebook.html (accessed 20 August 2013).

233. Grupo Estado, *Relatório de Responsabilidade Corporativa 2010* (Corporate Responsibility Report 2010), São Paulo, 2011, at http://www.estadao.com.br/rc2010/Relatorio_Responsabilidade_Corporativa_2010.pdf (accessed 1 October 2013).

234. L. Dalmazo, "UOL Dá Adeus à Bolsa" (UOL says Farewell to the Stock Market), *Exame*, 2 February 2012, at http://exame.abril.com.br/revista-exame/edicoes/1009/noticias/uol-da-adeus-a-bolsa (accessed 1 October 2013).

235. F. Scheller, "Grupo Abril Cria 'Banca Digital' com Jornais, Revistas, Livros" (Group Abril Creates 'Digital Newsstand' with Newspapers, Magazines and Books), *O Estado de São Paulo*, 7 March 2012, at http://www.estadao.com.br/noticias/impresso,grupo-abril-cria-banca-digital--com-jornais-revistas-e-livros-,845048,0.htm (accessed 1 October 2013).

conceived as a direct competitor to the digital stores built by Apple, Google, and Amazon, and is open to competing publishers, who have the autonomy to set their own prices. Both *O Estado de São Paulo* and *Folha de São Paulo*, for example, are available through Iba, along with most of Abril's magazines. Abril has also constructed a strong online presence for its print publications.

Amazon and Google opened the bookstore sections of their digital content delivery platforms to Brazilian users in December 2012, and will certainly prove to be disruptive forces for the publishing sector. It is still too early, however, to evaluate their potential impact on traditional media. The same can be said about over-the-top delivery services such as Netflix, which entered the Brazilian market in 2011.

6.4   Assessments

Digitization has so far had little impact on the oligopolistic media landscape of Brazil. Despite the lower barriers to entry and the internet's potential for fostering a greater plurality of voices, the incumbent media groups have successfully extended their control over print and broadcasting to the digital environment. Globo, Folha, Abril, and Estado have been particularly competent in their online strategies, and deftly use social networks as a resonance chamber for their content and media products. It is questionable, however, how stable this scenario is, particularly since the incumbent actors face financial problems, linked in part to the growing strength and presence in Brazil of international players such as Google, Amazon, Facebook, Netflix, and the telecommunications companies.

The digital switch-over in FTA television has been a frustrating exercise in retaining incumbent actors with a comfortable market share, thereby effectively delaying the entrance of new actors in the broadcasting sector. With the digital dividend being reassigned to telecommunication companies, the digital switch-over appears to be a failure in terms of improving the plurality of content and voices in broadcasting.

Brazil will find it hard to make further progress in establishing a healthy, plural media environment until regulatory blanks are filled, and new legislation provides a proper framework for the constitutional provisions that prohibit monopoly and oligopoly in the means of communication (Article 220/5), establish a preference for educational, cultural, and informative goals in media (Article 221/1), demand incentives for the production of independent content (Article 222/2), require the protection of regional culture through the regionalization of content production (Article 222/3), and assert the complementarity of public, state, and private broadcasting (Article 223).

Mechanisms that ensure the transparency of media ownership, and publicly available, up-to-date data in open formats, and proper enforcement of existing licensing legislation are also an urgent necessity, as well as the search for alternative funding and institutional structures that foster independent journalism, and provide audiences with the necessary tools for the critical analysis and fact-checking of news content and the ability to recognize the underlying interests of each story and outlet.

7. Policies, Laws, and Regulators

7.1 Policies and Laws

7.1.1 Digital Switch-over of Terrestrial Transmission

7.1.1.1 Access and Affordability

According to Decree 8061/13, the end of the transition period for implementing the analog switch-off in Brazil is scheduled for 2018. Amending Decree 5820/06, this decree anticipates the first switch-offs for 2015 and postpones the deadline from 2016 to 2018. This is because even Organizações Globo, by far the media conglomerate with the highest penetration of digital signal in the country, has signaled the impossibility of meeting the previous deadline. According to TV Globo's engineering department, their digital signal (considering both their own and those of affiliated broadcasters) covers only 50 percent of households with television sets. The forecast is that the signal will reach at the most 70 percent of households by the time of the next World Cup in 2014.[236] The Ministry of Communications had higher expectations regarding a boost in sales of digital televisions as a result of Brazil playing host to both the 2014 World Cup and the 2016 Olympics.

According to the official transition schedule, digital broadcast began in the city of São Paulo, in December 2007, and later was extended to other regional capitals and major cities across the country. The most recent data from Anatel concerning digital television coverage were released in May 2012. According to this research, digital television covers 508 municipalities, accounting for 89.2 million people (almost 46.8 percent of the entire population) and 31.3 million households.[237] When the data were released, the States of Acre, Amapá, Rondônia, and Roraima, all from the northern region of Brazil, were not yet receiving digital signals.

The adoption of the new technology has been challenged by the price of STBs, which varies from US$ 100 to US$ 150. Although there is a provision guaranteeing the general public unrestricted and free access

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236. F. Lauterjung, "Para Globo, transição da TV digital não será concluída em 2016" (For Globo, Digital TV Transition won't be concluded in 2016), *Observatório do Direito a Comunicação*, 17 April 2012, at http://www.direitoacomunicacao.org.br/content.php?option=com_content&-task=view&id=9060 (accessed February 2013).

237. See http://www.anatel.gov.br/Portal/exibirPortalPaginaEspecialPesquisa.do?acao=&tipoConteudoHtml=1&codNoticia=22469; http://www.teleco.com.br/tvdigital_cobertura.asp (accessed 1 October 2013).

to these signals, the costs for upgrading transmission networks were to be carried by broadcasters (and, indirectly, by consumers). According to a projection[238] made right after Decree 5820/2006, which regulated the implementation process, transition could cost consumers approximately BRL 287 billion (US$ 143.5 billion) over 15 years.[239]

Governmental incentives to provide affordability are mostly indirect, coming from the country's industrial policy, and are largely related to tax incentives for research and development (R&D) in the production of electronic equipment used for digital television. The most important of these are the Program to Support the Technological Development of the Semiconductor Industry (*Programa de Incentivo ao Setor de Semicondutores*, PADIS) and the Program to Foster Technological Development of the Digital TV Equipment Industry (*Programa de Apoio ao Desenvolvimento Tecnológico da Indústria de Equipamentos*, PATVD).[240]

However, there are only two companies eligible to receive PATVD incentives included in the list of the Ministry of Science and Technology,[241] both of them working on the development, manufacturing, and marketing of digital television transmitters. In the case of PADIS incentives, only three companies are eligible, all of them focused on integrated circuits.[242] According to the annual reports of tax expenses from the Ministry of Finance for 2008–2011, there have not been any expenses related to these tax incentives.

Besides indirect support from the federal government through tax reduction, since 2006 direct incentives are provided by the National Bank for Economic and Social Development (*Banco Nacional de Desenvolvimento Econômico e Social,* BNDES) through its Program of Support for the Implementation of Brazilian Terrestrial Digital TV (*Programa de Apoio à Implantação do Sistema Brasileiro de TV Digital*, PROTVD). The program establishes financing arrangements and equity investments at several stages of the production chain for digital television:

- PROTVD-supplier (to support investments in infrastructure, software companies, and producers of electronic components for digital television);

- PROTVD-broadcast (to support investments related to broadcasters for the implementation of SBTVD-T);

- PROTVD-content (to foster digital production of national audiovisual content).

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238. The projection was based on data from a report by the Center for Research and Development in Telecommunications (CPqD), an analysis of the broadcasting business models and the average values for internet access in Brazil.

239. A. Marini and J. Görgen, "Em 15 anos, TV digital pode custar R$ 287 bilhões ao cidadão" (In 15 years, digital TV could cost R$287 billion to citizens), FNDC, 5 May 2006, at http://fndc.org.br/noticias/em-15-anos-tv-digital-pode-custar-r-287-bilhoes-ao-cidadao-46576 (accessed 6 October 2013).

240. In that sense, Law 11.484/07 establishes PADIS and PATVD. According to this legislation, eligible companies may benefit from a zero rate for the following social welfare contributions levied on gross revenues from sales in the domestic market: the Program for Social Integration/Heritage Training Program for Civil Servants (*Programa de Integração Social/Programa de Formação do Patrimônio do Servidor Público*, PIS/PASEP), and the Contribution for Financing Social Security (*Contribuição para o Financiamento da Seguridade Social*, COFINS). They will also benefit from reductions in the import tax and the tax on industrialized products for domestic and foreign operations, and also a reduction to zero of the tax on royalties (Contribution for Intervention in the Economic Domain, *Contribuições de Intervenção no Domínio Econômico*, CIDE). In the case of companies participating in PADIS, they also benefit from a 100 percent reduction in income tax in the case that they sell their products. In return, in particular companies participating in PATVD should invest 2.5 percent of annual sales in R&D.

241. See http://www.mct.gov.br/index.php/content/view/322337.html (accessed 1 October 2013).

242. See http://www.mct.gov.br/index.php/content/view/322350.html#lista (accessed 1 October 2013).

These three programs account for a budget of BRL 1 billion (US$ 500 million) until 2013. By late 2007, BNDES also announced an extra BRL 1 billion (US$ 500 million) for a new program: PROTVD-consumer (for funding sales of STBs).[243] The first funding round has granted SBT the amount of BRL 9.2 million (US$4.6 million), under PROTVD-broadcast, to modernize the station's transmitters.[244]

Nonetheless, most companies do not benefit from these funding initiatives, largely because of ineligibility due to defaults in the payment of municipal taxes and/or the lack of sufficient equity to pledge funding. At the beginning of 2011, a special advisor to the presidency acknowledged that there is a consensus about the need to revise this funding model. As a result, four provisional measures[245] are now being drafted to establish special tax regimes, in order to facilitate the importation of high-tech equipment in the areas of semiconductors, digital television, telecommunications, and PCs.[246] Indeed, in June 2011, Camex, the Brazilian chamber for foreign commerce, approved a reduction in the import duty for seven items from the IT and telecoms sectors that are not produced domestically. The rate was reduced from 14 percent or 16 percent, according to the product, to just 2 percent.[247] This provision was maintained in 2013, and is valid until 2014.[248]

Other tax incentives are also being discussed, in order to specifically foster interactivity in the sphere of digital television. Three years of debate among the industry sector, the Ministry of Communications (Minicom), the Ministry of Development, Industry, and Foreign Trade (*Ministério do Desenvolvimento, Indústria e Comércio Exterior*, MDIC), and the Ministry of Science, Technology, and Innovation (*Ministério da Ciência, Tecnologia e Inovação*, MCTI) produced Interministerial Regulation No. 140 (*Portaria Interministerial N° 140*) for the Basic Productive Process (*Processo Produtivo Básico*, PPB).[249] This requires the gradual inclusion of the middleware Ginga—a tool that allows interactivity for Brazilian digital television—in a substantial number of new LCD television sets produced at Zona Franca de Manaus.[250] One month later, Interministerial Regulation No. 187 extended the obligation to plasma television sets. [251] According to both regulations, implementation during 2012 was to be optional, but in 2013 television manufacturers will have to incorporate Ginga in 75 percent of digital televisions produced. For 2014, this percentage will rise to 90 percent.

