

ITU-T Technical Report

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QSTR-MCM-UC

Use cases on the combat of multimedia content misappropriation



Table of Contents

	Page
1 Scope.....	1
2 References.....	1
3 Definitions	1
3.1 Terms defined elsewhere	1
3.2 Terms defined in this Technical Report	1
4 Abbreviations and acronyms	1
5 Conventions	1
6 Introduction.....	1
Appendix I – Use cases	2
I.1 Brazil	2
I.2 Uruguay	7
I.3 Latin America.....	10
I.4 Central African Republic.....	10
Appendix II – Other related actions	12
II.1 CITEC Regional efforts on the combat of multimedia content misappropriation.....	12
II.2 CITEC Recommendation – PCC.I/REC. 33 (XXXIX-21) - Efforts against the piracy of television content and signals in Latin America and the Caribbean.....	17
Bibliography.....	20

Technical Report ITU-T QSTR-MCM-UC

Use cases on the combat of multimedia content misappropriation

1 Scope

This Technical Report aims to collect use cases from ITU Member States that reflect challenges, opportunities and results of the combat of multimedia content misappropriation, and, with this information, assist ITU Member States in engaging with this problem.

2 References

None.

3 Definitions

3.1 Terms defined elsewhere

None.

3.2 Terms defined in this Technical Report

None.

4 Abbreviations and acronyms

This Technical Report uses the following abbreviations and acronyms:

AS	Autonomous System
DNS	Domain Name Server
IPTV	Internet Protocol Television
ISP	Internet Service Provider
IXP	Internet Exchange Point
LAN	Local Area Network
OTT	Over-The-Top
VPN	Virtual Private Network

5 Conventions

None.

6 Introduction

This Technical Report aims to collect use cases and statistics from ITU Member States that reflect challenges, opportunities and results of the combat of multimedia content misappropriation and, with this information, assist ITU Member States in engaging with this problem.

The use cases can be found in Appendices I and II.

Appendix I

Use cases

I.1 Brazil

I.1.1 Introduction

In Brazil, telecommunications products need to receive approval (certification) from the telecommunication authority, in accordance with the conformance regime defined in the telecommunication regulations and laws, before they can be sold or used on the networks. Therefore, the Brazilian telecommunications agency (Anatel), as the responsible telecommunication authority, have been implementing actions to supervise telecommunication product commerce in accordance with these rules.

Also, joint actions with other government entities have been developed and deployed to combat the import and sale of these irregular (non-certified) products. As a result, millions of irregular products have been removed from the market since 2018.

As a result of these actions, Anatel has learned that the quantity of irregular TV content receivers (TV boxes) has increased on the market; these allow the installation of software so that its user is able to access restricted TV content without a proper service subscription.

This poses a major threat to the telecommunication market, since the use of these irregular TV boxes causes revenue loss to telecommunication providers and content creators and also poses risks to user security, since it is common for these irregular TV boxes to also include software that allows the theft of users' personal data and their use as "network clients" by perpetrators to promote cyberattacks on the networks.

For instance, it is estimated that in 2018 irregular products accounted for more than 50% of the telecommunication products market (according to IDESF (the Institute of Economic and Social Development of Borders)), and more than 25% of the users of TV content used an illegal means of access (according to ABTA (the Brazilian Pay TV/Telecom Association)). To reverse this situation, the Action Plan Against Piracy (PACP) was devised in 2017, based on coordinated actions for the inspection of telecommunication products in large distributors, electronic commerce and customs.

The inspection of distributors of telecommunication products was occasionally carried out before the PACP deployment. Therefore, there was no need to create a specific procedure; the inspection planning started to be carried out in a coordinated way, aiming at the improvement of the efficiency of the inspection actions. On the other hand, inspection in the electronic commerce and in customs demanded new procedures and regulation adjustments.

Despite this effort in physically controlling TV boxes, the country has very large and accessible borders, which have contributed to an estimated 5 million to 7 million such devices being used in Brazil, according to ABTA. In recognition of such a challenge, Anatel has approved a new plan of action in 2023, in order to address this vast amount of non-certified working TV boxes. This Action Plan to Combat the Use of Irregular TV boxes (*Plano de Ação para o Combate ao Uso de Decodificadores Clandestinos do SeAC*) is based on blocking the IP traffic required by the devices in order to decode pay TV transmissions and can also be used to block IPTV streams.

