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ICT in Culture

SURVEY ON THE USE OF INFORMATION AND COMMUNICATION
TECHNOLOGIES IN BRAZILIAN CULTURAL FACILITIES

2024

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Brazilian Network Information Center

ICT in Culture

SURVEY ON THE USE OF INFORMATION AND COMMUNICATION
TECHNOLOGIES IN BRAZILIAN CULTURAL FACILITIES

2024

Brazilian Internet Steering Committee
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Challenges of regulatory cultural public policies for the Brazilian audiovisual sector in the face of the expansion of streaming services

Alex Braga Muniz¹ and Luana Máira Rufino Alves da Silva²

The audiovisual industry comprises the production, distribution, exhibition, circulation, and subsequent consumption of various audiovisual works. In this sector, different agents carry out specific activities and are responsible for the content that is produced and shown on different channels (cinemas and festivals, broadcast on free-to-air or pay TV and smartphones, sale and rental on physical media or online content on streaming services, etc.) until it reaches end consumers.

In recent years, successful experiences of cultural policies aimed at the audiovisual sector worldwide, especially in South Korea, have demonstrated the potential of actions for this productive sphere due to the great possibility of generating employment and income and the expectation of socioeconomic development that this industry carries. This article investigates how cultural public policies for the Brazilian audiovisual sector can be influenced by the data guiding their monitoring and the subsequent challenges to regulatory activity, particularly the need to establish a new regulatory framework for video on demand (VoD) in Brazil.

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² Undergraduate degree, master's, and PhD in economics from UFRJ, specializing in the economics of culture and the Brazilian audiovisual industry. In 2014, she became Ancine's regulatory specialist. In 2015, she was the coordinator of cinema, home video, and video-on-demand monitoring in Ancine's market analysis department. In 2017, she became superintendent of market analysis and, in 2019, an advisor to the board of directors of the same institution. In 2020, she became executive secretary and, in 2021, secretary for regulatory policies. In 2022, she earned a master's of public policy from Columbia University in partnership with the National School of Public Administration (Enap). She is currently a regulatory specialist in the office of Ancine's director-president.

Background: Contemporary trends

Investing in audiovisual content as a soft power strategy³ has shown the strength of its business compared to the usual “heavy industry,” as its rate of expansion has outstripped all traditional sectors of the economy, even in the midst of the pandemic (Fingar, 2024). In fact, the following factors point to this sector as a unique opportunity for expansion for each country, on a scale of average global expansion of 31% per year by 2029 (Databridge, 2023): (i) acceleration of intergenerational audiovisual consumption; (ii) emergence of new video viewing platforms; (iii) changes in habits with the expansion of remote work and online services; (iv) expansion of mobile video users; and (v) increasingly fast video transmission speeds following the evolution of 5G technology, with a significant expansion in the consumption of audiovisual works. In Brazil, these phenomena were corroborated by data from the ICT Households 2024 survey (Brazilian Network Information Center [NIC.br], 2024).

In this context, public policies for the audiovisual sector have gained visibility in global markets, academic debates, and national states, especially in an increasingly connected, digitalized, and virtual world. The audiovisual sector has become strategic and, besides not being as aggressive to the environment as conventional heavy industries, it also represents an opportunity for the new growth cycle of the Brazilian economy (sustainable development). Furthermore, as in the European Union (EU) and other countries around the world, the Cultural Exception Clause (CEC) of the World Trade Organization (WTO) allows government policies to finance and develop the production of local audiovisual content. In Brazil, Ancine is not only an agency for promoting and financing national audiovisual productions, but also a regulatory agency.

Therefore, the agency is also the government body responsible for regulating and supervising the audiovisual sector in Brazil. In its role of “regulation through information,” it relies on the publication of information as a means of directing behavior. This is the least interventionist form of regulation and, through it, the public communication of information seeks to persuade and educate members of a given community to act in line with the specific regulatory objective.