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243. See http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Institucional/Apoio_Financeiro/Programas_e_Fundos/Protvd/index.html (accessed 1 October 2013).

244. L. Schenkel, "Financiamento da TV digital: sem contrapartidas" (Public funding for digital TV: no strings attached), FNDC, 11 May 2007, at http://fndc.org.br/noticias/financiamento-da-tv-digital-sem-contrapartidas-155272 (accessed 6 October 2013).

245. A provisional measure is a legal act, whereby the President of Brazil can enact laws without approval from the National Congress.

246. I. Dantas, "Governo prepara MPs que reduzem imposto de setor que inovar" (Government Prepares MPs to Reduce taxes on the Sector that Innovates), *O Estado de São Paulo*, 4 February 2012, at http://economia.estadao.com.br/noticias/economia,governo-prepara-mps-que-reduzem-imposto-de-setor-que-inovar,101819,0.htm (accessed 1 October 2013).

247. C. Froufe, "Camex aprova redução do imposto de importação de itens de informática" (Camex Approves Reduction of Importation Taxes on Computer Items"), *O Estado de São Paulo*, 15 July 2011, at http://pme.estadao.com.br/noticias/noticias,camex-aprova-reducao-do-impos-to-de-importacao-de-itens-de-informatica,388,0.htm (accessed 1 October 2013).

248. See http://www.camex.gov.br/legislacao/interna/id/1105 (accessed 1 October 2013).

249. PPB has been used by the federal government as a guideline for tax incentives provided by the Free Economic Zone of Manaus and by the Information Technology Law (*Lei de Informática*). Basically, it establishes the minimum manufacturing steps that companies must carry out to manufacture a particular product in return for compensatory tax benefits.

250. See http://www.cgu.gov.br/Legislacao/Arquivos/Portarias/portaria_interministerial.pdf (accessed 1 October 2013).

251. See http://www.desenvolvimento.gov.br/sitio/interna/noticia.php?area=2&noticia=11367 (accessed 6 October 2013).

Furthermore, steps toward the implementation of Ginga in mobile phones have already been taken through industrial policy. Interministerial Regulation No. 237/2008 from the MIDIC, MCTI, and Minicom established that mobile producers should ensure that 5 percent of the devices they manufacture have the capability of receiving digital television signals compatible with the specifications and standards of the Brazilian System of Terrestrial Digital TV (SBTVD-T) and include the Ginga middleware.[252] But, due to complaints from manufacturers, the obligation to have Ginga was removed and the minimum percentage was reduced. Interministerial Regulation 223/2009 also postponed the obligation until 2012, besides reducing the percentage to 3 percent, with a gradual increase to 5 percent in January 2013.[253]

As incentives seemed to be insufficient to boost sales and accelerate the transition, by the end of 2012 the government started to mention the possibility of subsidizing lower income groups for the purchase of digitally enabled television sets.[254] The government is also studying possible incentives for supporting the digitalization of broadcasters. Thus, incentives could become more direct, but Minicom has also highlighted the need for better data collection, suggesting that the problem should be reassessed in 2014 and 2016, after the World Cup and Olympics.[255]

7.1.1.2 Subsidies for Equipment

When SBTVD was launched in 2007, the price of STBs ranged from US$ 450 to US$ 600. After a few months, it was reduced to US$ 150, which was still expensive for a population with a minimum wage of around US$ 300. As mentioned above, incentives have been provided mostly through tax reduction for R&D and production of several kinds of electronic equipment used in digital television, but not for subsidizing consumers directly.

Despite recent speculation about plans to implement a particular program for consumers, what exists in terms of subsidy is a funding mechanism within the BNDES for the sale of STBs (PROTVD-consumer), aimed at encouraging retailers to place orders with manufacturers. However, BNDES does not provide direct credit to the end consumer. This incentive has not been extensively used, and the pricing of STBs still represents an obstacle to greater penetration of digital television in Brazil, as well as limited interactivity.

252. "Governo Discute Obrigatoriedade de Celular com TV Digital e Ginga" (Government Discusses the Mandatory Mobile Phones with Digital TV and Ginga), *Software Livre Brasil*, 12 August 2009, at http://softwarelivre.org/portal/tv-digital-livre/governo-discute-obrigatoriedade-de-celular-com-tv-digital-e-ginga (accessed 1 October 2013).

253. J. Segundo, "TV Digital Móvel Demorará Alguns Anos Para Ser Popular" (Digital Mobile TV Will Take Some Years to be Popular), *Observatório do Direito a Comunicação*, 23 July 2010, at http://www.direitoacomunicacao.org.br/content.php?option=com_content&task=view&id=6933 (accessed 1 October 2013).

254. L. A. Otta and A. Warth, "Governo Estuda Subsídio para a Compra de Aparelhos de TV Digital" (Government Studies to apply Subsidy on Purchases of Digital Television Sets), *O Estado de São Paulo*, 27 December 2012, at http://economia.estadao.com.br/noticias/negocios%20geral, governo-estuda-subsidio-para-a-compra-de-aparelhos-de-tv-digital,139216,0.htm (accessed 1 October 2013).

255. "Minicom Prepara Cronograma para Desligamento dos Sinais Analógicos" (Ministry of Communications Prepares the schedule for Switching Off Analog Signals), *Teletime*, 27 June 2012, at http://www.teletim e.com.br/27/06/2012/minicom-prepara-cronograma-para-desligamento-dos-sinais-analogicos/tt/285807/news.aspx (accessed February 2013).

On the other hand, sales of digital television sets are quite buoyant. This is particularly evident in the Free Economic Zone of Manaus,[256] where the vast majority of television sets are manufactured,[257] and which also received a boost through new tax incentives for the deployment of digital television technology. From January to November 2011, this region sold more than 10 million LCD televisions to the Brazilian market, surpassing the 7.48 million sold during the same period in 2010. As a result of this trend, manufacturers have been opting to produce new digital television sets instead of STBs—a more profitable strategy that, unfortunately, hinders the spread of digital television within the lower-income portion of the population.

7.1.1.3 Legal Provisions on Public Interest

Article 1 of Decree 4901/2003 establishes the following goals for SBTVD, all of them concerning public interest:

1. to promote social inclusion and cultural diversity through access to technology, aiming to foster democratization of information;

2. to encourage the creation of a universal network of distance education;

3. to stimulate R&D and encourage the expansion of Brazilian technologies and a national industry of information and communication technologies;

4. to plan the transition from analog to digital signals, ensuring the gradual adoption for users, guaranteeing that costs are compatible with their income level;

5. to facilitate the transition from analog to digital, if needed, by allowing broadcasters to use additional radio frequency ranges;

6. to stimulate the evolution of current analog television broadcasters, as well as the entry of new companies, allowing the expansion of the sector and enabling the development of numerous services using digital technology;

7. to establish actions and business models for digital television in pace with the economic and entrepreneurial realities of the country;

8. to improve the use of radio frequency spectrum;

9. to contribute to the technological and business convergence of communications services;

10. to improve the quality of audio, video, and other services;

11. to encourage regional and local industry in the production of digital tools and services.[258]

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256. Due to a system of federal investments and tax incentives, the region of Manaus has been transformed into a major industrial center, the so-called Free Economic Zone of Manaus.

257. The importance of the industrial pool of Manaus is such that the regulation for the Basic Productive Process (PPB) that requires the gradual inclusion of the middleware Ginga in the manufacturing of LCD TV sets is expressly focused only on this industrial pool.

258. See http://www.planalto.gov.br/ccivil_03/decreto/2003/D4901compilado.htm (accessed 1 October 2013).

Such goals can be categorized as relating to technological innovation; to the promotion of social inclusion, education, and cultural diversity; or to enhance competition and new business models within the sector. Mechanisms to foster innovation and convergence of communications services have been implemented through industrial policy incentives (see sections *7.1.1.1* and *7.1.1.2*).

Mechanisms for the implementation of sociocultural goals are partly provided by Article 13 of Decree 5820/2006. It establishes the creation of four public channels using digital technology to be explored by the federal government: Educational, Cultural, and Citizenship channels, as well as a channel related to the Executive branch, reporting updates on governmental acts, works, projects, sessions, and events. The bill also mentions that the Ministry of Communications can authorize states, municipalities, and the Federal District to explore the Citizenship channel, which could offer applications for public services, including e-government tools.

In order to ensure digital switch-over of already existing public channels, according to Law 11652/2008, the Brazilian Communications Company (EBC) is in charge of technical, legal, and financial operations to enable the creation of the National Network for Terrestrial Digital Public TV (*Rede Nacional de TV Pública Digital Terrestre*, RNTPD). With the aim of reducing costs and accelerating the migration to new technologies, the task of this network is to build a shared infrastructure for a common platform to transmit digital signals from all the public broadcasters, reaching 60 percent of the population.

Such a platform would broadcast signals from all the public channels: Legislative (TV Câmara and TV Senado), Executive (NBR), Judiciary (TV Justiça), EBC's TV Brasil, besides the new public channels foreseen in the Digital TV Decree: Canal Educação, Canal da Cultura, and Rede da Cidadania. Private broadcasters could also rent segments of such a platform for digital transmission in remote regions where there is no such infrastructure yet.

Implementation of such a network was to be carried out by a Public-Private-Partnership (PPP) that would enable the operation of the common platform for a period of 20 years. Costs were estimated at BRL 2.98 billion (US$ 1.49 billion), with 70 percent stemming from public financing through the BNDES.[259]

The EBC has held a couple of public hearings aimed at establishing the bidding criteria, but since June 2011, the process of choosing the operator for RNTPD has been slowed down.[260] The EBC has also tried to involve Telebrás, the Brazilian national agency also in charge of implementing the National Broadband Plan (*Plano Nacional de Banda Larga*, PNBL), in the operation of the Brazilian public network. Indeed, Telebrás has

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259. J. Segundo, "Rede Única Levará Canais Públicos para a TV Aberta" (Single Network will Take Public Channels to Free-to-air TV), *Observatório do Direito a Comunicação*, 1 February 2010, at http://www.direitoacomunicacao.org.br/content.php?option=com_content&task=view&id=6096 (accessed 1 October 2013).

