

BRAZIL

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Brazil remain on the Watch List in 2026.¹

Executive Summary: Brazil has continued to enhance its enforcement efforts against a wide variety of piracy operators, and in some cases exemplified best practices to its Latin American neighbors. However, the Government of Brazil's withdrawal of commitments to ratify and implement the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively, the WIPO Internet Treaties), along with proposals that interfere with Brazilian creative content markets, existing and proposed burdensome taxes, rampant levels piracy across creative sectors, and delays implementing critical online anti-piracy tools unfortunately reduce the visibility of some of last year's successes.

IIPA continues to commend Brazil's enforcement actions against online piracy over the past few years, including the latest phase of Operation 404 in November 2025. However, most anti-piracy actions prosecuted by Brazilian federal authorities are concentrated during the phases of Operation 404, and recent personnel changes raise questions about Brazil's commitment to provide the necessary political support, required human resources, and budget to ensure the continuity of Operation 404. Moreover, after six years of successful Operation 404 campaigns, the Government of Brazil should now implement more consistent and continuous anti-piracy operations throughout the year. Enforcement agencies, including during Operation 404 phases, should also target piracy operations that offer hacking tools, circumvention devices, and modification (mod) chip installation services, and that develop tools that specifically support video game piracy and circumvention of technological protection measures (TPMs). The Government of Brazil should create an Operation 404 Department or Section inside the Executive Branch, securing the future of this good initiative. The creation of a stable structure will also reduce the lapses between different waves of the operation and with more personnel, training activities will increase for the benefit of different states in Brazil.

Additionally, while São Paulo State Public Prosecutor's Office cybercrime unit, *CyberGaeco*, continues to support the creative industries by successfully targeting TPM circumvention devices and the National Telecommunications Agency (ANATEL) again increased efforts to block pirate pay-TV channels and seize piracy devices (PDs) this year, unfortunately, the Brazilian Film Agency (ANCINE) continues to delay, now for roughly two years, the implementation of its legally codified administrative site-blocking measures. Additional political support and increased human and financial resources are needed across Brazil's criminal, civil, and administrative IP enforcement agencies at all levels. Further, more efforts are needed to improve public-private and private-private partnerships that are necessary to tackle Brazil's piracy challenges.

Brazil's failure to ratify and implement the WIPO Internet Treaties is one of the primary concerns for rights holders in all of Latin America where Brazil is the largest market in the region for all creative industries. Furthermore, IIPA remains extremely concerned about Brazil's 2024 proposed amendments to the Copyright Act (4868/2024) supported by the Ministry of Culture that would create a new additional remuneration right in addition to the existing exclusive right, and problematic definitions of communication to the public and public performance. It is therefore essential for Brazil to reassess its latest copyright amendment proposals and instead ratify and fully implement the WIPO Internet Treaties.

Regarding market access barriers, unfortunately, taxes on video game consoles and accessories remain excessively high relative to other major markets and IIPA encourages Brazil to reduce the burden on this sector of the

¹ For more details on Brazil's Special 301 history, see previous years' reports at <https://iipa.org/reports/reports-by-country/>. For the history of Brazil's Special 301 placement, see <https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.docx>.

economy as the country completes its current reform effort. IIPA also continues to be concerned about potential new taxes and regulation for video-on-demand (VOD) services, such as permitting accounting sharing, as well as digital services taxes (DSTs). Moreover, it is important that Brazil does not implement network fees.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Support the Ministry of Justice and Public Security's (MJSP) coordination with the Department of Intelligence and Integrated Operations (DIOPI) to establish a dedicated structure and internal regulations for Operation 404, setting the basis for a permanent, continuous and effective program with training, research and enforcement components integrated into one single Department or Section in the Ministry of Justice and Public Safety.
- Ensure that ANCINE implements Article 3 of Federal Law No. 14,815/2024 and provides administrative enforcement against the illegal transmission of audiovisual content.
- Ensure that ANATEL continues deploying administrative blocking for piracy in general and on pay-TV channels and preventing the importation and distribution of PDs.
- Encourage state courts nationwide to assign specialized courts or judges to uniformly handle IP cases and implement a long-term national program to train judges, prosecutors, and police officers.
- Ensure the *Conselho Nacional de Combate à Pirataria* (National Council to Combat Piracy, CNCP) and the Interministerial Group on Intellectual Property (GIPI) continue to have strong political support and greater human and financial resources to engage in cross-industry efforts against copyright infringement and online piracy.
- Improve border controls against the importation of counterfeit video game hardware, PDs, modified consoles, and circumvention devices.

Legal Reforms

- Ratify and fully implement the WIPO Internet Treaties.
- Abandon proposals to introduce an additional remuneration right for holders of copyright and related rights and unclear definitions for the scope of communication to the public and public performance.
- Ensure legislative proposals related to artificial intelligence (AI) meet the standards related to intellectual property (IP) protection set forth by the G7 Hiroshima AI Process.
- Follow through with revisions to the Customs Law to clarify that the retention of counterfeit or any other illegal products by customs authorities does not require a court order.
- Uphold legacy publishing agreements.

Market Access

- Foster industry growth by reducing high tariffs and taxes placed on video game products.
- Mitigate imposition of the Condecine tax and refrain from developing excessively burdensome VOD or digital platforms regulations.
- Reform the collective management organization (CMO) system to guarantee efficiency, transparency, and oversight; and reaffirm that rights holders can license music directly.
- Refrain from establishing a digital services tax.
- Refrain from implementing network fees.
- Remove local content and screen quotas for audiovisual works.

