This document contains an article from the May edition of AIB Market Intelligence. AIB Market Intelligence reports are regular briefings on international TV, radio, online and mobile broadcasting and media produced by the Association for International Broadcasting (AIB) exclusively for its members. They cover latest news on broadcasters, transmission, content, technology and regulation as well as current tenders.

The article discusses the isses for international broadcasters operating in Brazil and Vietnam due to recent changes in broadcasting regulation. It illustrates the help that the AIB provides to its members on regulatory matters. After feedback from members on this topic, the AIB has put in place an action programme to help address their issues and concerns.

AIB membership also offers confidential intelligence on the global media market, information on international tenders, exclusive networking, contacts via its database of over 25,000 worldwide media professionals and promotional opportunities.

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http://www.aib.org.uk/find-out-more

REGULATORY CHALLENGES

AIB has been asked by some members to look at two current regulatory issues that could impact on their businesses. In Brazil and Vietnam, new regulations may restrict the operations of international TV channels. We explain the background and the potential impact and suggest how AIB action could help the situation

Brazil has a fast growing pay-TV market. The country of 203m people had a total of 13.95m pay-TV subscribers at the end of April, representing an increase if 284,000 subscribers in just a month. The fastest growth was in DTH systems, with 235k subscribers added, giving DTH a 57.1% market share. Cable systems added 58k subscribers in the month.

The largest DTH operator is Sky Brasil, owned by the US firm DirecTV and 7% by Brazil's Globo, with 4.2m subscribers. Its packages range from an 85 channel bundle at R49.90/month (about €20) to R315.70 month (€127) for 136 SD channels and 31 HD channels. International news channels carried on Sky Brasil include BBC World, Bloomberg and CNN International, but none of these is available as part of the basic package. Only one international radio station is carried: Radio France Internationale is available on all Sky Brasil packages.

Claro TV (formerly Embratel) is the second largest DTH platform in Brasil. The number of international channels carried by Claro is limited: Deutsche Welle, CNN International, NHK, TV5 Monde, RAI and TVE are available to subscribers.

The largest cable operator is Net with a total market share of 54.2% of the pay-TV market.

The second largest pay-TV operator is cable company Vivo TV, owned by Telefonica. At the end of April, Vivo had 685k subscribers. It has a wider offering of international channels, including BBC World News, Bloomberg, CNN, DW, NHK World, TV5 Monde, TVE, Telesur, RAI International and RTP International, although most of these are offered on an a la carte basis and require additional payment to view.

There are many smaller cable providers in Brazil, mostly analogue systems without the capacity to add many new services and channels.

CABLE LIMITED, DTT CHALLENGING

Although cable TV services started in 1995, penetration has remained low. At the end of 2010, only around ten million households (about 30m potential viewers) could access cable services, mostly among middle and upper classes. Cable is predominantly focused on large cities and towns where there are large apartment blocks that are reasonably easy to serve. The Northern region, with a population of 15.8m, has historically had the lowest cable penetration figures as it is the region that is almost entirely covered by the Amazon rainforest.

DTT is being introduced, using the Japanese ISDB system modified to accommodate specific needs of the Brazilian market. According to the Forum SBTVD, DTT is now available in 457 municipalities across the country, with a combined population of 86.641m people. The number of channels carried on DTT are limited compared to DTT services in Europe, for example. In Sao Paulo, only 14 channels are available. The price of set-top boxes remains higher than in countries where DVB has been adopted. The government has established targets for DTT-compatible sets, saying that all flat screen TVs over 26" must have a DTT tuner from January last year, and that from this year every new TV set in the market must have a DTT tuner. It is unclear whether those targets have been met as only eight brands are listed on the DTV Brasil consumer website.