260. "TVs e entidades do Campo Público cobram definição governamental sobre Operador Único da Rede Publica Digital" (TV Broadcasters and Public Entities ask for Government Decision on Network Operator for the Digital Public Network), EBC, 14 June 2011, at http://www.ebc.com.br/content/tvs-e-entidades-do-campo-p%C3%BAblico-cobram-defini%C3%A7%C3%A3o-governamental-sobre-operador-%C3%BAnico-da-rede (accessed 1 October 2013).

guaranteed its capacity to offer digital broadcasting services through its internet backbone,[261] but, just like the EBC, it is waiting for a government push regarding the financing of RNTPD. In fact, the latest action taken by the government regarding broadcasting services has been the approval of Decree 7670/2012, which has led to further adjustments of the system as a whole, not just digital television.

The competencies for overseeing the implementation of these goals are further explained in section *7.3.2*.

7.1.1.4 Public Consultation

While establishing implementation guidelines for the SBTVD-T, Decree 5820/2006 includes in Article 5 a provision for the creation of a Forum for SBTVD-T to advise on policy and technical issues relating to the adoption of technological innovations, specifications, development, and deployment of SBTVD-T. Paragraph 3 of the article establishes that the Forum should comprise, among others, representatives from the broadcasting sector, the industrial sector, and the technical and scientific community.[262] Thus, there is no legal guarantee for the participation of civil society organizations.

Indeed, the Forum includes only members from such communities. The Board is made up of 13 members: four seats for broadcasters and representatives from the television and STB manufacturers; two seats for representatives from the industry of transmitters; two for research institutions, and one for software companies. The Board is entitled to set policies and strategic priorities and forward them to the development committee of the federal government.[263]

In the first composition of the Board, broadcasters are represented by Rede Globo, Rede TV!, SBT, and Record, while TV Cultura and TVE are secondary members. Gradiente, Philips, Samsung, and Semp-Toshiba fill the space allocated to industry, with ECC, LG, Sony, and Panasonic as secondary members. Representatives of industry transmitters are Linear and Telavi, while LSI-USP and UFPB occupy the space for the research institutions, and UFRJ and UFRGS figure as secondary members. The spot for software companies has been occupied by Polis. The announcement of this composition has generated protests, since it does not include civil society organizations. Opposition was expressed by organizations such as SinTPq, CUT, Aneate, and ABTU, and mainly by the National Forum for Democratizing Communications (*Forum Nacional pela Democratização da Comunicação*, FNDC), arguing that it only reinforces the technical approach that has steered the entire process of implementing digital television, prioritizing commercial interests.[264] As a result, the Forum has even publicly questioned any program of subsidizing the roll-out of DTT.[265]

261. P. Peduzzi, "Telebras Estuda Participação em Infraestrutura de Rede da TV Pública" (Telebras Studies Participation in the Network Infrastructure of Public TV), *Agencia Brasil*, 5 September 2011, at http://agenciabrasil.ebc.com.br/noticia/2011-09-05/telebras-estuda-participacao-em-infraestrutura-de-rede-da-tv-publica (accessed 1 October 2013).

262. See http://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2006/Decreto/D5820.htm (accessed 1 October 2013).

263. See http://forumsbtvd.org.br/sobre-o-forum/estrutura-organizacional (accessed 6 October 2013).

264. L. Schenkel, "Exclusão e falta de transparência" (Exclusion and Lack of Transparency), *Observatorio da Imprensa*, 28 November 2006, at http://www.observatoriodaimprensa.com.br/news/view/exclusao_e_falta_de_transparencia (accessed 1 October 2013).

265. "Forum SBTVD questiona subsidio oficial para massificar TV Digital" (Forum SBTVD Questions the Official Subsidy to Popularize Digital TV), *Convergência Digital*, 9 February 2011, at http://convergenciadigital.uol.com.br/cgi/cgilua.exe/sys/start.htm?=&infoid=25177&sid=84 (accessed 1 October 2013).

Indeed, the Forum was composed following a controversial process of consultations, which was led by the Ministry of Communications, as set out in Decree 4.901/2003. Even though the SBTVD-T Forum does not include civil society representatives, the advisory board led by Minicom to compose the Forum was indeed formed by 23 representatives from civil society and was the locus of a series of meetings to define the technical standards for Brazilian digital television. Meetings should have occurred monthly, but due to controversy over the choice of standard, meetings became occasional and convened at the last minute. "For social movement entities it was much more difficult to attend, increasing inequality in the process," explained Gustavo Gindre, a former representative of the Information Network for the Third Sector (*Rede de informações para o terceiro setor*, Rits).[266]

By the end of the process for defining the technical standard, the Board was practically disabled by the Ministry and the composition of the Forum included no civil society representatives, apart from those from the technical and scientific community. Many associates of the Board have complained that they were not formally consulted on the final choice of the Japanese standard, nor had the opportunity to comment on the final report from the CPqD.[267] Moreover, there are complaints that Hélio Costa, by that time Minister of Communications, denied members of the Board a series of hearings, while he met almost daily with representatives from ABERT, the Brazilian Association of Broadcasters. Besides opposition from civil society as a whole, representatives from academia have also delivered a document signed by 15 academic institutions demanding an increase in the number of seats for the sector, from two to four. But no change took place, in clear opposition to the goals set out in Decree 4901/2003 (see section *7.1.1.3*).

In addition to this Forum, Article 224 of the Constitution foresaw the creation of a Social Communication Council. Properly established by Law 8389/91, it has the goal of providing support for Congress on communication policies by formulating studies, opinions, and recommendations, and responding to other requests in order to guarantee freedom of expression, avoid monopolies and oligopolies, and help to inform debates about renewal of concessions, television programming, advertising of cigarettes and drinks, among other things. After being dismantled for many years, it was reactivated in 2012 amidst some criticism, such as the lack of female or black representatives on the advisory board, the appointment of a catholic bishop as president of the Council, and the absence of dialogue with civil society during the members' nomination process.

As a result, the Council does not address any of the most controversial debates surrounding media reform, and if it does, they are addressed only through the production of reports. Restrictions on non-authorized biographies have been given priority in the agenda, and there have also been discussions about implementing legal provisions regarding crimes against journalists. The Council is also meant to produce reports about ANCINE and Anatel, about the implementation of the law that created the EBC, and about processes to combat irregularities in associations that own broadcasting licenses.

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266. L. Schenkel, "Comitê Consultivo do SBTVD reage às declarações de Costa e Bechara" (Advisory Committee for SBTVD reacts to statements from Costa and Bechara), FNDC, 28 August 2006 at http://www.fenaj.org.br/materia.php?id=1285 (accessed 6 October 2013).

267. L. Schenkel, "Exclusão e falta de transparência" (Exclusion and Lack of Transparency), *Observatorio da Imprensa*, 28 November 2006, at http://www.observatoriodaimprensa.com.br/news/view/exclusao_e_falta_de_transparencia (accessed 1 October 2013).

7.1.2 The Internet

7.1.2.1 Regulation of News Content on the Internet

Basic provisions for media content regulation are established in Articles 220–222 of the Constitution. Article 220 ensures freedom of expression and of the press. But it also delegates to federal law the power to regulate about the protection against harm to minors; to establish mechanisms for restricting advertising of products or services that may be harmful to health and/or the environment; and for penalizing broadcasters that violate Article 221.

Article 221 of the Constitution articulates principles regarding content only for radio and television programs. In 2002, Constitutional Amendment No. 36, which deals with the participation of foreign capital in media companies, has added paragraph 3 to Article 222, which establishes that electronic media shall observe the principles of Article 221, which are:

(a) to give preference to educational, artistic, cultural, and informative content;

(b) the promotion of national and regional culture, and the encouragement of independent production;

(c) the regionalization of cultural, artistic, and journalistic production;

(d) respect for ethical and social values.

There is no legal definition of the term "electronic media"; the provision only mentions it is considered "regardless of the technology used to deliver the service." Therefore, the introduction of such a concept has opened a space for debate. The main question is whether the various other social communication media, such as online news companies and cable television companies, regardless of their technology (cable, DTH, MMDS, etc.), should now respect the provisions of Article 221, which were intended to regulate only terrestrial radio and television services. This question can only be definitively resolved with the enactment of a specific regulation, specifying the activities of the electronic media companies.

Besides these gray areas concerning online media regulation, there is no explicit regulation focused on news content online. In fact, any kind of debate surrounding content regulation, even in terms of a content rating system, is extremely controversial given the relatively fresh memories of the control and censorship regimes under dictatorship rule.[268] And big media conglomerates tend to use this fear to block any potential debate about this kind of regulation, showing disregard for pluralism or neutrality of information. Thus, acceptable terms of debate with regard to content regulation have been restricted to the issue of cultural diversity, namely quotas for national content broadcast on television channels.

But the lack of regulation of news online does not mean that content is not being restricted on the web. In the absence of formal regulation alongside general provisions on freedom of expression, judges have

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268. R. Andrade, "Países Deixam Jornalismo Fora de Regulação" (Countries Leave Journalism out of Regulation), *O Estado de São Paulo*, 11 November 2010, at http://www.estadao.com.br/noticias/impresso,paises-deixam-jornalismo-fora-de-regulacao,638255,0.htm (accessed 1 October 2013).

been imposing broad orders to remove, block, or filter material, sometimes over-interpreting what could be considered as harmful content, thereby representing a serious threat to freedom of expression.

With regard to this issue, the study "Filtering Practices in Latin America" has analyzed how regulations about racist and xenophobic content, incitement of terrorism or genocide, hate speech, libel, slander and defamation, copyright laws, and regulation of sexual content have been used to justify content removal. In addition to these, there are also the provisions of electoral law to take into account.[269] The analysis demonstrates that besides ISP acts of filtering through self-regulation (a process for which we have neither transparency nor access to data), the Judiciary has played an important role in Brazil in deciding what must be filtered or blocked on the web. According to Google's Transparency Report, the number of judicial requests for content removal from Google's platforms in Brazil was the highest in Latin America, and third in the world, after India and the United States. Sometimes, such requests are inappropriate and threaten freedom of expression. A remarkable example is how provisions on defamation in the Electoral Code have served as a basis for blocking a wide variety of political blogs during elections as a serious act of censorship. This law establishes an increase in penalties if defamation occurs "in the presence of many persons, or through a means that facilitates the publicization of the offense" (Article 327/3), which, as settled by jurisprudence, includes the internet. Using such an allegation, José Sarney (a former Brazilian president), as senate candidate, was able to bring down the blog "Repiquete no Meio do Mundo" just because of a cartoon he deemed offensive. The blog was temporarily taken down by its ISP (Uol.com.br).[270] In the context of Brazil's historical alliance between media ownership and political influence, the Sarney family was even able to impose a gag order on one of the biggest newspapers, *Estado de São Paulo*, to publish news related to the so-called "Faktor Operation," which accused Fernando Sarney of money laundering and other crimes.