ENFORCEMENT

Piracy in Brazil remains an issue. At a December 2024 anti-piracy program hosted by the Brazil National Institute of Industrial Property (INPI), INPI President Júlio César Moreira shared the Government of Brazil lost over

US\$80 billion in revenue in 2024 due to piracy.² Stream-ripping sites remain popular in Brazil including *y2meta.is* and *mp3converter.fr* both of which received the highest level of traffic from Brazil over the last 12 months according to *SimilarWeb*. A further popular example includes *y2down.cc*. Equally popular and harmful to rights owners are stream-ripping mobile apps.

Audiovisual piracy in Brazil has continued to evolve from pirate streaming sites to large-scale IPTV/TV-box ecosystems, apps, and aggregated streaming portals, many of which stream live pay-tv and VOD content. Enforcement operations have targeted IPTV, apps, and domains, and authorities report blocking hundreds of applications in successive waves, but some pirate services are increasingly distributed via mobile apps and abroad-hosted domains, complicating enforcement. Online piracy (VOD and pay-TV) available through devices, Internet applications, and sites is also a major cause for concern. Reports show that 36.8% of Brazilian households with broadband access consume pirated materials online.³

Digital piracy remains the dominant format for the unauthorized access of video game products in Brazil. The most relevant video game piracy format is the resale of unauthorized digital accounts. In terms of audience and content availability, the two most prevalent formats for video game piracy continue to be linking sites, with approximately 20% decrease on the overall visits, to local sites, accumulated up to September 2025 in Brazil. At the same time however, there was an increase in accessing foreign illegal linking sites from Brazil, registering over 71 million accumulated visits in 2025 for the top 13 piracy sites. Commercial illegal websites for digital video game accounts registered a 9% increase in monthly visits this year compared to the previous period and the number of active players (on websites) in active piracy ecosystems increased by 50% compared to the previous year. While the BitTorrent content audience share for illegal game titles remained steady at 15%, there is an increasing audience for other unauthorized digital goods sites such as the so-called cheats and coins, with more than 188 million monthly visits accumulated in 2025 from January to September, representing a 300% surge compared to two years earlier (2023). Additionally, there are at least seven main platforms providing infrastructure to the ecosystem of illegal digital accounts websites in Brazil: *LojaIntegrada*, *LojaVirtual*, *NuvemShop*, *Shopify*, *Yampi*, *Tray*, and *Wbuy*. There is also an increasing problem related to retro and preloaded game consoles, affordable options among customers offering legacy game titles preloaded to generic hardware devices. Thousands of titles per device/console are made available, mostly via illegal shops and outlet booths in popular markets and neighborhoods, most recently rights holders are seeing a growing presence of these illegal products in online marketplaces. Platforms like *Shopee*, *AliExpress*, *Temu*, *Ebay*, and *Amazon* are extremely popular for preloaded devices offered to Brazilian users.⁴

Some factors that make tackling piracy in Brazil especially challenging include: (i) the availability of inexpensive piracy hardware and ready-made piracy apps; (ii) that many infringing platforms host infrastructure outside Brazil, adding complexity to takedown/blocking efforts; (iii) large-scale IPTV operations can generate significant revenue for Brazilian organized crime syndicates; (iv) a lack of consumer awareness about the dangers of accessing pirated content paired with high user demand for U.S. creative content; and (v) the low levels of compliance by e-commerce platforms on Know Your Business Customer (KYBC) policies, making these platforms enablers for professional commercial piracy actors.

While these are significant piracy challenges, rights holders find the overall piracy enforcement situation in Brazil is improving considering the positive level of support received from law enforcement agencies to tackle online piracy. This is reflected by a growing number of cases, using a variety of anti-piracy strategies, against Brazil's growing ecosystems of piracy operators and services. In an additional positive sign last year, rights holders reported more complex piracy cases involving organized crime activities that were successfully brought to law enforcement

² See <https://www.gov.br/inpi/pt-br/central-de-conteudo/noticias/inpi-sedia-oficina-regional-sobre-delitos-contra-a-propriedade-intelectual>.

³ See <https://telesintese.com.br/wp-content/uploads/2024/12/Informe-de-Alianza.pdf>.

⁴ In terms of visibility and market share Shopee has impressive one billion monthly visits in Brazil while Temu counts for another 830 million, followed by Amazon with over 200 million – all these platforms have resilient and prolific local user profiles commercializing these illegal devices.

authorities.⁵ In particular, some rights holders reported especially positive engagements with the Ministry of Justice and Public Security's cybercrime unit CIBERLAB, the Public Prosecutor's Office of the State of Sao Paulo cybercrime unit *CyberGaeco*,⁶ the special cybercrime police unit of Brasilia Civil Police, CORF, and cybercrime police from the states of Santa Catarina and Parana.

Given these significant piracy challenges in Brazil, IIPA and its members strongly encourage Brazil to take the priority actions identified below.

- **Support MJSP's coordination with DIOPI to establish a dedicated structure and internal regulations for Operation 404, setting the basis for a permanent, continuous, and effective program with training, research and enforcement components integrated into one single Department or Section in the Ministry of Justice and Public Safety.**

While the overall levels of piracy in Brazil remain high by global standards, enforcement efforts are having a notably positive impact, especially Operation 404, as executed by MJSP's cybercrime unit CIBERLAB in coordination with DIOPI. Operation 404's eighth phase took place in November 2025 and included coordination with Argentina, Paraguay, Peru, and for the first time Ecuador, which resulted in blocking or suspending 535 websites and illegal streaming applications, removing thousands of pirated items from online repositories and social networks, executing 44 search and seizure warrants, and making seven arrests. Operation 404's seven previous phases, starting in November 2019, took down 2,040 pirate websites and 1,377 illicit streaming apps, removed more than 400 social media profiles, and resulted in the arrest of 55 people.⁷ These targets have included commercial digital piracy sites, download sites dedicated to video game piracy, applications with pirated audiovisual content, games, music, and sports events, MP3 download and stream-ripping sites, and more. IIPA commends the Government of Brazil for growing Operation 404 into one of the world's leading online anti-piracy criminal enforcement campaigns.

