

IT News

PINHEIRO NETO ADVOGADOS

HIGHLIGHTS:

Change in phone call billing system delayed for one year

Choice of the digital TV standard

Anatel approved prepaid wireline phone system; government plans to adopt social phone service

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FOREWORD

Habemus standard! Do we?! Well, at least that is what the papers finally report. Despite the continuing efforts of the European standard sponsors, it seems the Brazilian Government has at last made a decision to adopt the Japanese digital TV standard, despite the efforts of the representatives of the European standard. Of course we cannot comment on the technical merits of the option, but in a way or another, hopefully this will be a new surge of energy in the Brazilian ITC industry that, so far, had not experienced much excitement since the beginning of the year.

In any event, a number of relevant issues must yet be overcome. We should not forget that it has been over 5 months since ANATEL's latest president Elifas Gurgel left the post, and still the Agency does not have a new definitive commander-in-chief. Needless to say how much this (together with a number of other initiatives of the Lula Administration) has undermined the authority and autonomy of the Agency, and negatively affected our reputation before the international community.

The FUST - Telecommunications Services Universal Access Fund also remains by far one of our oldest "to-do's" in telecom. Since the year 2000, when the Fund was established, over R\$ 4 billion were collected and have been sitting there without destination. The good piece of news, though, is that according to recent reports the Ministry of Communications is soon to launch its proposed Program for the Assistance of Handicapped People, to be implemented with monies amassed in FUST. We hope they do "fly"!

This IT News provides you with highlights on those, as well as on a number of other initiatives and innovations – such as the new prepaid wireline phone system, the new computer law regulation, and some news on ANATEL plans for VoIP – which we hope are good enough a fuel to foster the Brazilian ITC industry in increasing swiftness and dynamism.

Thanks for joining us!

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INFORMATICS

Legislative Bill 324/2005 – City of Rio de Janeiro

Shortly after the Open Source Software Foundation announced its first review of the General Public License – GNU in 15 years, the City Council of Rio de Janeiro released Legislative Bill 324/2005, by which all local government entities will be required to give preference to open source software. Use of proprietary software is only admissible in exceptional cases where the purchasing entity proves ‘differentiated technology needs’, incompatibility with existing software, or other relevant reasons in the public interest. The Bill is pending final approval by the Mayor of the City of Rio de Janeiro.

Regulation of Computer Law At Its Final Stage

Regulation of the Computer Law (Law No. 11077/2004) is near its final stage. The draft decree regulating such law is soon to be sent to the Chief of Staff, for review and further referral to Congress for voting.

Lack of proper regulation has barred access to the benefits under the so-called Basic Production Process (PPB), which sets the minimum procedures to be adopted in the manufacture of specific computer products so as to qualify for a reduction in the Tax on Manufactured Products (IPI).

FUNDS

STF Rejects Injunctive Relief On Release Of FUST And FISTEL Funds

In early 2006, the Federal Supreme Court (STF) rejected a motion for injunctive relief filed by attorney Luiz Carlos Crema (SC) in the suit for accountability of the President of the Republic in light of supposed mismanagement of monies from the Fund for Universal Access to Telecommunication Services (FUST) and from the Fund for Support of Telecommunication Inspection Activities (FISTEL). Such funds originate from contributions made by telecommunications companies, and currently amount to R\$ 4 billion and R\$ 2 billion, respectively.

Although these funds were created to improve telecommunication services (FUST for universal access by low-income citizens; and FISTEL for support of inspection actions by the Federal Government), the existing proceeds have not been invested so far.

Ministry of Communications’ initiative to use monies from FUST in its Program for the Assistance of Handicapped People

However, it seems that for the first time the government has gathered the conditions necessary to the use of part of the resources amassed in FUST. This is so because the Minister of Communications has just conducted a public consultation on the proposal for the Program for the Assistance of Handicapped People, to be implemented using resources collected in FUST.

As designed, such program intends to make special telephonic equipment available to nearly 800 institutions that assist people with visual and/or auditory disabilities. The presented comments and suggestions are currently under the appreciation of the Ministry of Communications.