This tendency was even more evident during the October 2012 elections, when there were several similar cases including an international scandal following a judicial request for Google to remove a video criticizing a political candidate from the PSDB. When Google refused, the judge from the Electoral Court ruled that YouTube should be blocked for 24 hours in Mato Grosso State, and issued an arrest warrant for Google's head of operations in Brazil. The individual was detained for three hours, then released.[271]

As the digital gap narrows in the country, and press activities and the flow of information increasingly depend on the net, blogs are starting to occupy the space giving visibility to alternative views. In response to this, the traditional centers of political power that have always been able to shape narratives in the past keep trying to intervene in this space and silence voices of dissent by requesting the removal of content.

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269. Chapter from the book "Towards an Internet Free of Censorship: proposals for Latin America," at http://www.palermo.edu/cele/libertad-de-expresion/publicaciones.html (accessed 1 October 2013).

270. J. Murilo, "Election and Censorship Dialectics in the Brazilian Blogosphere," *Global Voices*, 1 September 2006, at http://globalvoicesonline.org/2006/09/01/election-and-censorship-dialectics-in-the-brazilian-blogosphere (accessed 6 October 2013).

271. "Juiz recua e manda liberar diretor-geral do Google no Brasil" (Judge releases Google's general-director in Brazil), *Estado de São Paulo*, 26 September 2012, at http://www.estadao.com.br/noticias/politica,juiz-recua-e-manda-liberar-diretor-geral-do-google-no-brasil,936321,0.htm (accessed 6 October 2013)

According to Law 12.527/2011, implementing the right to access public information, and its related Decree 7.724/2012,[272] all government bodies, either as part of direct or indirect public administration, shall publish records of any transfers of resources and information on bids, while every citizen also has the right to request further information. The decree regulates only the enforcement of the law regarding the Executive; regulation of the Legislative and Judiciary are still outstanding. (See also section *6.1.5.*)

7.1.2.2 Legal Liability for Internet Content

Even though there is no legal provision on intermediary liability for internet content in Brazil, over recent years public opinion has been divided between two approaches: the approach of the Civil Rights Framework for the Internet in Brazil (the so-called "Marco Civil") and provisions included in a Cybercrime Draft Bill known as "Projeto Azeredo" or the Azeredo Project, after the proponent of the draft bill (see section *3.2.1*).

Since ISPs would be required to report users' suspicious behavior, the Cybercrime Draft Bill suggested establishing a system of vigilantism—rather like a sort of "internet police." ISPs would also have to retain connection logs for up to three years or face a fine. This proposal sparked an opposition movement known as "Mega Não" (Huge No), which gathered nearly 157,000 signatures against the bill (see section *3.2.1*). A revised version of the draft bill included an even more excessive provision on intermediary liability, since it extended obligations relating to data retention to all kinds of ISPs, not only connection providers (hence including bloggers, news portals, etc.).

This project lost momentum in 2011, when another draft bill on cybercrime—presented by Congressman Paulo Teixeira—was approved with no provisions on intermediary liability. This bill was quickly proposed and approved due to a favorable context: nude photos of a famous Brazilian actress, Carolina Dieckmann, were hacked from her computer and spread across the web. Because of this, the bill was dubbed Carolina Dieckmann's Bill. The bill contemplated certain of the demands that had been met by the Azeredo Bill, but in a much tamer version.

Quite the opposite of the Azeredo Project's rejected proposals on intermediary liability, the Marco Civil was meant to provide a safe harbor for intermediaries. The draft bill offers assurance that content could only be removed by a detailed court order, and establishes that ISPs would only be held liable for damages over third party content if, after receiving a court order for content removal, they failed to take appropriate action within the scope of their services and within the specified term.

Drafted by a completely new process of open online and offline consultations, Marco Civil has the goal of consolidating rights and responsibilities in the context of electronic communication, fostering innovation by setting out a transparent framework of liability for all the actors involved in the virtual communication process, and seeking to transcend the digital divide by establishing directives for public policy.

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272. "Publicado decreto que regulamenta Lei de Acesso à Informação" (The Decree that Regulates the Law on Access to Information has been Published), *Portal Planalto*, 17 May 2012, at http://www2.planalto.gov.br/imprensa/noticias-de-governo/publicado-decreto-regulamenta-lei-de-acesso-a-informacao (accessed 3 October 2013).

The text also sets out the consumer's right to receive clear information concerning practices of network management adopted by providers, always in compliance with the principle of net neutrality. In terms of privacy, it establishes the non-disclosure or use of connection logs and internet services access logs, except with the owner's express consent or in response to a court order.

However, despite the fact that there is a need to address intermediary liability and other aspects of internet regulation, Marco Civil is still under discussion at National Congress level as Bill of Law 2126/2011 and, in the current situation, besides net neutrality, the provision regulating content liability has been the main focus of controversy and lobbying, chiefly because broadcasters and other sectors of the content industry are interested in a broader liability regime for copyright infringement, in clear disregard of the principle of freedom of speech.

After the NSA leaks by Edward Snowden in summer 2013, surveillance of Brazilian citizens and companies by the United States has become a major concern for the government of Brazil, as illustrated by President Dilma's remarks at the 68th Session of the United Nations General Assembly, on 24 September.[273] These leaks motivated the government to speed up the voting of Marco Civil, which is expected to take place by the end of 2013. Controversial proposals in response to U.S. espionage—including the obligatory storage of data relating to Brazilian nationals by online services in data centers located within Brazil—will probably be included in the text.

7.2   Regulators

7.2.1   Changes in Content Regulation

Article 221 stipulates four principles for radio and television content (see section *7.1.2.1*), but there is no further regulation regarding the implementation of such provisions. While Anatel regulates the technical aspects of electronic media, there is no agency to regulate content. With that aim in mind, since 2010 the government has promoted a debate about the possibility of creating a regulatory agency for media content, based on the articles mentioned above, and in order to guarantee, for instance, a space for regional and independent content.[274] On the other hand, broadcast associations such as ABERT have condemned the initiative, arguing that it opens the door to censorship. The ANJ has also criticized the initiative and shown its support for self-regulation.

Nevertheless, some further steps have been taken toward establishing a dedicated content regulator. After the National Communications Conference (*Conferência Nacional de Comunicação*, Confecom), established by presidential decree in 2009 to debate "communications: means for the construction of rights and citizenship

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273. See http://gadebate.un.org/68/brazil (accessed 3 October 2013).

274. D. Milanese, "Franklin defende agência reguladora para a mídia" (Franklin Endorses a Regulatory Agency for the Media), *O Estado de São Paulo*, 8 October 2010, at http://www.estadao.com.br/noticias/impresso,franklin-defende-agencia-reguladora-para-a-midia,622232,0.htm (accessed 1 October 2013).

in the digital age," civil society organizations making up the FNDC promoted a consultation regarding media regulation.[275] Over 200 contributions were received, resulting in the drafting of 20 guidelines for a new media framework in Brazil, involving not only content regulation, but also democratization of grants, advertising regulation, media convergence, and other topics. The text has been delivered to the Ministry of Communications, which has expressed the intention to update FTA television regulations and the General Telecommunications Law, once again only with regard to cultural diversity.[276]

In that sense, more concrete achievements have already been reached in the field of pay-TV. In 2011, the Senate approved Law 12485/2011, creating a new legal framework for pay-TV, under the concept of "conditional access services." One important aspect is that this bill takes a step further toward convergence, once it unifies norms for all types of pay-TV, which was previously established based on the technology used for distribution (cable, satellite, microwaves, etc.). This change also allows mobile companies to offer convergent services, for instance, including television, telephone, and internet access.

Must-carry rules are established in section V of the law according to three kinds of quotas for the transmission of regional and independent content via pay-TV. The law requires certain special channels to transmit at least three and a half hours of regional and national programs a week in primetime. Half of these programs are to be made by independent producers. The quota per package establishes that one-third of the channels that comprise the package must be Brazilian and one-third must be independent. The third quota is for packages that include mostly journalistic content aired during primetime, and requires at least another news channel to guarantee pluralism of sources.[277]

To foster the production of national content, the bill also specifies subsidies of BRL 300 million (US$ 150 million) per year for audiovisual content, to be sourced from part of the 10 percent levy on telecoms operators for the Telecommunications Supervision Fund (*Fundo de Fiscalização das Telecomunicações*, FISTEL). Finally, the law also sets out institutional arrangements for the system. Supervision powers in terms of content and sanctions are afforded to the National Cinema Agency (*Agência Nacional do Cinema,* ANCINE), while Anatel is to monitor issues related to technology, usage of the networks, and authorizations for offering the service. The Ministry of Justice is charged with determining age ratings for pay-TV programs.

ANCINE's functions have been greatly expanded to now include supervision of compliance with mandatory quotas for Brazilian content, imposed by Law 12.485/11 on programming and packaging, over the next 12 years. The quotas are applicable mainly, but not exclusively, to channels whose content is mostly composed of films, documentaries, and serialized television shows—dubbed "qualified space channels." They require three and a half hours a week of Brazilian content during primetime for each of these channels, and one channel

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275. See http://www.comunicacaodemocratica.org.br (accessed 1 October 2013).

276. N. Passos, "Ministério abre negociação de regulação da mídia mas não fixa prazo" (Ministry Starts Negotiation on Media Regulation but it does not fix a Deadline), *Carta Maior*, 20 October 2011, at http://www.cartamaior.com.br/templates/materiaMostrar.cfm?materia_id=18755 (accessed 1 October 2013).

277. See http://legis.senado.gov.br/legislacao/ListaTextoIntegral.action?id=243908&norma=264027 (accessed October 2013).

dedicated exclusively to Brazilian content for each set of three channels in a package, up to the limit of 12 regular channels.

If a package contains a channel generated by a Brazilian programmer that schedules news content for most of its primetime, at least one other equivalent channel from a different provider must be included, in order to secure an alternative news source for consumers. Quotas can be waived by ANCINE at the request of the interested party, depending on arguments based on insurmountable technical or economic obstacles to meeting content obligations.

7.2.2 Regulatory Independence

There are a multitude of players regulating the Brazilian broadcasting sector, a characteristic that can be very problematic not only for policymaking and enforcement, but also for the business development of the sector. Figure 26 shows the institutional framework for media regulation in the country, divided between its Executive and Judicial branches, in addition to a self-regulatory body, represented by the National Council of Advertisement Self-regulation (*Conselho Nacional de Autoregulamentação Publicitária*, CONAR).