After six years of successful Operation 404 campaigns, the Government of Brazil should now have the confidence and expertise to implement more consistent and continuous anti-piracy operations throughout the year. Additionally, Brazilian enforcement agencies, including during Operation 404 phases, should also target piracy operations that offer hacking tools, circumvention devices, and mod installation services, and that develop video game emulators and other tools that specifically support video game piracy and circumvention of TPMs. The Government of Brazil should also not overlook the significant work being conducted by *CyberGaeco*. The success of *CyberGaeco*, which included the prosecution of more than 35 illegal game sites in 2024 alone, should be supported and encouraged to be replicated in different states by other special cybercrime units.

- **Ensure that ANCINE implements Article 3 of Law No. 14,815/2024 and provides administrative enforcement against the illegal transmission of audiovisual content.**

On January 16, 2024, Brazil enacted Law No. 14,815/2024, Article 3, that empowers ANCINE to "determine the suspension and cessation of unauthorized use of Brazilian or foreign protected works" by "prevent[ing] their issuance, diffusion, transmission, retransmission, reproduction, access, distribution, storage, hosting, exhibition, availability, and any other means that imply copyright infringement." This law was a welcome development as a potentially powerful anti-piracy tool that rights holders could rely on outside of Operation 404 campaigns to block illicit audiovisual content transmitted through websites, streaming devices, and apps. In addition, Article 3 empowers ANCINE to not only enforce copyrights related to the theatrical industry by blocking pirate streaming sites, but also against illicit camcording at theaters themselves. Unfortunately, although some system trials have been deployed in

⁵ For the video game industry, around 75% of all cases presented are related to commercial websites for digital account resale, while 14% are linking sites dedicated to videogame illegal distribution and the other 1% are cases related to other unauthorized digital goods such as cheats and hacks.

⁶ In 2025, *CyberGaeco* was responsible for multiple criminal prosecution cases against site operators of digital account resale and for the first site blocking action against foreign illegal game linking sites.

⁷ More information on year-by-year Operation 404 campaigns can be found here: <https://www.gov.br/mj/pt-br/assuntos/noticias/operacao-internacional-contra-pirataria-tira-do-ar-675-sites-e-14-aplicativos-de-streaming>.

2025, ANCINE has yet to issue implementing regulations and this critical tool remains on the sidelines of the fight against piracy.

ANCINE's lack of engagement harms the theatrical exhibition sector reducing theatrical audiences and harming the value-chain of theatrical movie releases. IIPA strongly encourages ANCINE to fully implement Law No. 14,815/2024, Article 3 and make certain Brazil provides a mechanism that ensures Internet service providers (ISPs) can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities. In fact, while rights holders and ISPs generally work in a collaborative manner, ANCINE's failure to implement its administrative site-blocking system limits this partnership from being fully effective. More so, there is a technical cooperation agreement between ANCINE and ANATEL formalizing coordination to detect and request blocking of infringing sites/apps and to coordinate with ISPs. However, while rights holders have supported ANATEL's blocking orders, yet again, ANCINE's failure to implement its administrative site-blocking system undermines this technical cooperation agreement. IIPA strongly encourages ANCINE to immediately complete the implementation of its administrative site-blocking system.

- **Ensure that ANATEL continues deploying administrative blocking for piracy in general and on pay-TV channels, preventing the importation and distribution of PDs.**

Audiovisual content piracy continues to impact local and foreign rights holders in Brazil and represents a complex threat to be addressed by enforcement authorities and legislators within the country. The strong approach adopted by the telecommunications regulator ANATEL in 2023 regarding the seizure of devices delivering pirated pay-TV channels was a positive development. For example, ANATEL reported seizing more than 1.5 million IPTV boxes in the first half of 2024, with most arriving via the Port of Barcarena in the state of Pará, and others entering through Argentina, Paraguay, and Uruguay.⁸ ANATEL has also launched its own antipiracy lab, which supports the Agency's blocking measures against non-authorized pay-TV channel transmissions. ANATEL reported permanently blocking 623 IP addresses and roughly ten URLs and is monitoring another 9,280 IP addresses and 1,514 URLs.⁹ IIPA is pleased that ANATEL has sustained its initiatives in 2025 to inspect and seize PDs (also known as illicit streaming devices or ISDs) throughout Brazil. For example, in July, ANATEL and the Federal Police dismantled a million-dollar "TV Box" and "Gatonet" piracy scheme under Operation PRAEDO. Among the high-impact precautionary measures ordered by the court was the blocking of up to BRL 33 million in assets, the seizure of vehicles and real estate properties, and the blocking of websites used for selling illegal devices. IIPA encourages the Government of Brazil to continue supporting ANATEL's efforts on these matters with the appropriate financial and human resources.

- **Encourage state courts nationwide to assign specialized courts or judges to uniformly handle IP cases and implement a long-term national program to train judges, prosecutors, and police officers.**

As more cases are reaching Brazilian courts, it is especially essential to improvement of the judicial system to tackle Brazil's extensive piracy concerns. Unfortunately, Brazil's multi-level judicial system and case-by-case court injunctions can create uneven or slow outcomes different judges may rule in distinct ways. Brazil's judicial system continues to lack an adequate understanding of IP matters and judges. Court assistants do not coordinate across the country and lack up to date information on the latest IP and copyright matters as well as on technological trends affecting the creative industry. This results in inconsistent prioritization of IP cases, limited capacity to manage complex piracy cases, unharmonized procedures, and non-deterrent remedies across the nation. For example, the video game industry reports that seeking and obtaining support from Brazilian authorities varies state by state, especially relating to complex claims regarding TPM circumvention. To more effectively harmonize the handling of IP cases to address Brazil's growing piracy challenges, Brazil must take the following actions:

⁸ Mariana Toledo, "To strengthen the fight against piracy, Anatel wants to automate operations," Tele Time, August 20, 2024, available at <https://teletime.com.br/20/08/2024/para-reforcar-combate-a-pirataria-anatel-quer-automatizar-operacoes/>.