Ancine regulates behavior to the extent that it increases the information available to the target audience, allowing them to make better choices. Therefore, making information accessible to the public generates a type of indirect pressure that influences the choices of audiovisual companies (producers, distributors, or exhibitors) and leads to a change in behavior toward the public interest. This prevents agents from making their choices “in the dark,” without adequate information to decide and exercise their preferences, which would jeopardize the efficient functioning of the market and even allow for self-regulation (Muniz & Silva, 2021).

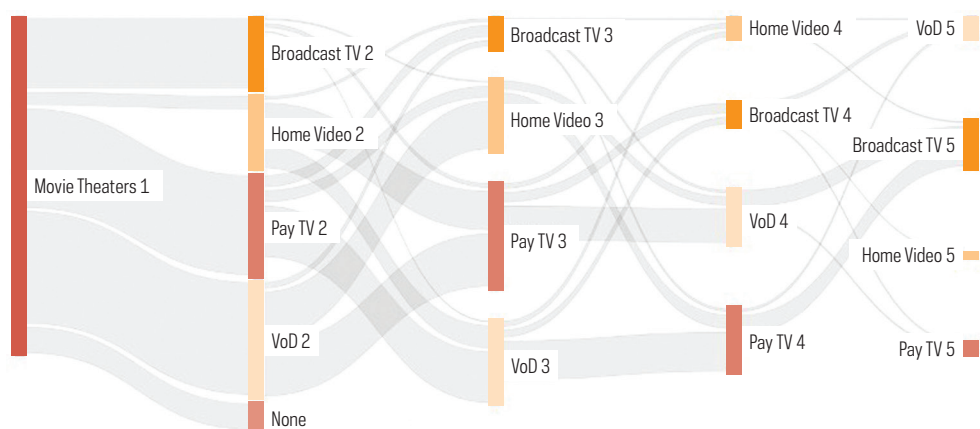
³ This type of strategy refers to the ability of a country or institution to influence others through persuasion, culture, values, and ideas, rather than military force or economic coercion.

This type of regulation can take place in three traditional ways: (a) by mandatory publication of information by the regulated parties; (b) by voluntary publication of information through incentives; and (c) by publication of information by the regulatory body itself. Whatever the form of regulation, it substantially reduces the asymmetry of information between Ancine and the regulated parties, improving information problems such as adverse selection (*ex ante*) and moral hazard (*ex post*). The main reason for this policy is to correct market failures in the least arbitrary way. To do so, the information must be consistent, respecting historical series and comparative logic.

In this direction, a more accurate data policy, with cross-referencing of surveys, can boost the efficiency of regulatory policy, since the phenomena and trends in the audiovisual sector are more widely understood. For example, analyzing the order and flow between the windows of Brazilian works over the last 10 years shows that there has been an intensification of their flow (Chart 1) among streaming platforms (VoD).

CHART 1

Flow between release windows for Brazilian movies released between 2013 and 2023



Source: Ancine (n.d.).

This effect was confirmed by the ICT Households 2023 survey, which pointed to an increase in the percentage of the population watching videos, shows, movies, or series online, from 56% in 2019 to 64% in 2023. Furthermore, considering the origin of the content accessed, the survey showed that 44% of the movies watched on the Internet in 2023 were of Brazilian origin, while for serialized works this percentage was 34% (Brazilian Internet Steering Committee [CGI.br], 2024). Therefore, it is possible to build more consistent data and information to guide the monitoring of audiovisual cultural regulatory activity more effectively by cross-referencing and increasing analysis in this field of research.