Figure 26.
Institutional framework for media regulation, 2012
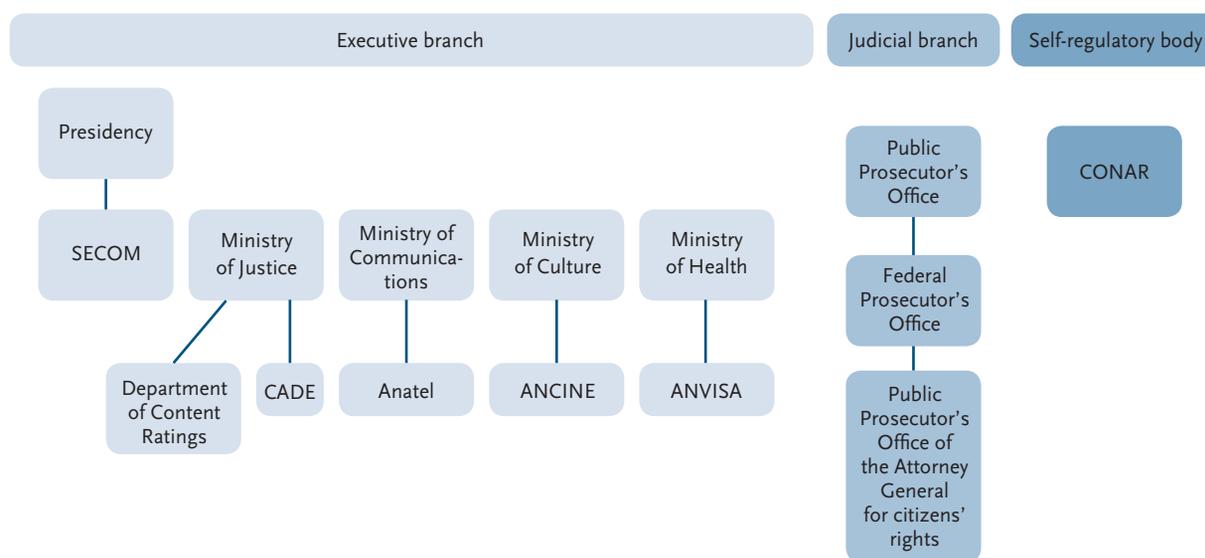
Source: MDM reporters

Within the Executive branch, some agencies, although closely related to a respective Ministry, can be considered administratively independent. That is the case for ANCINE, Anatel, the Administrative Council for Economic Defense (*Conselho Administrativo de Defesa Econômica*, CADE), and the National Health Surveillance Agency (*Agência Nacional de Vigilância Sanitária*, ANVISA).

ANCINE is a regulatory agency, created only in 2001 by MP No. 2.228-1, it is responsible for fostering the cinema and the audiovisual market. Anatel is a regulatory agency responsible for telecommunications.

According to the General Law of Telecommunications (*Lei Geral de Telecomunicações*, LGT), in terms of broadcasting it is in charge of preparing, managing, and maintaining the Basic Plans for Channel Distribution. It is financially autonomous and administratively independent. As such, its administrative decisions are characterized as being final, and can be challenged only through the courts. Ensuring competitiveness, CADE is also an autarky, intended to provide guidance, monitor, prevent, enforce, and investigate in cases of abuses of economic power. Finally, ANVISA is an agency with the status of a regulatory agency responsible for public health, which includes the monitoring of advertising.

This institutional configuration is quite recent. In 1995, Constitutional Amendment No. 8 allowed the privatization of telephony and data transmission, which until then was a state monopoly. This change promoted the reorganization of services, specifically the telecommunications and broadcasting services. Because of this amendment, the General Law of Telecommunications (LGT) was enacted, providing guidelines for telecommunications services and creating Anatel as a regulatory agency in the field, while broadcasting services remained under the aegis of the old Brazilian Telecommunications Code (*Código Brasileiro de Telecomunicações*, CBT).

Nevertheless, certain changes in the tasks of these agencies can be perceived, mostly in the case of Anatel and ANCINE. Law 12.485/11, regarding the regulation of Conditional Access Services (*serviço de acesso condicionado*, SeAC), was responsible for greatly expanding the role of ANCINE, chiefly related to its supervision of must-carry rules on content, a topic that directly affects producers and programmers of audiovisual content.[278] Anatel is also going through a period of internal administrative reform,[279] and is holding public consultations regarding the procedures for authorizing the use of SeAC and distributional channels.[280]

The expansion of the roles of both agencies under Law 12.485/11 has already raised concerns among media owners. The law has been criticized by the Democrats (*Democratas*, DEM), a center-right political party that proposed a Direct Action of Unconstitutionality in the Supreme Federal Court (ADI 4679),[281] questioning the role of ANCINE as supervisor of the audiovisual sector. Although also critical of the law, civil society organizations concerned with media democratization defend the legitimacy of ANCINE in overseeing and regulating the sector, in order to foster and supervise quotas of national content.[282] Nevertheless, without

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278. "Com regras para o SeAC, Ancine se consolida como uma agência do audiovisual" (With rules for SeAC, Ancine consolidates itself as an audiovisual agency), *Teletime*, 19 January 2012, at http://www.teletime.com.br/19/01/2012/com-regras-para-o-seac-ancine-se-consolida-como-uma-agencia-do-audiovisual/tt/258505/news.aspx (accessed 1 October 2013).

279. L. Berbert, "Ouvidor elogia medidas de transparência da Anatel em relatório" (Ombudsman praises transparency measures from Anatel), TeleSíntese, 30 January 2012, at http://telesintese.com.br/index.php/plantao/18295-ouvidor-elogia-medidas-de-transparencia-da-anatel-em-relatorio (accessed 6 October 2013).

280. "Anatel inicia consulta do termo de autorização do SeAC" (Anatel launches public hearing about authorization for SeAC), TeleSíntese, 30 January 2012, at http://telesintese.com.br/index.php/plantao/18300-anatel-inicia-consulta-do-termo-de-autorizacao-do-seac (accessed 1 October 2013).

281. "DEM questiona regulamentação de TVs por assinatura" (DEM questions the pay-TV regulation), *Notícias STF*, 21 November 2011, at http://www.stf.jus.br/portal/cms/verNoticiaDetalhe.asp?idConteudo=194170 (accessed 1 October 2013).

282. Instituto Telecom, "Ano novo, reivindicações antigas" (New Year, Old Claims), *Observatorio do Direito a Comunicação*, 11 January 2012, at http://www.direitoacomunicacao.org.br/content.php?option=com_content&task=view&id=8736 (accessed 1 October 2013).

serious reform by the Ministry of Communications to enforce the Constitution in terms of media ownership, there will be no democratization of licenses.

7.2.3 Digital Licensing

In order to properly manage spectrum allocation according to Article 211 of the LGT, Anatel manages the Basic Plans for Channel Distribution of Broadcast Services (PBRTV/PBTVD/PBTVA), which has been the subject of public consultations in many States (most recently, Public Consultation No. 35 for regions of Sao Paulo State and No. 4, focused on the Federal District).[283] In accordance with these plans, broadcast licensing is preceded by a bidding process (see section *5.1.1*), which can be initiated either by the Ministry of Communications, ex officio, or by an entity interested in providing the service. According to Article 223, paragraphs 1, 2, and 5, the licensing decision will be submitted to Congress, and is dependent on the approval of at least two-fifths of the house. Therefore, licenses are made official through decrees signed by the president of the Congress.

The fact that the approval of licenses is very dependent on members of Congress, and there is no further enforcement by the Ministry of Communications, has led to the heightened politicization of license ownership (see section *5*). The Constitution bans ownership and management of media outlets by deputies and senators,[284] but this has not prevented politicians from owning media. In fact, there is a close relationship between the major media conglomerates and the National Congress; for example, ex-president Sarney, who awarded a wide range of licenses for political reasons before the Constitution of 1988 was approved (see section *5.1.1*), retains political power as president of the Congress and owner of many media outlets in the northeastern region of the country. Therefore, all the old licenses awarded during this presidency have been constantly renewed and, as no substantial action has been taken against this and all the consitutional provisions have been disregarded, we can even foresee an expansion of other media licenses related to politicians.

In March 2011, *Folha de São Paulo* published a report proving that licenses for the exploitation of public broadcasting services had been won by proxies, who were in fact not real operators of radio and television channels (see section *6.1.5*).[285] At the beginning of 2012, following waves of criticisms of these practices, Decree 7670 was approved.[286] The bill changed in a positive way the conditions for participation in the tender for a license. Tougher conditions include obligations on the bidder to submit a detailed balance sheet and financial statement for their operations, input from independent auditors attesting to the economic capacity of the company, information about the source of funds, etc. But, even though this represents a step forward against the "oranges," the newly amended law continues to ignore issues related to the ownership of

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283. See http://sistemas.anatel.gov.br/SACP/Contribuicoes/TextoConsulta.asp?CodProcesso=C1700&Tipo=1&Opcao=finalizadas and http://sistemas.anatel.gov.br/SACP/Contribuicoes/TextoConsulta.asp?CodProcesso=C1654&Tipo=1&Opcao=andamento (accessed 6 October 2013).

284. Brazilian Constitution, Article 54, I, a.

285. E. Lobato, "Laranjas Compram Rádios e TVs do Governo Federal" (Proxies Buy Radio and TV Stations from the Federal Government), *Observatório da Imprensa*, 29 March 2011, at http://www.observatoriodaimprensa.com.br/news/view/laranjas_compram_radios_e_tvs_do_governo_federal (accessed 1 October 2013).

286. See http://www.mc.gov.br/component/content/article/24024 (accessed 1 October 2013).

licenses by politicians. [287] Even worse, this tendency of politicians to own broadcast licenses is perpetuated in the digital switch-over process.

In October 2006, a regulation from the Ministry of Communications (Portaria MC 652) has defined the criteria, procedures, and deadlines for the assignment of digital licenses.[288] It establishes that broadcasters shall require permits from the Ministry of Communications to broadcast digitally, and present the Ministry with projects guaranteeing the footprint according to the Basic Plan for Distribution of Digital Television Channels (PBTVD).

In addition to the heated debate about the adoption of the technical standard for digital television (see section *5.2.1*), Decree 5820/2006 was also criticized for failing to democratize the communications industry. To start with, Article 7 raises concerns about the perpetuation of dominant positions in the analog television market. For example, nowadays a 6 MHz frequency is used to broadcast only one program; however, using digital technology the same bandwidth can carry at least four different programs by, for instance, using multicasting technologies that are available for digital transmission. Therefore, since broadcasters holding licenses for analog channels were automatically entitled to digital spectrum without further licensing, at the end of the transition period they will have more room for channels than in the analog era, even after returning the frequencies for analog channels. Without clear regulation concerning this, it is possible to come to the conclusion that the federal government is donating space on the spectrum to existing grantees.