⁹ See *Id.*

- Commit sufficient resources and political will to assign well-trained tribunals throughout the country by training its judges, prosecutors, and police in best practices to effectively address the country's rampant piracy problem, as well as on technical training on modern and often transnational online piracy operations, TPMs, and anti-circumvention technologies, and on public policy training on the impact of copyrights and piracy to Brazil's economy and society, including related to consumer protection;
- encourage state courts to assign specialized courts or judges to oversee IP cases;
- enhance collaboration between cybercrime and IP specialized police units and prosecutors;
- amplify the already implemented framework in use with *CyberGaeco* and other prosecutors that are part of other cybercrime units in different states;
- provide more support to the *Conselho Nacional de Justiça* (National Council of Justice, CNJ) and other state magistrate academies;
- provide deterrent penalties against pirates, especially for repeat infringers;
- ensure the Brazilian Financial Intelligence Unit (COAF) investigates suspicious financial transactions resulting from piracy commercialization and reports its intelligence to competent enforcement authorities tasked with initiating actions against money laundering and organized crime; and
- support the work of the Association at the Parliamentary Front in Defense of Intellectual Property and Anti-Piracy, launched on April 30, 2024, for advancing improvements in IP legislation and efforts to enhance how IP cases are decided across Brazil.

In positive news, judicial actions against music piracy continue to improve. On August 10, 2021, the Tribunal of Justice of the State of São Paulo issued a permanent blocking order against 14 stream-ripping sites in a criminal case initiated by the industry's anti-piracy body, *APDIF DO BRASIL (APDIF)*. The decision was the first of its kind in Brazil against music piracy services and confirms the legal power of Brazilian courts to order permanent injunctions in cases against foreign sites with a significant audience in Brazil. The decision is part of the campaign developed by *APDIF* and *CyberGaeco*. Following this decision, a series of further successful blocking applications were filed by *APDIF* and *CyberGaeco* in 2022, 2023, and 2024 and consequently over 300 stream-ripping sites have been blocked in Brazil. Furthermore, in December 2023, ISPs were ordered for the first time to block access to the cyberlockers *Dbree.org* (and related mirror site *Dbree.me*) following an application by *APDIF* and *CyberGaeco*. These outcomes against piracy sites hosted outside of Brazil are especially important and should be consistently replicated across Brazil as cross-border piracy operations are a growing regional concern, especially piracy operators that host infringing infrastructure abroad. These types of piracy operations require both local action and coordination with foreign law enforcement.

- **Ensure CNCP and GIPI continue to have strong political support and greater human and financial resources to engage in cross-industry efforts against copyright infringement and online piracy.**

Even with the enforcement progress made in recent years, especially through Operation 404, Brazil still lacks specific norms and regulations for enforcing copyright online as well as sufficient resources and staff to support the enforcement actions needed to effectively address widescale content piracy in the region.

In June 2020, the Brazilian government launched a consultation with private sector institutions and rights holder organizations to design a National Strategy on Intellectual Property (ENPI). Part of this work included empowering CNCP, within the MJPS, to promote public-private and private-private enforcement partnerships. Audiovisual industry stakeholders, including the Motion Picture Association (MPA) and the Brazilian pay-TV Association (ABTA), video game industries, including the Entertainment Software Association (ESA), and the music industries, including the International Federation of the Phonogram Industry (IFPI)'s national group Pro-Música Brazil, play an active role in CNCP, which is overseen by the Ministry of Economy's GIPI. These initiatives are designed to engage all rights holders and other players in the Internet ecosystem (including ISPs, hosting providers, domain name registrars, search engines, advertising networks, payment providers, etc.) to develop better standards and effective

voluntary agreements to fight online piracy, including against repeat infringers. It should be noted, however, that though these initiatives are designed to engage all rights holders, CNCP partnerships have, in fact, yet to reach all rights holders. The CNCP is under National Secretariat of Consumer (SENACON) of the Ministry of Justice and Public Security, remains a key platform to promote public-private partnerships aiming to improve enforcement initiatives and it needs appropriate human resources and funding to develop projects under its Strategic Plan. Unfortunately, ENPI still needs more resources to reflect a growing policy environment for IP (and copyright) protection and enforcement online and assistance mapping and connecting economic development with copyright protection initiatives across the country. There should also be better coordination between consumer protection, data protection and IP protection across federal government agencies and authorities to enhance online safety.

The success of these public-private and private-private IP enforcement partnerships has been mixed. For example, collaboration between the Entertainment Software Association (ESA) and *Mercado Libre* in Brazil remains strong with a takedown rate above 98% and effective preventive measures applied combined with KYC efficient policies to assist in the identification of bad actors. CNCP also forwarded lists with hundreds of pirate sites to WIPO ALERT.¹⁰

On the other hand, e-commerce platforms such as *LojaIntegrada* have decreased their KYBC efficiency and the takedown rate remains below 25%. Platforms need to improve their KYBC policies and actions to avoid high volumes of illegal activities related to video game and other types of piracy. Additionally, some platforms still need to understand how commercial-level video game digital piracy occurs and include digital accounts resale as a direct and explicit infringement for further proactive copyright protection measures. The resale of digital accounts is an increasingly lucrative illicit business for piracy operators and platforms (and users-customers) thus there is resistance from some platforms to banning these commercial activities, including Chinese-backed platforms such as Shopee, which are actively lobbying the Government of Brazil to avoid this responsibility. Deficiencies and challenges identified for copyright and IP protection on e-commerce platforms also affect consumers in other areas and should be addressed by law enforcement and consumer protection authorities, including the CNCP. This lack of compliance by platforms also affects local businesses' competitiveness online. The CNCP needs more support to enforce its attribution on this field of facilitating cooperation among digital platforms and intermediaries. The engagement of other government agents such as the ANPD (the national data protection agency), and consumer protection agencies may enhance digital platforms' compliance and generate positive impact for the creative sector.