The VoD regulatory debate in Brazil

Audiovisual regulatory public policy in Brazil is currently heavily influenced by the European Audiovisual Media Services Directive (AVMSD),⁴ a reference for the regulatory framework that has made significant progress in the European Parliament in recent years. The EU has had a regulatory guideline for VoD services since the publication of the first AVMSD in March 2010. This directive assumes that all Member States must adopt measures in their regulations to promote European audiovisual works in the catalogs of VoD services and suggests three ways to induce this promotion: (i) quotas for local content (national works) in the catalog of streaming operators (VoD); (ii) highlighting European audiovisual works on platforms; and (iii) the obligation to tax and finance local audiovisual content. Each Member State is therefore free to institute the measures it deems appropriate within its national borders.

In 2016, in the second round of the AVMSD, it was observed that most European countries already applied these three rules of the directive. This was also the case in Brazil, which influenced by the directive, introduced this issue on the government's agenda with the three rules at once. Although there were important issues defining the agenda, it was only when the European audiovisual directive published the results of this regulation that the process of defining the agenda in Brazil began. In other words, it was only after the actions and repercussions of these international institutions that the Brazilian government understood the viability of this policy, and then the issue was recognized as a problem (VoD regulation) that required greater government attention. This marked the beginning of the problem-attention dynamic of the policy on the Regulatory Agenda in Brazil.

While VoD regulation was being established in the EU, in Brazil, the first demands for government action were emerging. Although relevant as a starting point for the regulatory debate, the AVMSD's general guidelines did not take into account Brazil's characteristics, the asymmetries between the different segments of the national audiovisual market, or advances in domestic technologies. In March 2017, Ancine submitted for consultation a Regulatory Notice on the VoD sector, making it public through the instrument of the Regulatory Agenda (which is updated every two years). The formalization of the three issues that are the same as those pursued by the European audiovisual directive prevailed on the Brazilian public agenda. So, the agenda-setting mode can be characterized as "contested" within a competitive subsystem with many old actors and ideas that have been imported by the European audiovisual directive. Finally, the specific way in which these problems were defined and framed dictated how the issues were dealt with in subsequent phases of the political cycle. As VoD regulation was recognized as a priority, the policy formulation phase began with the creation of the first VoD working group in the Higher Cinema Council (CSC) of the Ministry of Culture (MinC) in 2017. This formalized group included representatives of local cultural associations from civil society, producers, telecommunications companies, and officials from the Civil House of the Presidency of the Republic, the Audiovisual Secretariat (SAv), Ancine, and MinC.

⁴ See more information at <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1464618463840&uri=COM:2016:287:FIN>

However, there were important players outside this working group: distributors, VoD companies, television programmers, aggregators, non-governmental institutions, the artistic class, and the Ministry of Finance. This posed a major problem for legitimacy and participation in policymaking, as many actors started parallel efforts when they were left out of the newly formed committee. As a result, various affected groups that were not directly involved in the regulation tried to interfere later, seeking to reshape the discussion. After this first VoD working group, three others were created in subsequent years, but none were successful.

One of the reasons given for the failure to implement the VoD regulatory policy became evident in the evaluation phase. This was because data and evidence of VoD regulation around the world was collected (mostly from European countries) and presented to all members of the working group. The lack of internal data and qualified information on the subject in Brazil further hindered the progress of regulatory policy in the country, since it was impossible to measure its scope and whether it was in fact necessary. Regulation based on information is less interventionist and makes public communication effective because it is more elucidating and, in addition to disseminating knowledge by guiding Congress, it increases the capacity to legitimize regulatory policy in the public interest. In this sense, we can see how the trends and phenomena indicated by the ICT Households 2023 data (CGI.br, 2024) reinforced the urgent need for VoD regulation in Brazil.

The influence of innovation on regulatory dynamics

The current global debate about social development reinforces the creative industry as a strategic sector and a new driver of economic growth. In fact, given the limited reach of the so-called heavy (traditional) industries, the soft power strategy shows the potency of the cultural industry in an increasingly digital world. As a result, public policies tailored to national specificities, which take into account all the players involved in creative activities, are capable of strengthening countries' production chains. In Brazil, within cultural policies, public policies aimed at the audiovisual sector are highly affected by the influence of innovation on regulatory dynamics.