I.1.2 Implemented actions

The main actions taken by Anatel to combat multimedia content misappropriation are related to fighting the import, distribution, sale to end users and operation of non-certified TV boxes. Below is a rough timeline of them:

- **1997-2014** – Regular and not centralized enforcement of the distribution, sales and use of non-certified telecommunication products.

- **2014** – Inspection of telecommunication products imported by express shipments.
- **2018** –PACP.
- **2019** – New ICT product certification regulation.
- **2020** – Inspection of telecommunication products in ports and airports.
- **2021** – Requirement of notice by the telecommunications authority to import telecommunications products.
- **2023** – Action Plan to Combat the Use of Irregular TV boxes.

I.1.2.1 Inspection at telecommunication product distributors

Inspection at telecommunication product distributors, which before the implementation of the PACP was carried out after receiving complaints, started to be carried out in a coordinated manner. Anatel began to actively seek evidence for planning inspections. Routine actions at telecommunication service providers generated information about major suppliers of irregular products. Manufacturers' associations also started to contribute relevant information for inspection planning.

I.1.2.2 E-commerce

The procedure for the supervision of the sale of telecommunication products through electronic commerce was non-existent before the implementation of the PACP. This activity is a great challenge, since the physical inspection of the products is not possible.

Anatel takes notice of irregular product announcements from complaints from the public, as well as from the advertisement of products found using web crawlers on the Internet or web crawlers or APIs on marketplaces. Once the irregularity of the advertised product is verified, inspectors try to identify the person responsible for it. For this, the following tools are used:

- Verification of ownership of the website address where the product is advertised;
- Consultation with mobile operators on the ownership of the phone numbers available for contact on the website;
- Simulation of purchasing a product to identify the person responsible in the available means of payment;
- In the case of advertisements in marketplaces, notification of the management company to identify the advertiser;
- Automatic validation of Anatel's certification of the product as a prerequisite to insert new selling advertisements.

Once the person responsible for the advertisement is identified, a notification is issued to remove the advertisement and an administrative proceeding is initiated to apply corrective measures, such as a conformity plan or punitive measures as administrative or financial sanctions.

I.1.2.3 Customs

The inspection of products for telecommunications in customs is carried out jointly with the Special Department of Federal Revenue of Brazil (RFB), who are responsible for customs. It takes place in two types of customs environments: express shipping companies, used by individual importers and ports and airports, used by distributors and traders.

In the case of express shipments, the packages are opened and Anatel, after inspecting the products, recommends to the RFB to:

- a) Authorize the import, if the product is certified or does not require certification;
- b) Grant a period for regularization, if the importer manifests interest to certify the product for the importer's own use;

- c) Return to origin, if the importer does not seek for regularization or the product is illegal or restricted in the country; or
- d) Destroy the content of the package, in the case of illegal products such as signal blockers or equipment intended for piracy of audiovisual content.

Anatel regulations establishes that the certification of telecommunications products intended for commercialization must be obtained before entering the country. Therefore, in ports and airports the procedure is similar to that of express shipments, with the following exceptions:

- a) Irregular products are seized and might go to a public auction with the condition of re-exporting them to a different market, if the product is not legal in Brazil;
- b) Irregular products are seized and might go to a public auction, but will only be delivered to the bidder if the bidder certifies them;
- c) Irregular products seized may be repurposed for another, legal use, for example, TV boxes can be repurposed as light computers for basic school usage.

I.1.2.4 Actions in the digital world

The Action Plan to Combat the Use of Irregular TV boxes aims to disrupt the experience of the end user of the irregular TV boxes, which are generally used to access misappropriated multimedia content. The end goal is to have the user opt out of the irregular devices and content.

The steps of the plan are:

- a) IP/URL investigation of the servers used by the TV box for authentication, access to paid TV control words or misappropriated multimedia content (IPTV);
- b) Check for any regular use of investigated IP/URL;
- c) IP routing investigation of the IP/URL of servers used by irregular devices and content;
- d) Submit request for blocking IP/URL used by irregular devices and content to the telecommunication service providers (broadband, public domain name system (DNS) and internet exchange point (IXP) providers);
- e) Monitor the implementation of blocking requests;
- f) Monitor circumvention attempts by the irregular devices and content providers.