IIPA encourages MJPS to increase CNCP's human resources and funding necessary to support and grow these important public-private and private-private IP enforcement partnerships to combat the growing number of online enterprises dedicated to copyright infringement in or targeting Brazil.

- **Improve border controls against the importation of counterfeit video game hardware, PDs, modified consoles, and circumvention devices.**

Brazil needs to improve border controls to stop the influx of counterfeit video game hardware, PDs, modified consoles, circumvention devices, and ISDs, often manufactured in and exported from China. In 2023, ANATEL seized over 1.4 million ISDs, and it is important that these efforts continue.¹¹ However, despite evidence that mod chips, circumvention devices, and mod installation services exist in Brazil, and more than ten industry training sessions for customs authorities in 2024, the video game industry reports a lack of raids or customs seizures related to modified consoles or involving mod chips or circumvention devices. Authorities currently focus efforts on simpler targets, such as preloaded game consoles or counterfeit merchandise. One video game console maker reported four customs seizures in 2025, with all seizures involving consoles preloaded with unauthorized video game software. Moreover, the Government of Brazil should encourage regional Federal Revenue enforcement units (DIREPs) to maintain anti-counterfeiting raid actions in the so-called secondary zones (in the local market). Increasing collaboration between

¹⁰ WIPO ALERT is a secure, online platform to which authorized bodies in WIPO member states can upload details of websites or apps which have been determined to infringe copyright according to national rules.

¹¹ See <https://www.tecmundo.com.br/mercado/267348-anatel-apreendeu-1-4-milhao-tv-boxes-piratas-2023.htm>

Brazil's Foreign Trade Integrated System (SISCOMEX) and ANATEL, would additionally allow SISCOMEX to prevent even the export of PDs and ISDs while they are still at their exit ports abroad.

LEGAL REFORMS

- **Ratify and fully implement the WIPO Internet Treaties.**

Brazil is the largest market in the region for all creative industries, but it has yet to ratify and fully implement the WIPO Internet Treaties. In 2019, the Government of Brazil announced it would accede to the WIPO Internet Treaties and on July 20, 2022, a bill was submitted to Congress to ratify the WPPT (but not WCT). Unfortunately, not only has no subsequent action been taken since to accede to these treaties, but the Federal Administration decided to withdraw the WPPT's ratification process before the Brazilian Congress. Instead, Brazil's last attempt to amend its Copyright Act, Bill 2370/2019, which proposed several problematic amendments, remains under consideration six years after introduction, and has yet to be published in its final text; furthermore, rights holders continue to be limited in their ability to fully engage in public discussions on the measure.

As the 30th anniversary of these critical copyright treaties approaches, it is essential for Brazil to ratify and fully implement the WIPO Internet Treaties to foster a vibrant legitimate market for Brazilian and foreign creative content. IIPA urges the Government of Brazil to consult with rights holders on any proposed copyright reform measures and ensure that it does not over-regulate or create broad exceptions and limitations to copyright that weaken the economic, legal, and practical foundations that make creative industries sustainable. IIPA makes the following recommendations for the potential new law:

- codify the exclusive right of making available for both sound recording rights holders and audiovisual works; or in the alternative, ensure that interactive uses of sound recordings fall under Article 93(II) of the existing law rather than under the public performance right;
- amend Articles 98 and 99 to enable rights holders to: (1) determine whether to license their rights individually or collectively, which should be a voluntary decision; and (2) if they so choose, become direct members of the *Escritório Central de Arrecadação e Distribuição* (Central Bureau for Collection and Distribution, ECAD), a private umbrella CMO, and enjoy fair and balanced representation on its governing bodies;¹²
- clarify that the making available right, covering rights in all types of interactive streaming, are excluded from ECAD's default mandate and mandatory collective rights management;¹³
- amend Article 103 to expressly allow rights holders to choose the method of calculation of damages and include damage/losses suffered, an account of the infringer's profits, and a reasonable royalty as methods of the calculation of damages;
- ensure that any amendment to the definition of communication to the public is aligned with the WPPT;

¹² Brazilian authorities should also seize this opportunity to urge *Escritório Central de Arrecadação e Distribuição* (Central Bureau for Collection and Distribution, ECAD) to amend its fixed split of the revenue collected from the single tariff to the considerable disadvantage of producers. For example, music producers receive only 13.8% of total distributions despite their significant investments. Article 99(1) of the Copyright Law (introduced in law in 2013), which provides for a "one rights holder one vote" rule within ECAD, should also be amended. This is not in line with international best practices and does not ensure that all rights holders whose rights are managed by ECAD are guaranteed fair and balanced representation in ECAD's governing bodies.

¹³ In 2017, the Superior Tribunal Court (STJ) issued a decision in the *ECAD v Oi FM* case that held interactive and non-interactive streaming (including simulcasts) are separate acts, each requiring the separate consent of the rights holder. In this regard, the decision is correct as it confirms that online simulcasting is a separate act of exploitation from the terrestrial broadcast, and as such requires a separate license. However, the decision was problematic in that the Court did not make any distinction between interactive and non-interactive streaming (including simulcasts), and held that both involve the public performance right, which falls under ECAD's rights management mandate. The decision undermines the music industry's practice (which is in accordance with the international treaties on the subject matter), and the accepted interpretation of existing law: that interactive streaming is deemed to involve acts which fall within the producers' exclusive distribution right, and interactive streaming services are licensed directly by record companies. Indeed, if interactive uses of sound recordings are deemed to fall under the public performance right (as opposed to the right of distribution, enshrined in Articles 93(II) and (V) of the Law, which has been the practice for many years), the licensing of such uses would fall under the default statutory mandate granted to ECAD (in accordance with Article 98 of the Copyright Law). In today's industry, streaming services are at the core of the business of the recording companies. Although rights holders can opt-out of the default mandate granted to ECAD, collective management interference in a core area of the music business is unjustified and a substantial limitation to the ability of record companies to conduct their operations in a free market environment.