7.2.4   Role of Self-regulatory Mechanisms

The adoption of self-regulatory mechanisms is still a topic for debate in the Brazilian media. In 2004, during the mandate of President Lula, with the support of the National Federation of Journalists (*Federação Nacional dos Jornalistas*, FENAJ), there were attempts to establish a framework of Federal and Regional Councils of Journalism (CFJ).[289] The draft bill also proposed a Code of Ethics, and even though the project did not develop further, it fostered the debate on updating the Brazilian Journalists' Code of Ethics. In 2007, with input from labor unions, journalism teachers, and other contributions from a public consultation at FENAJ, a new text of the code[290] was approved by the Journalists National Congress, and is to be enforced by their labor union. However, it focuses on journalists, not on the media as a whole.

In 2010, the topic returned to the national political agenda when the government leader in the Chamber of Deputies, Cândido Vaccarezza, expressed the need for the creation of a self-regulatory body, mainly taking into account election periods, as a concern related to the vacuum that was left after the Press Law of 1967 was declared unconstitutional by the Federal Supreme Court in 2009. Despite many reprehensible and authoritarian provisions, the law also regulated the right to reply. The proposal related only to newspapers,

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287. V. A. Lima, "Quem Souber a Resposta Diga Qual é" (The One Who Knows the Answer, Say it), *Observatório da Imprensa*, 24 January 2012, at http://www.observatoriodaimprensa.com.br/news/view/quem_souber_a_resposta_diga_qual_e (accessed 1 October 2013)

288. See http://www.mc.gov.br/tv-digital (accessed 1 October 2013).

289. See http://www.fenaj.org.br/cfj/projeto_cfj.htm (accessed 1 October 2013).

290. FENAJ, "O Código de Ética dos jornalistas brasileiros" (Brazilian Journalists' Code of Ethics), *Observatório da Imprensa*, 18 September 2007, at http://www.observatoriodaimprensa.com.br/news/view/o-codigo-de-etica-dos-jornalistas-brasileiros (accessed 1 October 2013).

television, and radio, thus excluding the internet.[291] At the time, the advertising self-regulatory body, CONAR, was taken as a model.

In 2011, in response to the previous initiatives, the ANJ proposed a Permanent Program for Self-Regulation.[292] Once again, the mechanism focused only on newspapers and provided guidelines for members to recognize and report errors in articles, publish letters and emails from readers, establish channels for communicating with readers, etc. It also suggested the creation of an ombudsman, as this was already being widely proposed. It is important to add that in Brazil we only have ombudsmen for two newspapers: *Folha de São Paulo* and *O povo*, from Ceará. Among the news portals, only UOL and iG currently have ombudsmen.

7.3   Government Interference

7.3.1   The Market

Through advertising and subsidized loans, the state is a major sponsor of media outlets. As such, it has a role in the market in terms of empowering or disadvantaging different media outlets by diversifying or concentrating its expenditure.

But a recent publication by *Estado de São Paulo* has shown that public expenditure in advertising is on the rise. Using the Information Access Law to request data from different sectors of the federal government, the journalist was able to assess that in two years of her mandate, President Dilma had spent BLR 3.56 billion (US$ 1.61 billion) on advertising. Annual expenditure under the previous government had averaged BLR 1.44 billion (US$ 652 million).[293]

During President Lula's administration between 2003 and 2010, there was a substantial diversification of state advertising expenditure, which raised concerns among the major commercial media outlets that had previously been the prime beneficiaries of official advertising. Thus, in May 2009, *Folha de São Paulo* newspaper published a critical piece accusing the federal government of trying to buy the sympathy of the owners of small radio stations, newspapers, and magazines.[294] According to the report, in 2003, the Presidency spent advertising money at 499 media outlets. In 2009, governmental advertising spending was distributed among 5,297 media outlets, an increase of 961 percent. (See section *6.2.1*.) There were no significant increases in the amount of actual spending, but rather a change in strategy to the benefit of smaller radio stations and newspapers in the countryside.

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291. L. Borges, "Líder do governo defende auto-regulamentação da mídia" (Government leader defends self-regulation of the media), *Terra*, 6 May 2010, at http://noticias.terra.com.br/brasil/noticias/0,,OI4417821-EI306,00-Lider+do+governo+defende+autoregulamentacao+da+midia.html (accessed 1 October 2013).

292. See http://www.anj.org.br/sala-de-imprensa/noticias/anj-cria-programa-permanente-de-autorregulamentacao (accessed 1 October 2013).

293. F. Gallo. "Dilma Supera Lula nas dispesas com propaganda; juntos gastam R$16 bi" (Dilma surpasses Lula on advertising expenditure; together they have spent R$16 billion), *Estado de São Paulo*, 11 August 2013, at http://www.estadao.com.br/noticias/nacional,dilma-supera-lula-nas-despesas-com-propaganda-juntos-gastaram-r-16-bi,1063026,0.htm (accessed 6 October 2013)

294. See http://www1.folha.uol.com.br/fsp/opiniao/fz0106200903.htm (accessed 6 October 2013).

Nevertheless, despite broader distribution of state advertising, the manner of distribution still needs improvement, as—even after such changes—it is still too concentrated in the biggest media outlets and there is a lack of transparency about the criteria for such expenditure. For instance, in October 2011, a single issue of *Veja* received about US$1.5 million in payments for publishing official announcements.[295] In a separate case, Globo Media Conglomerate (Organizações Globo), which includes television stations, newspapers, and magazines, still receives almost half of all governmental funds for advertising.

The criteria used by the federal government for the allocation of advertising budgets was debated at a public hearing at the Commission for Science, Technology, Communication, and Informatics in 2011. Allocation of state advertising is governed by two legal documents: Law 12.232/10, which deals with general rules for bidding and contracting public advertising services provided by advertising agencies, and Decree 6.555/08, which regulates communications by the federal government. However, legal provisions on how advertising agencies are used as intermediaries in government spending are unclear, particularly when it comes to the maximum percentage advertising agencies can charge on such deals.[296] Also pushing for greater transparency during the first National Communications Conference (Confecom) in 2009, media owners, individual entrepreneurs, students, teachers, and activists who felt unrepresented formed Altercom to—among other things—fight for a fairer and clearer manner of distribution of state advertising that would help to boost the diversity of opinions in Brazilian society.[297]

Besides favoring some players in the market, not having a transparent procedure and mechanism for disbursing public money through advertising presents opportunities for the misuse of funds. In fact, there are several cases of Brazilian politicians using public resources for advertising to further personal gain.[298] This totally disregards Article 37 of the Constitution establishing the principle of impersonality in governmental advertising, which should be focused on education, information, or provision of guidelines, not self-promotion of individual political elites or civil servants.

7.3.2   The Regulator

Perhaps due to the complex institutional architecture, fragmented legal framework, and close ties with politicians and media outlets, what we face in Brazil is rather a lack of active media regulation. Licensing is not questioned and sanctions are not imposed unless civil society applies pressure for such action. This was the case, for example, with the publication of the study on media ownership, "Donos da Mídia," which led to some change in legislation, albeit marginal.

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295. See http://altamiroborges.blogspot.com/2011/12/as-relacoes-ambiguas-governomidia.html (accessed 1 October 2013).

296. L. Haje, "Governo e TCU dizem que publicidade federal segue normas legais" (Government and TCU say that federal advertising follows the law), *Observatório do Direito à Comunicação*, 9 November 2011, at http://www.direitoacomunicacao.org.br/content.php?option=com_content&task=view&id=8568 (accessed 1 October 2013).

297. See http://altercom.org.br/quem_somos (accessed 6 October 2013).

298. Recent examples include: http://m.g1.globo.com/pernambuco/noticia/2013/01/prefeito-de-caruaru-pe-e-condenado-por-publicidade-com-dinheiro-publico.html, and http://www2.prsc.mpf.gov.br/conteudo/servicos/noticias-ascom/ultimas-noticias/mpf-faz-levantamento-de-gastos-publicos-com-publicidade-e-pede-providencias-joinville (accessed 1 October 2013).

This does not mean that there are no supervisory or sanctioning powers established in the legislation. According to the Brazilian Code of Telecommunications (Law 4117/62), the General Law of Telecommunications (LGT; Law 9472/97), and an Agreement between the Ministry of Communications and Anatel, competence for the overseeing of broadcast services is to be organized as follows:

Table 17.

Breakdown of regulatory tasks in the communications sector

Issue	Competency	Execution
Technical	Anatel	Anatel
Content	Minicom	Anatel Minicom
Legal and contractual obligations	Minicom	Minicom

Source: Ministry of Communications (Minicom)[299]

A list of administrative sanctions implemented by the Ministry of Communications is available on the Minicom website,[300] together with the Annual Supervision Plan of Broadband Services for 2013. Radio stations and community radio stations are at the top of the list for such administrative sanctions, with fines mostly averaging BRL 1,000 (US$ 500).

Making this list public and opening a channel of public debate via the Minicom portal can be seen as a good initiative, but, once again, because of close political ties in media ownership substantial change (which would require the cancellation of irregular licenses and permissions) remains elusive. In fact, it is worth mentioning that the only case of an active broadcaster that had its license revoked was TV Rede Excelsior, back in 1970, when, due to political reasons, it was shut down by the Brazilian dictatorship.

7.3.3   Other Forms of Interference

The Brazilian media is under-regulated and its historical ties to political parties are reflected in their ownership. As such, extra-legal pressure and threats against editors and reporters have been exerted, not directly by state authorities but by politicians in power, thus indirectly affecting freedom of expression in major media outlets from both offline and digital environments.

2011 saw a paradigmatic change, mainly because of a rise in citizen responses to media censorship or biased coverage. One major episode was the launch of *Privataria Tucana*, a book by journalist Amaury Ribeiro Júnior, which highlighted the influence of mainstream media in shaping Brazilian public opinion. The book made claims and showcased evidence about—among other crimes—money laundering by the PSDB government of billions of dollars from the privatization process, including the close involvement of the presidential candidate José Serra. Although it was a bestseller, the book was initially ignored by the major

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299. See http://www.mc.gov.br/acoes-e-programas/radiodifusao/fortalecimento-da-acao-fiscalizatoria (accessed 1 October 2013).

300. See http://www.mc.gov.br/acoes-e-programas/radiodifusao/fortalecimento-da-acao-fiscalizatoria (accessed 1 October 2013).

media outlets in the country, often at the request and under pressure from political parties that were involved in the scandals depicted in the book. Nevertheless, the book made waves on the social networks, finally forcing the traditional media to comment on it.