LOCAL CONTENT

In September 2011, Brailian President Dilma Rousseff approved Act 12.485/11 that establishes new rules for the pay-TV market. The new regulations state that channels carried on pay-TV outlets – cable and DTH – must carry 3.5 hours of locally-produced programming during prime time. It appears that sport channels are exempt from the ruling and it is believed that news channels may also be exempt from the requirement to meet the local programming quota.

> "Brazil wants to impose a weekly 3.5 hours of locally produced content"

There has been a heated debate surrounding the introduction of the quota, with Sky Brasil running a major press and on-air campaign against the proposed requirements and AIB knows that other major international channels are concerned about how the regulation will impact their operations.

In putting forward this regulation, the Brazilian government suggests that it is to encourage the development of Brazil's local production industry and to guarantee that Brazilian culture is spread to as wide an audience as possible.

Sky Brasil argues that the requirement affects consumers' rights and will harm a sector that has invested, without public money, in Brazil for many years.

It is difficult to see how the regulation can be implemented and how it can be policed. Indeed, no details of any sanctions have been published, as far as AIB can determine.

In practice, channels that are programmed outside Brazil will have significant challenges in commissioning and scheduling 30' of local Brazilian content every day. There is also the question as to whether pay-TV subscribers actually want local content on channels for which they pay, when they have access to free-to-air, advertising-funded channels that offer extensive locally-produced programmes. The significant existing growth that has been

◀ A television repair shop in Vietnam

seen in pay-TV before the introduction of local content requirements proposed by the new Act suggests that there is no case of market failure. Indeed, major international networks such as Discovery and MTV are commissioning content from local production companies in Brazil. Speaking at the Rio Content Market in 2011, Roberto Martha, director of production management of Viacom Networks Brasil, which operates Nickelodeon, Nick Jr., VH1, VH1 HD, VH1 Mega Hits and VH1 Classic. "The partnership between indies and international channels is a reality, and we are glad Viacom, which has constantly co-produced with indies, is taking part in this process."

MTV Brazil is also commissioning content. It has partnered with the city of Rio de Janeiro's audiovisual agency RioFilme and the state government's Culture Secretariat to fund production of a 480,000 reals ($290,000) TV series.

Supporters of the regulation say that the local production quotas will raise US$250m for the country's production sector. Speaking at MIPTV, Brazilian media lawyer Jose Mauricio Fittipaldi said that the new act will bring "stability to the whole Brazilian pay-TV market". He went on to say that "international co-production will be very important in satisfying the demand".

Fittipaldi argued that the new regulations will help in the development of the pay-TV sector, saying that advertising revenues around the locally-produced programmes will grow. Given that pay-TV business models are generally based on subscription revenue rather than advertising, this argument is not substantial.

▶ There could be more local programming on international channels in Brazil if new regulations are introduced - and not just on domestic channels like TV Band

▼ Pay-TV operator statistics, Brazil

Operators	2009	1Q10	2Q10	3Q10	4Q10	1Q11	2Q11	3Q11	4Q11
Net	49.4%	47.7%	46.1%	44.8%	43.1%	41.5%	39.9%	38.4%	37.0%
SKY	26.3%	25.8%	25.9%	25.7%	26.1%	27.4%	28.6%	29.1%	29.8%
Embratel	6.5%	5.6%	7.8%	9.8%	11.6%	13.2%	14.3%	16.5%	17.9%
Telefonica	8.2%	5.9%	5.6%	5.1%	5.0%	4.9%	4.8%	4.6%	4.3%
Oi TV	4.2%	3.6%	3.1%	3.1%	4.1%	3.3%	3.2%	2.9%	2.8%
Abril	3.1%	2.1%	2.0%	1.8%	1.7%	1.6%	1.4%	1.4%	1.3%
Outros	2.2%	9.4%	9.6%	9.6%	8.4%	8.1%	7.8%	7.2%	7.0%
Total (Anatel)	7,473	7,919	8,426	9,074	9,769	10,419	11,108	11,889	100.0%

VIETNAM

In South East Asia, Vietnam is proposing a draconian set of rules for all international channels broadcasting into the country. Under Decision 20 of the Prime Minister's Office, all foreign pay-TV providers will be forced to use a local agent to translate in advance all movies and programming, including science, education, sports, entertainment and music. Foreign news broadcasters will have to provide a summary of their content in advance of airing in Vietnamese.