- amend Article 105 to confirm: (1) injunctions, including catalogue-wide injunctions where applicable, are available against all types of copyright infringement, circumvention of TPMs, and dealing in circumvention devices, circumvention software and/or components including installation and modification; and (2) injunction recipients bear the burden of ascertaining what they must do to avoid infringement;
- amend Article 107 to encompass all forms of access and copy control technologies as well as dealing in circumvention devices and to include deterrent sanctions and penalties for the violations of TPMs;
- codify intermediary liability for inducing or encouraging infringement under certain circumstances, including advertisements placed on pirate sites;
- criminalize signal theft in the pay-TV sector and non-authorized VOD sector;
- ensure that any exceptions and limitations comply with the three-step test; and
- ensure the availability of meaningful compensation is commensurate with the harm suffered by rights holders and at a level that will deter future infringements.

IIPA strongly urges the Government of Brazil to focus on the above needed amendments to strengthen protection and enforcement for rights holders and to ratify and fully implement the WIPO Internet Treaties. This is especially important as negotiations on the Mercosur-EU Free Trade Agreement recently concluded on December 6th, 2024, which includes an IP chapter potentially including several of the recommendations noted above.

- **Abandon proposals to introduce an additional remuneration right for holders of copyright and related rights and unclear definitions for the scope of communication to the public and public performance.**

The Congress of Brazil has been debating Bill 4968/24 which would amend their Copyright Act to expand the definition of communication to the public to include interactive uses of works, fixed performances, and sound recordings. The bill has several problematic proposals including: (i) an obligation to pay additional remuneration to authors, phonogram producers, local audiovisual producers and to audiovisual and musical performers, in addition to the exclusive right that performers already enjoy; (ii) the right for digital service providers to deduct 100% of payments made to ECAD from companies' distributions; and (iii) the prohibition on modifying remuneration or payment terms and conditions through contractual agreements. Bill 4968/2024 also includes a problematic definition of communication to the public that departs from WPPT. The Bill is facing significant opposition, including within the Brazilian Congress and local and foreign music industries, and it should be rejected. Brazil should refrain from pursuing similar legislation.

Relatedly, even as there is limited political support in Brazil for an additional remuneration right, it is concerning that Brazil, as part of the Group of Latin American and Caribbean Countries (GRULAC), at WIPO has been quite supportive of similar additional remuneration right initiatives at the WIPO Standing Committee for Copyright and Related Rights (SCCR). Instead, positions taken by Brazil's delegation at WIPO should match its positions in Brasilia; the Government of Brazil should reject these initiatives and should instead support an affirmative agenda at WIPO SCCR.

- **Ensure legislative proposals related to artificial intelligence (AI) meet the standards related to IP protection set forth by the G7 Hiroshima AI Process.**

On several occasions throughout 2024 and 2025, the Government of Brazil discussed regulating AI. For example, the Brazilian Congress is currently discussing roughly 60 bills intending to regulate AI, some of which are related to copyright. The main bill under discussion is Senate Bill 2338/2023, which passed at the Upper House at the end of 2024 and aims to create a General AI Framework. Among other provisions, it includes a transparency obligation for AI developers that use copyright protected works and other subject-matter for AI training purposes, a copyright exception for text and data mining to the benefit of certain public institutions and libraries with an option for rights holder to opt out, a legal access requirement for training data, and that use cannot compete with the normal exploitation of protected works or content. The bill also contains an unclear, unnecessary, and potentially problematic provisions on remuneration and "reciprocal protection." The AI Bill has now been sent to the Special Committee on AI of the Lower

House of Congress where rights holders gave evidence during a hearing on September 2, 2025. The timeline for passing the Bill remains uncertain due to the priorities of the Senate. As Brazil looks to possibly regulate AI, IIPA strongly encourages the Government of Brazil to look towards certain provisions of the G7 Hiroshima AI Process, which set forth important “rules of the road” related to IP protection for the development of AI systems.

For example, the International Code of Conduct for Organizations Developing Advanced AI Systems includes the following: “Organizations are encouraged to implement appropriate safeguards, to respect rights related to privacy and intellectual property, including copyright-protected content.”¹⁴ The International Guiding Principles for Organizations Developing Advanced AI Systems includes the following principle: “Implement appropriate data input measures and protections for personal data and intellectual property.”¹⁵ In the June 17, 2025, G7 Leaders’ Statement on AI for Prosperity, the G7 Leaders indicated they would “leverage the outcomes of the Hiroshima AI Process (HAIP) to foster trust.”¹⁶ The Leaders further committed to “[p]romote economic prosperity by supporting SMEs to adopt and develop AI that respects personal data and intellectual property rights, and strengthen their readiness, efficiency, productivity and competitiveness” and stated, “We recognize the need to respect intellectual property rights in enabling these efforts.”¹⁷ Brazil should also provide meaningful stakeholder engagement and due process regarding this type of work, including by affording adequate opportunity to review and comment on legislative and regulatory proposals governing copyright and AI.

- **Follow through with revisions to the Customs Law to clarify that the retention of counterfeit or any other illegal products by customs authorities does not require a court order.**

The Government of Brazil should revise the Customs Law to clarify that customs authorities do not need a court order to be confirmed to retain counterfeit or other illegal products that they have seized.