I.1.3 Impact statistics of the implemented actions

Figure I.1 depicts the accumulated number of non-certified and seized TV boxes in the scope of the PACP, since February 2019, when this type of device started to be counted as a category.

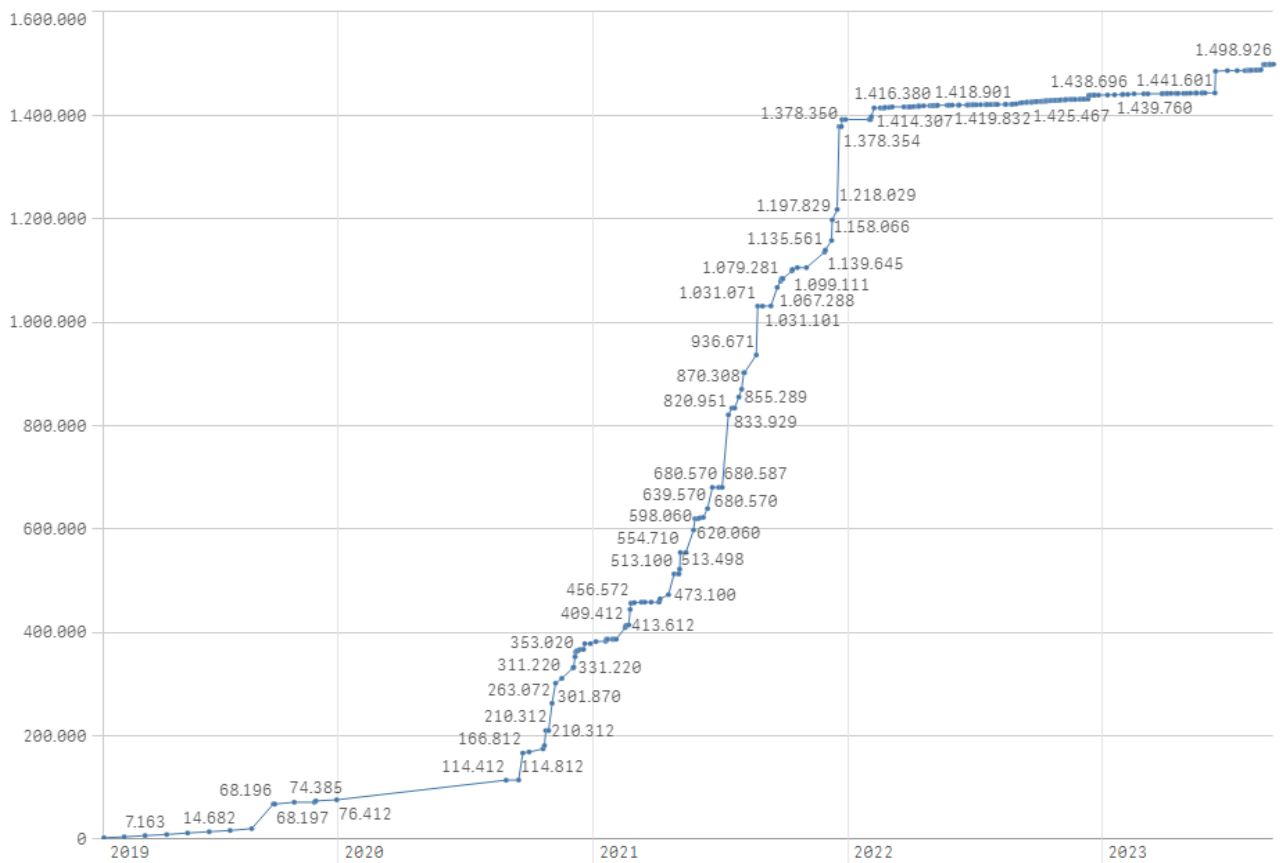


Figure I.1 – Accumulated number of non-certified and seized TV boxes in the scope of the PACP (2019–2023)

Highlights¹:

- 69 205 irregular TV boxes were seized in 2019
- 281 970 irregular TV boxes were seized in 2020 (+307% year on year growth)
- 805 056 irregular TV boxes were seized in 2021 (+186% year on year growth)
- The total accumulated number of irregular TV boxes sized by the end of 2022 was 1 439 134 units with an estimated market value of BRL 399 million (USD 77.2 million approx.)