Innovation affects the regulation of the audiovisual sector more intensely because of the very nature of audiovisual products, due to their characteristics of non-scarcity and non-fungibility. This is because audiovisual content does not end with consumption. No matter how many times a work is viewed, depreciation is restricted to the product's support, i.e., it does not wear out with use. Furthermore, audiovisual products deal with information and, because they can be transformed easily, they are extremely plastic. In other words, they can be reformatted quickly, giving rise to different works. This not only facilitates reproduction within the same market segment (non-fungible good) but also means low operating costs for distribution in other release windows (Zubelli, 2017).

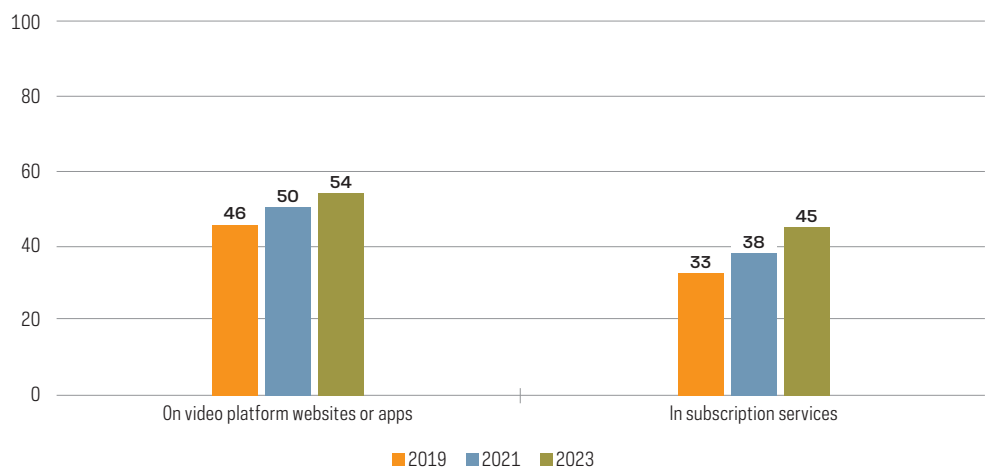
In this regard, in order to ensure access to and production of local content while preserving the identity and sovereignty of each country, audiovisual cultural public policies around the world tax the audiovisual sector in different windows, guaranteeing a specific fund to promote the sector. With digital evolution, and in the midst of constant technological advances, cultural policies become weaker when regulation does not keep

pace with innovation. In the specific case of the growth of streaming in Brazil, based on ICT Households (CGI.br, 2024), we can see how the advance of VoD consumption has changed the regulatory balance focused on cinema and television in the country. The lack of regulation of VoD, therefore, reflects an emptying of the policy for incentives for the development of Brazilian audiovisual products, since a large part of audiovisual consumption has taken place on streaming platforms.

In fact, in recent years, the percentage of the population accessing audiovisual content on video platform websites or apps increased from 46% in 2019 to 54% in 2023, while the same consumption on pay TV services (regulated by Ancine) in 2023 was only 45% (Chart 2). This shows that most video consumption in 2023 took place on unregulated video platforms and, furthermore, that this audiovisual consumption surpassed pay TV services, which are regulated by Ancine, by 11%. Therefore, the verification of this change in Brazilian consumption patterns once again makes it essential to regulate VoD in the country.

CHART 2

Percentage of the population by type of platform used to access videos watched on the Internet (2019–2023)



Source: CGI.br (2024).