- **Uphold legacy publishing agreements.**

There is currently litigation before the Supreme Court, *Roberto Carlos and other vs Fermata Publishing* concerning the scope of publishing agreements to cover technologies unknown at the time the contracts were assigned, including regarding modern streaming technologies. Plaintiffs argue that “old” contracts were never intended to regulate streaming uses because this technology was nonexistent at the time parties entered into the agreements. Plaintiffs are also asking the Supreme Court to void previous rulings from lower courts and rule that such contracts do not include technologies and uses unknown by the parties. The outcome of this case may be significant because the decision on the merits may be applicable to recording contracts [in the US?].

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- **Foster industry growth by reducing high tariffs and taxes placed on video game products.**

Brazil’s high tariffs and taxes on video game products and entertainment software are a long-standing concern and remain so moving into 2025. In August 2022, the president of Brazil at the time reversed reductions of industrial tax (IPI) that had been applied earlier in the year for over 100 products, including video game consoles, whose rates have now returned to the burdensome level of 20%. As of July 2022, under the authority of the Foreign Trade Chamber

¹⁴ See Hiroshima Process International Code of Conduct for Organizations Developing Advanced AI Systems, p. 8, available at <https://www.mofa.go.jp/files/100573473.pdf>.

¹⁵ See Hiroshima Process International Guiding Principles for Organizations Developing Advanced AI System, p. 5, available at <https://www.mofa.go.jp/files/100573471.pdf>.

¹⁶ See G7 Leaders’ Statement on AI for Prosperity, June 17, 2025, available at <https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf>.

¹⁷ See G7 Leaders’ Statement on AI for Prosperity, June 17, 2025, available at <https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf>.

(CAMEX) of the Economy Ministry, import taxes (II) for consoles that do not have embedded screens as well as peripherals and accessories remain at 12%.

The combination of IPI and II taxes targeting the video game console ecosystem continues to act as an incentive for the proliferation of infringing games in Brazil, which ranks third in the world for the number of connections by peers participating in the unauthorized file-sharing of ESA member console-based video game titles on public peer-to-peer (P2P) networks. These barriers also inhibit the growth of a legitimate video game industry in Brazil, including the growth of small local businesses offering legitimate imported game accessory products.

With broad tax reform underway, the video game industry hopes legislative efforts will soon result in an overall simplification of the tax regime, ending its cumulative character, and providing for an overall rate reduction for video game products that face an unjustifiably high tax burden given the unnecessarily adverse effect on consumers. In the meantime, executive action could quickly and easily resolve the burden of Brazil's current IPI and II taxes on the video game sector.

- **Mitigate imposition of the Condecine tax and refrain from developing excessively burdensome VOD or digital platforms regulations.**

Brazil currently applies a Condecine tax on a per-title basis to films, pay-TV, and “other segments.” This tax does not apply to VOD services. However, there are several bills pending in the Brazilian Congress that would extend the Condecine tax to VOD services, including with respect to profit remittance, as well as impose other obligations on VOD providers, such as catalogue quotas, and prominence for local works. These bills, most notably #8889/2017 and #2331/2022, could undermine the viability of providers, chill investment, and reduce consumer choice. While we recognize that measures to promote domestic audiovisual works are a legitimate cultural policy objective, their design should accommodate and encourage diverse business models and should allow for sufficient flexibility, enabling producers and VOD providers to structure investments based on audience interest, economic viability, and the creative potential of each project.

Additionally, Brazil has recently taken the lead in regulating the online protection of children and adolescents through the enactment of Federal Law # 15211 of 2025 (stemming from Senate Bill # 2628/2022), also known as the “ECA Digital.” While this initiative represents a commendable step toward strengthening child protection in the digital environment, VOD providers remain concerned about its implementation and forthcoming secondary regulations. It is essential that the regulatory process duly recognizes that VoD services operate under editorial control and present comparatively lower risks to minors' safety.

Finally, since the end of 2022, ANCINE's board has been publicly positioning itself in favor of greater regulation for the VOD segment and included in its Strategic Agenda the publishing of new regulatory instruments that would require market players to provide the Agency with more information about their businesses. The Agency intends to require extensive information on the segment, including, for example, on the number of platforms' subscribers, users, and transactions, on the platforms' direct investments in works, and on exclusive licensing agreements. So far, no new regulations have been issued, but it is possible that they will be issued in the short or medium term. IIPA urges the Government of Brazil to refrain from developing excessively burdensome VOD or digital platforms regulations, which would discourage the entry of new competitors in the Brazilian market, negatively impacting consumer choice. If such regulations are to be implemented, it is essential that they respect contractual and economic freedom and trade secrets.

- **Reform the CMO system to guarantee efficiency, transparency, and oversight; and reaffirm that rights holders can license music directly.**

The Government of Brazil should reaffirm that CMOs can assert rights to collect royalties for acts of communication to the public only in cases where authors and performers in audiovisual works have specifically mandated the CMOs do so, and only where the relevant rights have not already been assigned to producers of

audiovisual works. Additionally, Brazil should remove the by-default, one-stop-shop collective management system for broadcasting and public performance, which is managed by ECAD, and in any case, ECAD should be subject to good governance rules, in particular to guarantee fair and balanced representation in ECAD's governing bodies of all rights holders whose rights are managed by ECAD. In that sense, the "one rights holder one vote" rule of Article 99(1) should be deleted. Finally, ECAD's policies and strategies towards music DSPs (attempting to impose additional payments for neighboring rights on interactive uses of phonograms without a mandate or clear legal basis) have been a source of uncertainty and abusive behavior for years. These practices should be stopped.