The Action Plan to Combat the Use of Irregular TV boxes was implemented in February 2023. Highlights of the first six months (March to August 2023) of the plan are:

- 29 blocking operations performed;
- Approximately 1 500 IP addresses/URLs blocked in total;
- 190 entities (major internet service providers (ISPs), international cable providers, tier-1 IXP) perform operations that should guarantee a minimum of 80% of the total number of broadband fixed accesses in the country; and
- 2 of the 3 illegal distribution technologies have been affected.

¹ Data provided by Anatel.

I.1.4 Challenges faced in implementation

I.1.4.1 Regulatory challenges

Federal Law 9.610/98 establishes the rules for author rights for text, musical, photographic and audiovisual works, among other related provisions. It forbids the unauthorized reproduction, distribution and usage of such content, but the enforcement of the rules is left to the common civil justice system. As a result, there is no Government body with a specific legal mandate to fight multimedia content misappropriation in general, although the Brazilian film agency (ANCINE (Agência Nacional do Cinema)) can take measures to defend the Brazilian audiovisual industry.

The Federal Telecommunications Law 9.472/97 establishes the legal framework regarding telecommunication product certification, user and telecommunication providers' rights and obligations, telecommunication public and private services and Anatel as the Brazilian telecommunications regulator. Therefore, Anatel can legally act against unauthorized pay TV (or pay-TV-like) services and on the distribution, commerce and usage of non-certified telecommunication products, including pay TV receivers and TV boxes. Although the traditional and physical action to seize non-certified products has been performed since the inception of Anatel, it was only in 2018 that a comprehensive programme (PACP) was put in place to combat such products, and only in 2021 did it become clear that Anatel could hold e-marketplaces responsible for the sale of non-certified products. Finally, in 2023 it became clear that Anatel could accept the challenge to execute a plan to act to disable non-certified TV receivers and TV boxes by preventing them accessing misappropriated multimedia content.

I.1.4.2 Resources

To prevent the misappropriation of multimedia content, Anatel had to overcome several resource challenges:

- a) Technological resources, such as a test laboratory in order to examine how the non-certified TV receivers and TV boxes communicate to their enabling servers on the Internet;
- b) Technical staff resources with appropriate skills profiles, who needed training and dedicated time to examine the non-certified TV receivers and TV boxes;
- c) Communication systems, required to coordinate action;
- d) User communication resources, to educate the public on the risks of installing a non-certified telecommunication device in their home and especially on their LAN, in opposition to the promise of unlimited access to (misappropriated) multimedia content.

I.1.4.3 Third party cooperation

As of September 2023, there were more than 19 200 ISPs in Brazil, most of which are also a part of the 8 900 or more Internet autonomous systems (AS) in the country.

The combat of multimedia content misappropriation, by blocking access of TV receivers and TV boxes to the enabling servers on the Internet, could only be performed with the cooperation of the ISPs, tier-1 IXPs, international communication cable providers and public DNS providers.

To gain the cooperation of all these entities so that the request for blocking of the IP/URL used by irregular devices and content is fulfilled in a coordinated fashion is another significant challenge, which was partially overcome by the reputation and reach of Anatel.

I.1.5 Remarks and conclusions

Irregular telecommunications products represent a great risk to society, since they are:

- A threat for spectrum management, since they have not been certified in relation to the characteristics of radio frequency emission;

- A risk to the health and safety of users, since they have not been evaluated in relation to non-ionizing radiation, risks of leakage of toxic materials, overheating and explosions;
- A threat to the competitive environment, as traders of irregular products compete under unfair conditions with traders who follow the law.

In particular, irregular TV boxes cause revenue loss to telecommunication providers and content creators and also pose risks to user security, since it is common for these irregular TV boxes to also include software that allows the theft of the user personal data and for them to be used as "network clients" by perpetrators to promote cyberattacks on the networks.

Since the implementation of the PACP, there has been a significant increase in the effectiveness of the actions of Anatel and partner agencies in combating piracy, with the removal of hundreds of thousands of irregular products in 2022, including devices that enable the misappropriation of multimedia content.

