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***ANATEL STARTS  
PUBLIC  
CONSULTATION ON  
INTERNET LAW***

The National Telecommunications Agency (ANATEL) started on March 31 a public consultation on net neutrality for purposes of the Internet Law's regulation (*Marco Civil da Internet*; Law No. 12,985/2014) to be issued by the Federal Executive. ANATEL's input on the regulation of this matter is a requirement of the Internet Law.

The public consultation is structured in the form of questions related to how ANATEL should address 5 different topics: (i) technical requirements needed for adequate provision of services that may result in an

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exception to the net neutrality rule; (ii) relationship between telecom operators, providers of internet applications/content and end users; (iii) different business models in the internet; (iv) emergency services that qualify as exception to net neutrality rule; and (v) blocking of content and internet applications by telecom operators.

Comments may be provided at <http://www.anatel.gov.br> or <http://www.anatel.gov.br/dialogo> until May 4, 2015.

*ANTENNA LAW  
APPROVED BY THE  
SENATE*

On March 25, 2015, the Senate approved the bill of law No. 293/2012, known as "Antenna Law", which regulates the installation of telecommunications towers and antennas throughout Brazil. The Congress had been debating the bill of law since 2013 and players in the telecom market, which currently have to deal with different municipal regulations on the matter, eagerly awaited its approval.

The law seeks to simplify and systematize the process to license, install and share telecommunications infrastructure by telecom operators and tower companies. One of its main innovations is that any license necessary for installation of infrastructure in urban areas must be issued within 60 days after a request has been filed. Licenses must be valid for at least 10 years, renewable for equal periods. Environmental licenses, when needed, are treated separately and must be regulated by the National Environment Council (*Conselho Nacional do Meio Ambiente*) - CONAMA in a manner consistent with the law.

The law also ends controversy on a rule enacted in May 2009 by means of Law No. 11,934/2009, which required telecom operators to share among themselves towers located within 500 meters of each other and could result in the demobilization of several towers. The Antenna Law clarifies that this obligation does not apply to towers installed before enactment of the 2009 law.

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In order to become effective, the law must be sanctioned by the President.

*ANCINE 2015/2016  
REGULATORY  
AGENDA*

The National Film Agency (ANCINE) published on March 13, 2015 its regulatory agenda for 2015 and 2016. The regulatory agenda indicates the matters deemed strategic by ANCINE and that the Agency intends to cover in the following two years.

One of the key issues of the agenda is the regulation of the VOD business, including the collection of the Contribution for the Development of the National Cinematographic Industry (CONDECINE) and the potential requirement of minimum quotas of national content, similar to those existing in the Pay-TV market.

Another controversial item of the agenda is the promotion of a study by the Agency on whether games and its productive chain should be included in the scope of the ANCINE's jurisdiction. As it is often the case of ANCINE's proposed regulations, one of the goals of such measure according to ANCINE would be to stimulate the production of Brazilian independent and regional content.

*MINISTRY OF  
JUSTICE'S PUBLIC  
CONSULTATION ON  
DATA PRIVACY  
EXTENDED TO  
APRIL 30*

The Ministry of Justice extended the deadline for providing comments to the draft bill of law on data privacy to April 30, 2015. The bill of law has been available for comments since January 28 and, according to the Ministry, it had been accessed by visitors from 59 different countries and received 278 contributions up to March 1st. Comments may be provided at <http://participacao.mj.gov.br/dadospessoais>.

*NEW MINISTER OF  
COMMUNICATIONS  
INTENDS TO CARRY*

The new Minister of Communications, Mr. Ricardo Berzoini, expressed in public events that the Ministry intends to carry out in 2015 public debates on a proposed media regulation. Media regulation has been on and off the

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*OUT DEBATES ON  
MEDIA  
REGULATION*

Federal Executive's agenda since former President Lula was in office. According to the Minister, the Ministry of Communications will not propose a draft bill of law, but instead, intends to discuss the matter with the society in general by means of public consultations and public audiences.

*PAYROLL  
REDUCTION  
REGIME*

The Payroll Reduction Regime was created by Provisional Measure No. 540/2011 and viewed to formalize work relations and develop economic sectors. One of the economic sectors that was benefited from this program was IT and ITC sectors, whose social contributions were reduced from a 20% burden on payroll to 2% of the revenues.

Through Provisional Measure No. 669/2015, however, the government decided to increase the 2% rate to a 4.5% rate on revenues. This Provisional Measure was not accepted by the Congress, who returned it with no effects. The executive body of the government is still pushing for this increase through a bill of law.

We understand that in increasing the rates of the Payroll Reduction Regime, there is a distortion of the intent of the program. The amount of the contribution on revenue at the proposed rate of 4,5% represents a taxation similar or greater than the 20% contribution on payroll, turning the reduction regime without effects. In this sense, we understand that there are arguments to dispute the increase in the rates of the Payroll Reduction Regime if the government is able to pursue the increase in rates as proposed.

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**EXTENSION OF TAX  
BENEFITS FOR  
TABLETS,  
NOTEBOOKS AND  
SMARTPHONES  
AND FISTEL  
EXEMPTION FOR  
SMALL CELLS**

Law No. 13,097/2015 guaranteed the extension of PIS/COFINS reduction to zero, until 2018, on the retail sale of tablets notebooks and smartphones. In order to rejoice from such benefits, some conditions have to be complied with. For example, modems and routers can only cost up to R\$ 150, and smartphones (which have to be produced in the country) shall cost up to R\$ 1,500, among other conditions that are foreseen in Decree No. 7,981/2013. Computers are limited to R\$ 8,000. The PIS/COFINS rate is of 9.25% on revenues.

The same law granted an exemption of FISTEL (Telecommunications Auditing Fund) for small cells – ERB radio bases, whose potency reached up to 5W. The FISTEL is charged on a fixed amount that varies depending on the number of telecommunications stations installed and in activity.

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## **Our Technology, Media and Communication Practice Group**

*The Pinheiro Neto TMT Practice Group gathers knowledge from different areas to provide a holistic approach to the most complex legal issues brought by our clients. From telecommunications and audiovisual regulatory matters to tax, labor and intellectual property, Brazil is not a country of simple answers; an approach taken by a global company in another jurisdiction may need to be considered from surprising new angles.*