The phenomenon presented in the above data is in line with the global trend, since, according to Nielsen (2024), the time spent accessing videos/audiovisual works via streaming increased to more than 40% in 2024. In addition, according to the same survey, the average weekly time spent using smartphones and TVs, by age group, showed that for the younger age groups (18–24 years old and 25–35 years old), video consumption took place much more on mobile phones and apps than on traditional TV (cable or broadcast), while for the older age groups (35–49 and 50–64), the pattern was reversed. This shows a regulatory gap that Brazil will have to face in the coming years due to the lack of audiovisual regulation of cultural content on these platforms.⁵

Associated with these changes in the consumption pattern (demand) of the current audiovisual sector, we also see, on the supply side, the technological evolution of the next generations of mobile data networks. Over the years, 2G technology only supported voice transmission; with the change to 3G, data transmission was also possible. In the latter case, there has been substantial improvement with 4G technology, which enabled not only simple data transmission, but also intense flows such as video and music streaming. Finally, the 5G revolution has enabled huge amounts of data and, above all, the possibility of connecting streaming applications/devices simultaneously.

In this context, the Internet of Things (IoT) is expected to grow exponentially over the next ten years through a network capable of supporting billions of connected devices. By way of example, according to research by Huawei (2022), 5G technology will allow an 8 GB HD movie to be downloaded in just six seconds, while the same procedure on a 4G network takes around seven minutes, and over an hour on a 3G network. These accelerations on the supply side, coupled with changes in consumption patterns both historically and generationally, clearly indicate the need for regulation in the sector.

As explained above, this trend is confirmed by the ICT Households surveys from 2008 to 2023. Table 1 shows how the pattern of households with information and communication technology (ICT) devices has changed substantially in Brazil over the last 15 years. Mobile phones had consolidated their position as the devices most used in Brazilian households for accessing content (ICT equipment) by 2023, reaching 95%. With this, they surpassed television, which stood at 94% (Table 1).

⁵ It is worth noting here that the intended regulation is that of “qualified space” i.e., basically “movies and series.” Ancine’s regulatory scope excludes journalistic, entertainment, and religious content, etc. The regulation in which Ancine exercises its supervisory and promotion powers relates to the creative industry (cultural or entertainment industry).

TABLE 1

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Percentage of households with ICT devices (2008–2023)

Year	Televisions	Mobile phones	Radios
2023	94	95	46
2022	95	93	52
2021	95	95	53
2020*	95	N.D.#	56
2019	95	93	61
2018	96	93	62
2017	96	92	64
2016	97	93	66
2015	97	93	70
2014	98	92	75
2013	98	90	78
2012	98	88	79
2011	97	85	78
2010	98	84	86
2009	98	78	86
2008	97	72	86

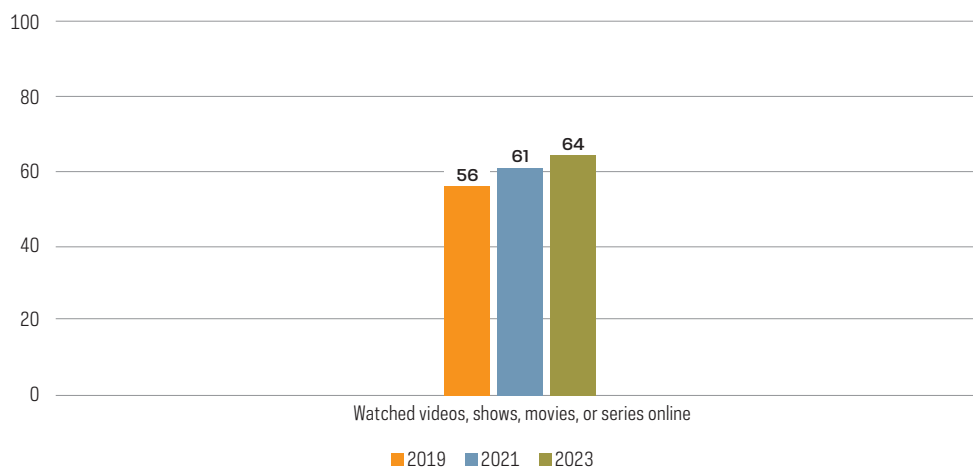
Source: NIC.br (2008–2023).**Note:** (*) Comparisons with 2020 should be made with caution, given that, due to the pandemic, the margins of error were greater and there was a change in the collection method; (#) Data not available.