The 2023 Action Plan to Combat the Use of Irregular TV boxes aims to disrupt the use of non-certified TV boxes widespread in the country by combating the misappropriation of multimedia content, which can lead users to take such devices off the network. This misappropriation is addressed at the routing and domain name resolution levels at hundreds of ISP, tier-1 IXPs and international communication cable providers, which block the access to the misappropriation enabling servers in a coordinated manner.

I.2 Uruguay

I.2.1 Introduction

In Uruguay, telecommunication and audio-visual services operate on an open market subject to regulations. In accordance with the conformance regime defined by the telecommunications regulations and laws, a licence is needed to be part of those markets.

The illegal distribution of content harms formally established organizations: audiovisuals, television operators for subscribers and public broadcasting television services. Evidence suggests that intellectual property rights are not respected, and other rights over audiovisual signals and content are infringed, in unfair competition with established services. There is a growing offer of services that are provided illegally, especially by using Internet protocol.

An effort is being made to fight the provision of signal services and audiovisual content distributed or used without the authorization of the owners. There is a particular emphasis on those which are provided with support in new technologies and telecommunication networks.

A precautionary measure has been proposed that allows the regulatory authority to block access from the national territory to sites whose providers do not have the authorization of distribution from the rightsholders of audiovisual content.

I.2.2 Implemented actions

I.2.2.1 Regulatory background

Law 18159 of 30/07/2007: All natural and legal persons, public and private, national and foreigners, who develop economic activities, with or without profit, in the Uruguayan territory, should abide by the principles of free competition.

Copyright and Intellectual Property Law 9739 of 17/12/1937 and art. 20 of Law 17.616 of 10/1/2003 and by articles 12 and 13 of Decree 154/04 of 3/5/2004.

Law 17.520 19/07/2002: Punishes with a fine to those who capture signals transmitted by any means, intended exclusively to be received under the subscriber regime without being so; and to those who, with or without profit, carry out in favour of a third party, the installations, manipulations or any other activity necessary to obtain signals that require subscription.

Decree 276/12 24/8/2012: Prohibits the import and sale of satellite receivers that do not have the authorization of the regulator. This action has been developed and deployed to combat the import and sale of irregular (non-certified) products. As a result, many actions to remove irregular products from the market have been adopted.

Law 19535 art 244 and 245 – Illegal online games. This prohibits the provision of gambling or online betting services through the Internet, technological platforms, computer applications or similar that do not have authorization granted in advance.

Issuers of electronic means of payment may not authorize transactions involving the use of such instruments to make payments associated with unauthorized gambling and betting. Nor may they enable the use of the aforementioned instruments for the collection of prizes originated in these activities.

Once the existence of a website in which unauthorized gambling or online betting services are provided is known, taking the precautions that verify the irregularity, the National Direction of Lotteries provides for the blocking of the domain address / uniform resource locator (URL).

Law 19574 art 34 12/20/2017 on Money Laundering: Crimes against intellectual property are considered criminal activities preceding the crime of money laundering.

I.2.2.2 New content regulations

Law 19.924 art. 712 of 18/12/2020: regulations on blocking audiovisual content.

This empowers the Regulatory Authority (Regulatory Unit for Communications Services (URSEC)) to adopt sanctioning and preventive measures, for those who broadcast television services for subscribers through the Internet or similar network, for commercial purposes, without being entitled to offer such signals.

The broadcasting of television services for subscribers through the Internet or similar network, for commercial purposes, by a natural or legal person who is not entitled to offer such signals, in violation of the provisions of Laws No. 9,739 of December 17, 1937 (Copyright Law) and No. 17,616, of 10 January 2003, and its amendments, may be administratively sanctioned.

To this end, URSEC is empowered to adopt sanctioning and preventive measures in accordance with the provisions below and the regulations issued by the executive branch in a timely manner.

The owners of television services for subscribers licensed to operate in Uruguay may file a complaint based on an affidavit to the regulatory authority and must add, at least, the technical and legal precautions that support it, without prejudice to the initiation of legal actions that may correspond.

The authority will analyse the validity of the complaint and may proceed to take measures to temporarily prevent its dissemination by blocking as strictly necessary to prevent access from national territory, after notifying the denounced when appropriate and when domiciled within the national territory.