- **Refrain from establishing a digital services tax.**

Foreign-based companies operating in Brazil face a complex tax landscape, arguably more burdensome and costly than in any other territory where they operate. These measures include (a) Brazil's Withholding Tax (WHT) on Services, (b) Contribution for Intervention in the Economic Domain (CIDE) on remittances, (c) a recent increase in the Tax on Financial Operations (IOF), and (d) the possibility of a Digital Services Tax. While these legislative measures do not explicitly name U.S. companies, their structure, scope, and practical effect are such that digital service providers – most of which are U.S.-based – bear a disproportionate share of the financial burden resulting from the proposed taxes and contributions.

Unfortunately, Brazil's legislature is currently considering multiple bills that would impose new taxes on digital services and foreign companies, including Bills #2358/2020, #131/2020, #218/2020, #2421/2023, #1068/2025, #157/2025, and #1087/2025. These proposals create social contributions and targeted levies, such as the CIDE, which is not a general tax, but a fiscal instrument typically used to finance sectoral programs or policy initiatives in areas such as technology, fuel pricing, or audiovisual development. Several of these proposals disregard the principles under Brazil's ongoing tax reform and diverge from the OECD's international tax policy framework. They also often fail to consider the distinct operational characteristics of different digital services; particularly, CIDE on remittances merits heightened attention. As the pending judicial dispute has been resolved unfavorably to taxpayers (Supreme Court Appeal # 928943), remittances abroad, which are already subject to existing taxes and the potential CONDECINE-VOD levy, might also incur CIDE at a 10% rate. This substantially increases the effective cost of cross-border transactions.

Additionally, Brazil's WHT regime imposes tax on outbound payments for services (even when performed entirely outside Brazil) in a manner inconsistent with OECD standards, which generally require a sufficient nexus (e.g., a permanent establishment) for taxation at source. Other bills under discussion, such as # 1087/2025, are further aimed at increasing the tax burden already being paid by foreign companies, which introduces a 10% withholding tax on dividends distributed to non-resident beneficiaries, including corporate shareholders headquartered abroad. In parallel, the government has also advanced measures such as Executive Order #1,303/2025, which raises taxation on interest on equity (JCP) from 15% to 20%, a form of capital remuneration treated similarly to dividends. Similarly, increases to the IOF pose an additional burden on foreign investors, running counter to efforts to promote capital mobility, lower the cost of doing business, and maintain regulatory predictability.

- **Refrain from implementing network fees.**

In 2024, ANATEL released a second round of calls for contributions that discussed, among other issues, the possibility of creating network fees, to be paid by application providers to connection providers, to fund telecommunications infrastructure. More recently, Bill 2,804/2024 was introduced to require online service providers (OSPs) to make payment agreements with ISPs when they are deemed responsible for over 3% of networks' bandwidth. Moreover, OSPs whose yearly gross revenues surpass US\$10 million would also have to contribute to the Fund for the Universalization of Telecommunication Services. On the other hand, Bill 469/2024 was introduced at the Lower House to prohibit charging any network fees within Brazil. This Bill has staunch support from value-added service (VAS) providers operating in Brazil, including relevant members from the Open Internet Alliance ("AIA"). If network fees

are implemented, they would have a detrimental effect on digital platforms activities, not only from a financial standpoint, but also because such fees are harmful to competition, network neutrality, and ultimately, consumers' rights.

There is also an active debate in Brazil over network usage fees, with ANATEL, various telecom companies, and the Ministry of Communications pushing for their implementation. In 2023, ANATEL launched a public consultation that included a discussion on network usage fees to fund telecom infrastructure, with a follow-up consultation in 2024. Since then, ANATEL has reportedly drafted a proposal ruling that online service providers (OSPs - characterized as "large network users", most of them U.S. streaming, cloud or tech companies) would be subject to telecoms regulations - in contradiction with Brazil law and practices to date - including dispute resolution mechanisms for interconnection. Large telecom operators have explicitly framed this measure as a way to extract payments from U.S. technology and content providers. This proposal would result in a proliferation of disputes against OSPs that deliver the majority of internet content, with U.S. providers being the primary targets. By multiplying disputes against U.S. content providers, and building on the precedent set by these disputes, large Brazilian telcos will be able to establish de facto network fees. The introduction of dispute resolution mechanisms for IP interconnection – and the resulting fees paid by U.S. OSPs to Brazilian telcos – would undermine the foundations of the internet, which has thrived because networks freely connect with each other, with providers paying for their own infrastructure.

Finally, Bill #2804/2024 aims to oblige OSPs to pay ISPs when they are responsible for over 3% of a network's bandwidth and force OSPs with yearly gross revenues over US\$10 million to contribute to FUST (a telco fund). A different bill in the Lower House (469/2024) would prohibit network usage fees and has already been approved by two of the House's Committees. MPA supports Bill #469/2024 and opposes the adoption of such fees in Bill #2804/2024, which would severely impair competition in the Brazilian market (especially considering that ISPs frequently also offer audiovisual content), harm consumers, and negatively impact net neutrality.

- **Remove local content and screen quotas for audiovisual works.**

Law #12.485/2011 imposed local content quotas for pay-TV, requiring every qualified channel (those airing films, series, and documentaries) to air at least three and a half hours per week of Brazilian programming during primetime. It also required that half of the content originate from independent local producers and that one-third of all qualified channels included in any pay-TV package must be Brazilian. Implementing regulations limit eligibility for these quotas to works in which local producers are the majority IP rights owners, even where such works are co-productions, and regardless of the amount invested by non-Brazilian parties. These quotas were recently renewed through 2038.

Theatrical quotas were recently renewed through 2033. The obligations include exhibiting a minimum percentage of Brazilian works, proportional to the number of screens at the theater complex, and a minimum number of different works simultaneously, also proportional to the number of screens. Moreover, theater complexes with between three and five screens cannot exhibit the same work in over 66% of the screenings of a day, while those with six or more screens cannot exhibit the same work in over 50% of the screenings of a day, preventing large theatrical releases from playing continually. These local content and screen quotas, which limit consumer choice and push consumers toward illegitimate content sources, should be removed.