

A Few Pointers to Keep Brazil's New Public TV in Line

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In response to the launching by the Brazilian government of a national public television the London-based international freedom of expression organization Article 19 says that it welcomes Brazil's initiative while urging Brazilian Congress to ensure that the upcoming law regulating the public broadcasting company guarantees its independence and diversity.

The Brazilian Communication Company, responsible for operating the public television concern in Brazil, was created in October by a provisional presidential decree.

The company's principal enterprise is TV Brasil, a new public TV channel which started operating on December 2, 2007. The provisory decree (medida provisória) creating the public broadcasting system must be approved by Congress before becoming law.

As of November 30, legislators had presented 132 amendments to the decree. The proposals must be voted on by House representatives and senators before becoming law.

Article 19 calls the Federal Government's initiative an important step toward establishing a public broadcasting system in Brazil. However, it cautions that the presidential decree has failed to set the basis for a genuine public service.

According to international standards, public broadcasters must be protected against political or commercial interference. Their editorial independence must be respected, and their programming should be balanced, impartial, and serve the public interest.

In order to secure independence, appropriate structures must be in place. Also as a way of guaranteeing independence, public broadcasters should have pluralistic and independent governing boards.

Under the current arrangement, the broadcaster remains under excessive control of the Executive Branch, which may undermine its independence and impartiality. Article 19 is urging Brazilian legislators to address the current shortcomings and weaknesses of the presidential decree.

- The Presidential Provisory Decree 398 / 2007 states in article 2 (5) that public broadcasting services in Brazil must have "autonomy from the Federal Government to decide on content production, programming and distribution." However, article 5 of the decree, which creates the public broadcasting company, subordinates it to the Presidency's Social Communication Secretariat. Such an arrangement could undermine the broadcaster's operational and administrative autonomy, with negative effects on independence and impartiality.

- According to Decree 398, the new public broadcasting company will be managed by an Administrative Council and a Director. The broadcaster will also have a Fiscal Council and a Board. Under the terms of the decree, the Brazilian President appoints the Director and Executive Director of the public broadcasting company, who are responsible for the public television company's general direction and coordination. Four out of the five members of the Administrative Council are appointed by the Executive Branch, as well as two out of three members of the Fiscal Council. Under this arrangement, the public broadcaster may be vulnerable to political interference.

- The Board (Conselho Curador) of the public television company consists of four ministers from the Federal Government, one staff representative, to be elected by the public television company's staff, as well as 15 civil society representatives. All civil society representatives of the broadcaster's Board, however, have been appointed by the Brazilian President, without any civil society consultation. Although the statute regulating the activities of the public broadcasting company (Decree 6.246) makes reference to a public consultation process to renew the members of the board, the rules for consultation have not been detailed.

- The independence of public broadcasters is also to be guaranteed through the adoption of funding schemes that guarantee the free flow of information and ideas, and the promotion of public interest. Decree 398 creating the Brazilian Communication Company establishes that it may obtain funding from various sources, including direct government subsidies, sponsorship from private and public institutions, some types of institutional advertisements, and donations. However, the decree establishes no percentages for each type of funding, and fails to determine how they may be used - for instance, if government direct funding or advertisements can be applied to fund program production, or only infrastructure and technical costs. Article 19 recommends the use of specific fees as a way of guaranteeing the public television company's independence.

- Although the decree recognizes diverse funding sources, the vast majority of the 2008 funding will consist of direct government subsidies, according to information provided by the public broadcasting company. The Federal Government has announced that it will invest 350 million Brazilian reais (US\$ 196 million) in the public broadcasting system in 2008. The funding will come from the Federal Government's general budget, which needs to be approved each year. According to Article 19, direct public subsidy should not be used to fund program production but should instead be used to defray infrastructure and other technical costs.

Article 19 also argues that the public television company should be primarily accountable to the Brazilian public, both in terms of content broadcast and resources spent. Annual reports should therefore include financial information, but also information related to the objectives of the broadcaster and the extent to which they have been met.

These reports should also present objectives for the upcoming year, editorial policy, description of activities undertaken, a list of programs broadcast by the public channel that were prepared by independent producers, as well as information on complaints by viewers. Such reports should be transparent and widely distributed, concludes the freedom of expression organization.

Article 19 - www.article19.org