There have also been cases of journalists and editors fired following pressure from politicians. An example of this was the case of Ricardo Gomez Filho, who was fired from *Folha Metropolitana*. The main reason was that the journalist had questioned deputy Carlos Roberto de Campos (PSDB-SP) in an interview about cases of nepotism in the São Paulo Energy State Department.[301]

In fact, construction companies and land property owners have always been targets of political pressure in the country, a process that has intensified in recent years after Brazil was chosen to host both the football World Cup in 2014 and the Olympics in 2016. An example of another recent episode of extra-legal censorship took place during the coverage of a violent eviction by the Military Police of residents in a suburb of São Paulo, when journalists were prevented from interviewing community residents.[302]

7.4   Assessments

Brazil is going through a process of trial and error to adapt its legal framework to the digital media context. We can analyze such attempts in terms of digital inclusion, transparency and accountability in broadcast licensing, and access to content (plural, diverse, and free).

Regarding digital inclusion, the Brazilian government has been trying different sorts of incentives to improve broadband connectivity and also access to hardware, with little success. The National Broadband Plan (PNBL) has been insufficient. Due to pressure from telecoms companies, and with no regard for the public interest, the plan has not yet achieved its aim of universal coverage. Concerning hardware affordability, governmental incentives are mostly indirect, and are related to tax incentives from the industrial policy. The results are rather questionable, as only a few companies are eligible for such incentives, and until now, according to the annual reports of tax expenses from the Ministry of Finance, none have yet been taken up.

Similarly, direct incentives from the Brazilian Development Bank (BNDES) have benefited only a very few companies. Although there is a consensus within the government about the need to revise this funding model, no other proposal has been tabled so far. As a result, costs have largely been passed on to consumers, and the pricing of STBs still represents an obstacle to greater penetration of digital television in Brazil. Athough there is a rumor that the government will make efforts to converge the strategies of the PNBL with

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301. See http://www.luisnassif.com/profiles/blogs/acabo-de-sair-da-folha (accessed 1 October 2013).

302. N. Mazotte, "Repórteres sofrem censura, ameaças e agressões na cobertura do processo de desocupação de Pinheirinho" (Reporters suffer censorship, threats and attacks in covering the Pinheirinho eviction), Blog Jornalismo nas Américas, 24 January 2012, at https://knightcenter.utexas.edu/pt-br/blog/reporteres-sofrem-censura-ameacas-e-agressoes-na-cobertura-do-processo-de-desocupacao-de-pinhei (accessed 1 October 2013).

those of the SBTVD-T, mainly by fostering the production of STBs which would also work as internet access devices, no evidence of this has surfaced to date.

In terms of transparency and fairness in the licensing process, the strong ties between politicians and the communications sector look set to transcend the digital switch-over. There is justifiable concern that, due to the technical standard adopted for digital television, opportunities for new entrants to the market will be at best limited.

In terms of access to plural and diverse content, while there have been some failed attempts at self-regulation within FTA television, more concrete achievements have already been reached in the field of pay-TV, as new regulations have taken a step further toward convergence, unifying the norms for all types of pay-TV (cable, satellite, microwaves, etc.) This change also allows mobile companies to offer bundled services including television, telephone, and broadband packages. Must-carry rules have also been established for the transmission of regional and independent content on pay-TV, although—since these have only recently come into force—a close watch on the implementation of such rules is needed to avoid setbacks.

The same is the case with regard to the implementation of the digital public channels proposed by the SBTV-D, a positive initiative that has already been delayed. In terms of internet content, even though there is no specific media regulation, the country is in the process of approving the Civil Rights-Based Framework for Internet in Brazil (Marco Civil da Internet), which will guarantee freedom of expression as a whole, establish a safe harbor for intermediaries, and ensure that content can only be removed by court order.

Nonetheless, such measures have not been sufficient to fully meet the challenges of digital transition. Articles 220, 221, and 223 of the Constitution (see section *6.4*) are still under-regulated, allowing monopolies to continue. Indeed, there is a need for a concise and coherent media regulatory framework, properly addressing topics such as the democratization of grants; content and advertising regulation; and media convergence, among other things.

The country is going through an interesting period, with growing pressure to revise its regulation of the media. Some institutional changes have already happened, as ANCINE has gained supervisory powers with regard to pay-TV content. Nevertheless, there is no agency to regulate content. In order to address this, the government has promoted a debate about creating a dedicated regulatory agency to cover media content.

While traditional broadcasters have condemned the initiative as censorship, civil society organizations that work for democratization of the media have pressed for a consultation about content regulation. They argue that the country needs a one-stop shop for broadcast regulation, perhaps a National Communication Council, to oversee both content regulation and the licensing of broadcasters.

During the process of revising the legal framework for the media, there has been an increase in public consultation, though with some setbacks as regards civil society participation. While such entities have been represented on the consultation boards defining the technical standards for Brazilian digital television, they have been excluded from the SBTVD-T Forum (established to oversee the follow-up of the implementation of SBTVD).

Outside civil society groups, there is a general lack of public participation in the formulation, implementation, and evaluation of media policy and content regulation. Civil society is already engaged, for instance, in pushing forward Confecom guidelines and establishing an online public consultation for a regulatory framework.[303] However, a wider space for participation, as well as greater transparency and accountability measures, are needed in the formulation of media policy.

No policies or legal provisions have had a positive impact on pluralism and diversity in digital broadcasting. Digital broadcasting policies at present maintain the status quo of ownership, which is characterized by a monopolistic situation.

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303. See http://www.comunicacaodemocratica.org.br (accessed 1 October 2013).

8. Conclusions

8.1 Media Today

8.1.1 Positive Developments

- The digital divide is still wide, accounting for about 50 percent of the population, particularly in rural areas and in the north and northeast of the country. But the connected population has increased rapidly in absolute terms. Access to computers and other devices with internet access is improving in certain strata, and the internet continues to provide a promising environment for citizens to acquire the tools and knowledge necessary to understand and participate in democratic life.

- Social networks, as well as platforms for blogging and user-generated content, have established high levels of penetration among Brazilian internet users. Engagement with social media is not, by itself, indicative of access to qualitatively better or more diverse news and information. Greater exposure of mainstream audiences to alternative media is, nonetheless, a concrete reality, as can be seen from the level of popularity achieved by an initiative such as Mídia NINJA during the 2013 protests.

- The recent approval of the recent Information Access Law (Law 12527/11) has given citizens a valuable tool to obtain data that were previously difficult to acquire. There are still issues on how the law is being implemented and how to create higher awareness of this tool is also a challenge. Besides this, responses are not always prompt or satisfactory, but the fact that requests for information can now be formally submitted is encouraging.

- The Conditional Access Service Law (Law 12485/11) established coherent and unified treatment of pay-TV, which was previously regulated according to the technology used (different rules for cable, DTH, and MMDS), leading to contradictory regimes for services that were essentially the same. The law also established cross-ownership limits among certain telecommunications and broadcasting companies, which can be criticized in terms of criteria, implementation, and enforcement, but do provide a precedent for further debates on cross-media ownership.

- The Civil Rights Framework for the Internet Draft Bill ("Marco Civil"), drafted through an open and collaborative consultation process, was introduced in the National Congress in 2011. It establishes a forward-looking regime for internet use in Brazil, focussing on freedom of expression and other user rights, as well as key infrastructure issues such net neutrality. It is still unclear as to how adequately the final

text will reflect the debates that occurred during the consultation—pressure from telecommunications companies against net neutrality provisions is particularly strong—but the process has been positive from a democratic standpoint. It also represents an opportunity for Brazil to set an important international precedent, as the first country to transform a set of principles for internet governance—developed through a multi-stakeholder approach—into something enforceable.

- While there are flaws in the EBC/TV Brasil model, the creation of the company and the broadcaster represents a step forward in the conversation about public service broadcasting in Brazil, the development of which has been historically neglected in favor of strictly commercial broadcasting.

- Civil society engagement with media policy, although still mostly restricted to the NGOs and actors traditionally involved with the field, received a boost with the 2009 National Communications Conference convened by federal government, as well as increasing interest and mobilization around tangential or overlapping topics, such as internet and telecommunications regulation.

8.2.2   Negative Developments

- The transition to DTT is progressing slowly across the country, and mainly benefits those citizens who can afford set-top boxes and HD television sets. Additionally, digitization has not resulted in greater diversity of sources for content, since incumbent broadcasters were secured additional spectrum during the switch-over process, and the digital dividend will be auctioned to 4G providers.

- There is no end in sight for the standardization process for digital radio, which has been dragging on since 2007.

- Despite obvious conflicts of interest and constitutional impediments, many members of both houses of the National Congress own broadcasting companies, or are related to owners of these companies. Political misuse of broadcast licensing has been a fixture of the media landscape for years, and there is no sign that this is going to change. Since the Constitution requires that two-fifths of the Congress must vote *against* license renewals, the system provides *de facto* automatic renewal.

- Media policy continues to be a taboo subject in Brazil. Traditional media tend to frame every attempt at media reform as an attack on freedom of expression, and the federal government has consistently avoided the issue. Consequently, many relevant articles of the Constitution continue without proper legislative attention: Article 220/5 (prohibition of monopolies and oligopolies in the means of communication), Article 221/1 (preference for educational, cultural, and informative goals in media), Article 222/2 (incentives for the production of independent content), Article 222/3 (the protection of regional culture through the regionalization of content production), and Article 223 (the complementarity of public, state, and private broadcasting).

- Regardless of a steady increase in internet penetration rates, the digital divide is still an issue in Brazil. Households with lower incomes and/or located in rural areas have less access to the service, and the results of the National Broadband Plan are so far hardly encouraging. Additionally, the quality of broadband services is notoriously low, and recent global mergers/acquisitions in the telecoms market (Telefónica and Telecom Italia, Oi, and Portugal Telecom) point towards further concentration within the country.

- Internet law has several gaps that need to be filled. Legislative attempts to regulate ISPs and online behavior have so far resulted in misguided bills that regulate the internet through the lens of criminal law, while fundamental issues such as ISP liability remain unaddressed. The Civil Rights Framework for the Internet Draft Bill (the "Marco Civil" bill) could potentially solve some of these issues, but there are no guarantees that the final text, if approved, will be satisfactory.

- Print media are in crisis, with massive layoffs in recent months, the disappearance of a number of publications, and uncertain experiments with business models. Some of the incumbent actors are well positioned in terms of the online reach of their outlets—or have diversified their operations into related areas, such as *Folha de São Paulo* with ISP UOL, and Abril with education—but the future is still uncertain, particularly for investigative journalism, despite the encouraging success of crowdfunding experiments by independent outlets such as Agência Pública and Repórter Brasil.

- While journalists recognize the opportunities offered by digitization, they also point out that working conditions in Brazil have been negatively impacted over the last decade, as they are required to work extra hours, assume new roles to accommodate demands that derive from digital news delivery, and are subjected to informal and/or precarious work regimes.

- After many years of dormancy, the Social Communication Council was reactivated in 2012 under severe criticism, such as the absence of women or black members on the advisory board, and the lack of proper representation of non-commercial civil society, preventing a broader, more inclusive conversation on media policy, implementation, and evaluation.