FIXED TELEPHONY

Anatel Approved Prepaid Wireline Phone System; Government Plans to Adopt Social Phone Service

In January 2006, the prepaid wireline phone service called “Special Individual Access - AICE”, approved by Anatel Resolution No. 427 of December 16, 2005 started being implemented. This prepaid wireline phone service is primarily targeted at low-income users: the monthly subscription fee is about 40% lower than ordinary rates; there is no hour-based modulation (i.e., differentiated tariffs depending on the hours when calls are made); and there is no preset number of pulses free of charge per month. According to Anatel, 4.5 million homes will have access to AICE within the next two years.

However, the Federal Government has opposed to AICE for being allegedly disadvantageous to consumers and lacking in sufficient elements to promote social inclusion more effectively. Alternatively, the Government has defended the so-called “social telephone service”, comprising an even lower monthly subscription fee, 60 monthly pulses free of charge, and availability to families with a monthly income of up to three minimum wages.

Nevertheless, the implementation of the social telephone service depends on a number of preliminary procedures. The biggest challenge faced by the Government is the need to approve an amendment to the General Telecommunications Law (LGT) in order to allow telecommunications services providers to offer the social telephone service to a certain segment of the population. The Bill presented by the Government has also raised discussions as it sets forth the possibility of the companies to make cross-subsidies between ordinary wireline phone service providers and the future providers of the social telephone service.

Change In Phone Call Billing System Delayed for One Year

In February, 2006 Anatel issued Resolution No. 432, modifying one of the key aspects of wireline phone service concession contracts (recently renewed for a 20-year term): conversion of the billing system from pulse- to minute-based. This conversion was to be put into effect until in the period comprised between March

1st and July 31st, 2006. However, in view of Resolution No. 432, the deadline for implementation of the changes was pushed ahead to March 1st, 2007.

This Resolution came in response to requests of the Federal Government through the Ministry of Communications. The alleged major reason for such delay is the negative impact on Internet dial-up users, as the new billing system could translate into a price hike of up to 100% in phone calls. Nevertheless, this new measure has drawn vociferous criticism in that it may prevent consumers from having access to a more transparent bill (which is only possible in a detailed minute-based billing system) while also representing a potential interference in Anatel's decision-making autonomy.

TELEVISION

Choice of The Digital TV Standard

Discussions over the digital TV standard to be adopted in Brazil have intensified during the last months, and the Federal Government seems to have finally decided on the Japanese modulation standard (to the detriment of the European standard, a former leading contender). Telecom companies and users still await an official announcement, though.

These discussions date back to 2003. One of the major concerns is that the selected standard should be capable of meeting the demands of a society where 90% of the population watches broadcast TV, while only 7% have access to cable TV (even though such network extends over 27% of the country's territory). The selection priorities include: universal access by the population at all levels; strong interactivity capabilities; and potential integration with other Latin American countries.

In January 2006, Brazilian TV broadcasters sent a joint communication to the Federal Government favorably to the Japanese modulation standard, which they viewed as capable of offering the best commercial and operational conditions. On the other hand, telecommunications carriers have placed themselves in favor of the European standard, perceived by them as a source of scale economy gains. Further, the Japanese industry is signaling the possibility of investing in the manufacture of semiconductors in Brazil, which could translate into US\$ 1 billion investments in the short run. Despite these favorable aspects, the Brazilian Center

for Telecommunications Development Research (CPqD) released in February a study stating that the Japanese modulation standard is pricier than its rivals, and defending a multiprogramming system.

VoIP

Anatel is yet to Regulate VoIP

Anatel is yet to regulate alternative VoIP plans but operators are already launching their products in this market, which has grown considerably in Brazil. So far, Anatel has only cared to make sure that calls may be tracked and, if necessary, that their secrecy may be lifted in cases of criminal investigation, by means of prior judicial authorization.

However, these stopgap measures only refer to Fixed Switched Telephone Service (STFC) regulations, leaving Multimedia Communication Service (SCM) without any regulation on this matter, even though such measures have long been claimed by smaller sized operators.

INTERNATIONAL COOPERATION

Korea-Brazil center for Cooperation in Information and Communication Technologies

In late 2005, Brazilian Minister of Communications Hélio Costa and South Korean Minister of Information and Communication Daeje Chin signed a memorandum of understanding for the setup of a Korean-Brazilian Center for Cooperation in Information and Communication Technologies (TIC) in Brazil. The TIC location is yet to be defined by the Brazilian Government. The Brazilian Government expects to attract investments of nearly US\$ 1 million from the South Korean Government throughout the three-year term of the agreement.

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