The new proposals also require foreign broadcasters to employ a local editing company for post-production work, including translation and content review, and to pay a placement fee.

The proposals which were due to be introduced in May but have now been delayed until November 2012 will make it almost impossible for any live broadcasting to be carried in Vietnam from outside the country.

With a population of 90 million – almost half of which are aged 30 or under – and an economy growing at an average of 7.3% a year over the past 15 years, Vietnam is enjoying a period of fast consumerisation. The World Bank says that in 2011, Vietnam's economy grew by 6%, despite the continuing global recession.

The pay-TV market now has around 3.7m subscribers out of a total TV audience of about 20m people PwC predicts that Vietnam's TV market – consisting of subscription and licence fees – will grow by 25% per annum over the next few years.

However, the country remains a communist state whose ideology dictates that the press and media should be state-controlled. The government appears concerned about the spread of unfavourable news from abroad and is trying to regain control of the media. AIB argues that the genie is already out

◀ Football is popular on Vietnamese TV
▲ This family may get the news late if Vietnam's proposed regulations are adopted

of the bottle.

While there is a regulatory framework for the pay-TV sector in the country, it has been poorly enforced. There has been an influx of foreign channels as well as extensive development of channels by local, non-state companies. It may be that the government now sees that it has lost control of the information flow within the country and is thus attempting to rein in the local and foreign media.

The Ministry of Information and Communications formed a Directorate of Broadcasting and Electronic Information in 2008. In 2009, the Directorate launched a public consultation on its draft pay-TV regulations. At the time of the consultation, pay-TV operators responded to the proposals which included new licensing requirements and the notion of a single state-owned buyer of all programming on all platforms. This concept has surfaced in Decision 20. The Foreign Program Supplying Organisation [FPSO] proposed in the new regulation will broadly be responsible for:

1. Negotiating copyright arrangements with foreign broadcasters or their authorised agents;
2. Editing and translating foreign programmes that are licensed by the Ministry of Information and Communications…to ensure that their content is not contrary to regulations on press and advertisement;
3. Re-distributing edited foreign programmes to pay-TV operators

FPSO will also ensure that foreign programmes meet five conditions:

1. The programme's content must not violate regulations on press and advertisement in Vietnam;
2. The programme's form and genre must be reasonable;
3. The programme must be suitable to people's healthy demand and the country's long term interests;
4. The programme must be licensed by the MIC;
5. The programme must be edited and translated by the FPSO to ensure that its contents are not contrary to regulations on press and advertisement.

IMPOSSIBLE

The proposed regulations will make it impossible for any live news channel to be carried in Vietnam. The notion that a summary can be delivered in advance by an international news channel, already in Vietnamese, is absurd. The cost of meeting this regulation is prohibitive and in practice impossible. If implemented and policed, the effect would be to switch off all international news channels in Vietnam.

> “The pay-TV market in Vietnam is growing at 25% per annum”

Given that international news channels broadcasting in a language other than Vietnamese appeal principally to urban, educated elites, it is difficult to see what problem the new regulations are trying to solve, other than cementing an ideological need to control information in the country. ■

Responding to the challenges

AIB is stepping up its work in the regulatory area to support its members. The two examples outlined in this article are ones that AIB proposes to work on for the benefit of members, liaising with foreign missions of both Brazil and Vietnam to put the views of the AIB and its members about these issues.

There will be other regulatory issues that affect AIB members in different markets and **AIB welcomes approaches from members about matters that affect their businesses** and distribution objectives, for example.

Please contact Simon Spanswick to share any regulatory issues that you would like AIB to support and to work with you on.