- Brazil has become over-reliant on foreign technologies and platforms in the online environment. Facebook, Google, Apple, and Amazon are responsible for many crucial services related to content distribution, hosting, social networking, and web search, which increasingly shape most of Brazil's media consumption. Besides economic vulnerability, privacy is also an issue, and the draft bill on data protection that was gestated by the Ministry of Justice has yet to be sent to Congress.

8.2   Media Tomorrow

It has been increasingly difficult to predict major events in the Brazilian media landscape. The outcomes of the transition to digital broadcasting are relatively easy to anticipate, with the preservation of incumbents' control of the market and telcos taking over the freed spectrum for 4G services. What exactly this will mean in the shifting scenario of digital convergence is much harder to evaluate.

For the major players of traditional media, as in the rest of the world, this is a time for redesigning business models, and securing or extending the lifespan of their influence over public discourse. Lack of regulation, lax enforcement of existing rules, and concentration of media ownership can only go so far in helping these actors maintain control of the market. Changes in habits of media consumption, platform convergence, increasing access to information and communication technologies: these all provide significant challenges. Stiff competition from foreign capital, channeled through telecommunications and internet companies, may present an even greater obstacle.

Some of the incumbent players have shown themselves very capable of maintaining a strong online presence, measured by the popularity of web portals and online properties controlled by Folha, Globo, Estado, and Record. A strong online presence is, however, to be expected, given the mind share these companies have accumulated through the years, and is a transitory position. Companies that have diversified their business—such as Folha did with UOL (in effect becoming an internet company), or Abril with Abril Educação (providing educational content and services)—will fare better in the new scenario than a traditionally strong player such as Estado, which continues to operate mainly as a newspaper. Globo, still financially healthy and still banking on the high penetration of FTA television in Brazil, will have to compete for attention with over-the-top content delivered through platforms that are absolutely out of its control, such as YouTube and Netflix.

For Brazilian citizens, the future promises a relatively more diverse media ecosystem, but with considerable challenges and uncertainty at regulatory, economic, and social levels. Privacy and net neutrality take the forefront in the conversation about online-mediated democratic discourse, as well as filtering and censorship of content, and surveillance of online activities. There are also issues posed by the radically different modes of content consumption that an always-connected ecosystem provides, such as the effect of extremely selective content consumption through personalized feeds or algorithm-mediated content distribution, the noise generated by over-abundant information.

List of Abbreviations, Figures, Tables, and Companies

Acronyms and Abbreviations

ABERT	Brazilian Association of Radio and Television Broadcasters (*Associação Brasileira de Empresas de Rádio e Televisão*)
ABRA	Brazilian Association of Broadcasters (*Associação Brasileira de Radiodifusores*)
ABRAJI	Brazilian Investigative Journalism Association (*Associação Brasileira de Jornalismo Investigativo***)**
ACERP	Educational Communications Association Roquette-Pinto (*Associação de Comunicação Educativa Roquette-Pinto*)
ADPF	Action for Breach of Fundamental Precept (*Ação por Descumprimento de Preceito Fundamental*)
AM	Amplitude modulation
Anatel	National Telecommunications Agency (*Agência Nacional de Telecomunicações*)
ANCINE	National Cinema Agency (*Agência Nacional de Cinema*)
ANF	News Agency of the Favelas (*Agência de Notícias das Favelas*)
ANJ	National Association of Newspapers (*Associação Nacional de Jornais*)
ANVISA	National Health Surveillance Agency (*Agência Nacional de Vigilância Sanitária*)
ARPUB	Association of Public Radios in Brazil (*Associação das Rádios Públicas do Brasil*)
BNDES	National Bank for Economic and Social Development (*Banco Nacional de Desenvolvimento Econômico e Social*)
BRIC	Brazil, Russia, India, China
BTC	Brazilian Telecommunications Code
CADE	Administrative Council for Economic Defense (*Conselho Administrativo de Defesa Econômica*)
CBN	*Central Brasileira de Notícias*
CBT	Brazilian Telecommunications Code (*Código Brasileiro de Telecomunicações*)
CFJ	Federal and Regional Councils of Journalism
CGI	Brazilian Internet Steering Committee (*Comitê Gestor da Internet*)
CIDE	Contribution for Intervention in the Economic Domain

CLUA	Climate and Land Use Alliance
COFINS	Contribution for the Financing of Social Security (*Contribuição para o Financiamento da Seguridade Social*)
CONAR	National Council of Advertisement Self-regulation (*Conselho Nacional de Autoregulamentação Publicitária*)
Confecom	National Communications Conference (*Conferência Nacional de Comunicação*)
CPJ	Committee to Protect Journalists
CPqD	Center for Research and Development in Telecommunications
DPI	Deep packet inspection
DRM	Digital Radio Mondiale
DTH	Direct-to-home
DTT	Digital terrestrial television
EBC	Brazilian Communications Company (*Empresa Brasileira de Comunicação*)
ECAD	Central Collection and Distribution Office (*Escritório Central de Arrecadação e Distribuição*)
Ejesa	Empresa Jornalística Econômico
FCBTVE	Fundação Centro Brasileiro de TV Educativa
FENAJ	National Federation of Journalists (*Federação Nacional dos Jornalistas*)
FISTEL	Telecommunications Supervision Fund (*Fundo de Fiscalização das Telecomunicações*)
FM	Frequency modulation
FNDC	National Forum for Democratizing Communications (*Forum Nacional pela Democratização da Comunicação*)
FTA	Free-to-air
GDP	Gross domestic product
HD	High definition
HDI	Human development index
IAB	Internet Advertising Bureau
IBAMA	Brazilian Institute for the Environment and Renewable Natural Resources (*Instituto Brasileiro do Meio Ambiente e Dos Recursos Naturais Renováveis*)
IBGE	Brazilian Institute of Geography and Statistics (*Instituto Brasileiro de Geografia e Estatística*)
IBOC	In Band On Channel
IM	Instant Messaging
IPEA	Institute of Applied Economic Research (*Instituto de Pesquisa Econômica Aplicada*)
IPTV	Internet protocol television
ISDB-T	Integrated Services Digital Broadcasting–Terrestrial
ISP	Internet service provider
IT	Information technology
ITU	International Telecommunication Union
IVC	Instituto Verificador de Circulação
LAN	Local area network
LCD	Liquid crystal display
LGBTTT	Lesbian, gay, bisexual, transvestite, transsexual, transgender

LGT	General Law of Telecommunications (*Lei Geral de Telecomunicações*)
MCCE	Movement for Combating Electoral Corruption (*Movimento de Combate à Corrupção Eleitoral*)
MCTI	Ministry of Science, Technology, and Innovation (*Ministério da Ciência, Tecnologia e Inovação*)
MDIC	Ministry of Development, Industry, and Foreign Trade (*Ministério do Desenvolvimento, Indústria e Comércio Exterior*)
Minicom	Ministry of Communications (*Ministério das Comunicações*)
MMDS	Multipoint Multichannel Distribution System
NGO	Non-governmental organization
NINJA	Integrated Narratives of Journalism and Action (*Narrativas Integradas de Jornalismo e Ação*)
PADIS	Program to Support the Technological Development of the Semiconductor Industry (*Programa de Incentivo ao Setor de Semicondutores*)
PASEP	Program for Social Integration Contribution
PATVD	Program to Foster Technological Development of the Digital TV Equipment Industry (*Programa de Apoio ao Desenvolvimento Tecnológico da Indústria de Equipamentos*)
PC	Personal computer
PEC	Press Emblem Campaign
PNAD	National Household Sample Survey (*Pesquisa Nacional por Amostragem de Domicilio*)
PNBL	National Broadband Plan (*Plano Nacional de Banda Larga*)
PPB	Basic Productive Process (*Processo Produtivo Básico*)
PPP	Public-Private-Partnership
PROTVD	Program of Support for the Implementation of Brazilian Terrestrial Digital TV (*Programa de Apoio à Implantação do Sistema Brasileiro de TV Digital*)
PSDB	Brazilian Social Democracy Party (*Partido da Social Democracia Brasileira*)
PSOL	Party of Socialism and Freedom
PV	Green Party (*Partido Verde*)
PT	Workers' Party (*Partido dos Trabalhadores*)
R&D	Research and development
RBS	Rede Brasil Sul de Comunicação
Rits	Information Network for the Third Sector (*Rede de informações para o terceiro setor*)
RNTPD	National Network for Terrestrial Digital Public TV (*Rede Nacional de TV Pública Digital Terrestre*)
SAL	Ministry of Justice's Office of Legislative Affairs (*Secretaria de Assuntos Legislativos*)
SBRD	Brazilian Digital Radio System (*Sistema Brasileiro de Rádio Digital*)
SBT	Sistema Brasileiro de Televisão
SBTVD	Brazilian System of Digital Television
SBTVD-T	Brazilian System of Terrestrial Digital Television
SD	Standard definition
SeAC	Conditional Access Services (*serviço de acesso condicionado*)
SECOM	Brazilian Secretariat of Social Communication (*Secretaria de Comunicação Social da Presidência da República*)

SET	Brazilian Society of Television and Telecommunications Engineering (*Sociedade Brasileira de Engenharia de Televisão e Telecomunicações*)
SIAFI	Federal Government's Integrated System of Financial Administration (*Sistema Integrado de Administração Financeira do Governo Federal*)
SJSP	Trade Union of the Professional Journalists of the State of São Paulo (*Sindicato dos Jornalistas Profissionais do Estado de São Paulo*)
STB	Set-top box
TCU	Court of Accounts of the Union (*Tribunal de Contas da União*)
UGC	User-generated content
UOL	Universo Online

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Mapping Digital Media is a project of the **Open Society Media Program** and the **Open Society Information Program.**

Open Society Media Program

The Media Program works globally to support independent and professional media as crucial players for informing citizens and allowing for their democratic participation in debate. The program provides operational and developmental support to independent media outlets and networks around the world, proposes engaging media policies, and engages in efforts towards improving media laws and creating an enabling legal environment for good, brave and enterprising journalism to flourish. In order to promote transparency and accountability, and tackle issues of organized crime and corruption the Program also fosters quality investigative journalism.

Open Society Information Program

The Open Society Information Program works to increase public access to knowledge, facilitate civil society communication, and protect civil liberties and the freedom to communicate in the digital environment. The Program pays particular attention to the information needs of disadvantaged groups and people in less developed parts of the world. The Program also uses new tools and techniques to empower civil society groups in their various international, national, and local efforts to promote open society.

Open Society Foundations

The Open Society Foundations work to build vibrant and tolerant democracies whose governments are accountable to their citizens. Working with local communities in more than 70 countries, the Open Society Foundations support justice and human rights, freedom of expression, and access to public health and education.

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