In addition, the results of the ICT Households survey (2023) also showed that, among cultural activities carried out on the Internet (2019–2023), there has been an increase in recent years from 56% to 64% of the population watching videos, programs, movies, or series (Chart 3).

CHART 3

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Percentage of the Brazilian population by cultural activities carried out online (2019–2023)



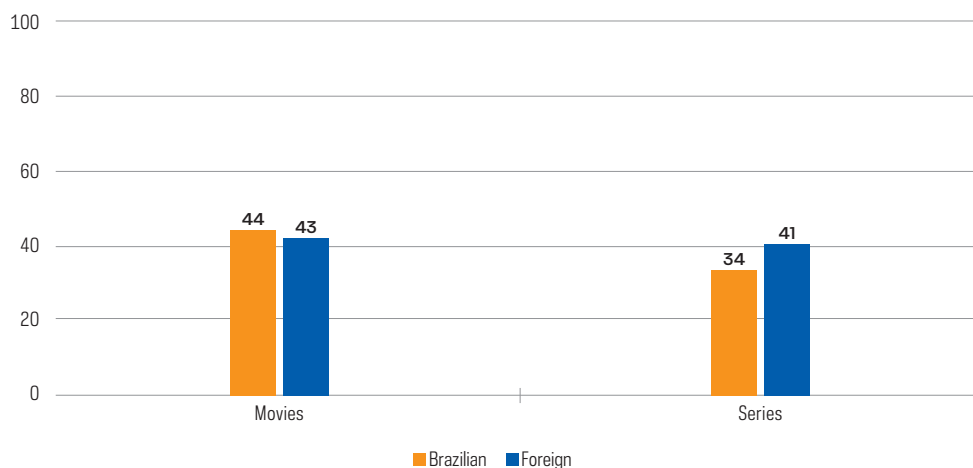
Source: CGL.br (2024).

Finally, with regard to the origin of the content accessed, the ICT Households survey reveals a significant presence of national productions. In 2023, 44% of the content consumed in the “movies” category and 34% in the “series” category was of Brazilian origin (Chart 4).

CHART 4

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Percentage of the population by origin of content accessed (2023)



Source: CGL.br (2024).

These results show the power of national audiovisual production in the streaming/OTT (over-the-top) market. Given that Ancine's mission is to develop and regulate the audiovisual sector for the benefit of society and Brazilian production, the establishment of a new regulatory framework for VoD on the different streaming media and platforms is once again a matter of urgency.

Conclusions

This article discusses how cultural public policies for the Brazilian audiovisual sector can be influenced by the data guiding their monitoring and the subsequent challenges to regulatory activity, particularly the need for a new regulatory framework for VoD in Brazil. To this end, we first analyzed the traditional forms in force in the European Video on Demand Regulation Directive (streaming) and assessed how a more refined data policy with cross-referencing of research can enhance the efficiency of regulatory policy in Brazil. Secondly, we looked at the effects of the obstacles to the regulatory debate in this sector in the country and how data from the ICT Households survey is already able to elucidate recent phenomena and indicate guidelines for the new regulatory dynamic.

The accelerations on the supply side, coupled with changes in consumption patterns both historically and generationally, make the need for regulation in the sector unmistakable. In the light of this research, we conclude that the change in the pattern of Brazilian audiovisual consumption once again makes it essential to regulate VoD in the country.

Finally, the analysis of technological supply trends, combined with the changes observed in the ICT Households analysis, shows a regulatory gap that Brazil will have to face in the coming years due to the lack of audiovisual regulation of cultural content on these platforms. It also shows how, within the scope of Ancine, establishing a new regulatory framework for VoD will enable regulation of the audiovisual sector in Brazil.

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