In the event that the illegal distribution is carried out through a specific website or platform (free or paid) on the Internet that does not have the function of independent intermediary mentioned in the previous paragraph, but has as its main object the transmission of programming, television and/or series, the URSEC may notify that website or a specific platform on the Internet so that it immediately takes measures of blocking such content. Likewise, URSEC may require Internet service providers (ISPs) to block access from the national territory to IP addresses and/or URLs, as appropriate, which are used to develop such illegal activities in an exceptional manner, on a provisional, revocable basis and for a period not exceeding 30 calendar days, aimed at preventing transmission and subject to judicial review.

I.2.3 Impacts and statistics of the implemented actions

Piracy in Uruguay has a lower volume than in other Latin American countries; however, in search engines references to illegal sites appear among the results of the first page.

According to information collected by the Centre for Telecommunications Studies of Latin America (cet.la) [b-cet.la], 45% of the analysed URLs led to illegally distributed content. In terms of social networks, *YouTube* leads the network with the most illegal content distribution sites, and in market sites, the first position is *Mercado Libre*.

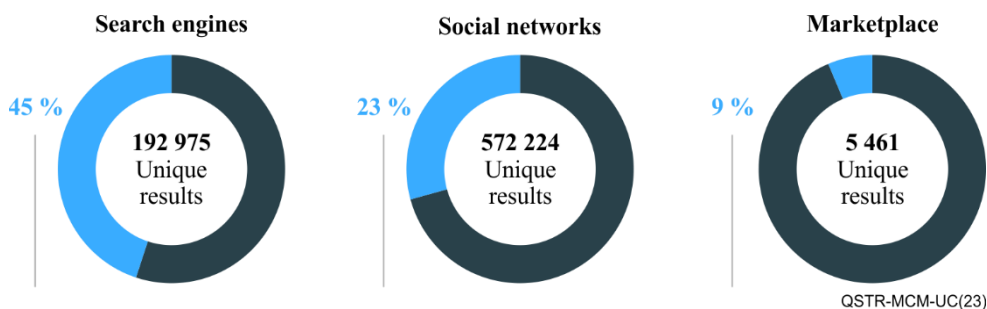


Figure I.2 – Percentage of illegal results by environment in Uruguay

Some milestone judicial actions in Uruguay

In 2015, two containers with decoders, antennas and accessories of the AZBOX brand were seized, in violation of the provisions of Decree 276/2012 and worth an amount of USD 1 460 700. After that, other action and inspections were carried out that seized from the market 10 000 PRO BOX units, 7 000 AZ BOX units, 21 000 AZ AMERICA units and 5 000 BTV units.

In 2018, Judgment 275/2018 of the Organized Crime Law Court, relating to violation of the copyright of Fox International Channels, requests as a precautionary measure that all Internet providers in Uruguay block websites called *Rojadirecta*.

In 2019, Judgment 6/2019 of the Organized Crime Law Court orders to block a repeater of the *Pelispedia* site following a complaint by several legitimate owners of audiovisual productions. The court also sentenced two people to 3 years and 4 months in prison and seized equipment and property from offenders.

In 2020, a site called *IPTV*, which provides access to channels, movies and series that are illegally transmitted over the Internet, was blocked and two offenders were arrested, also punishing the commercialization or provision of technology for transmission illegal content.

I.2.4 Challenges faced in implementation

- **Implementation:** gives the regulator the tools to respond 24 hours a day, 7 days a week.
Collectives against: consumers (legal content is too expensive), groups defending freedom of expression (understanding that freedom of information and expression must be prioritized).
Technical issues related to IP/URL blocking: some regulatory initiatives that propose restrictions on access and use of the Internet, either by blocking sites, domains or involuntarily limiting access to content, have some impacts different from those desired (CCPI-2021-39-5126 and <https://www.internetsociety.org/wp-content/uploads/2017/03/ContentBlockingOverview.pdf>).
- **Consumer awareness:** making people aware of the danger of this kind of consumption.

I.2.5 Roadmap and future planned actions

Uruguay is preparing a decree that regulates the recently approved laws.

I.3 Latin America

For 2020, data released by MUSO [b-MUSO] reveals significant increases in TV, film and publishing piracy.

- 130.5 billion visits to piracy sites;
- 39 visits per person connected to the Internet;
- 30% people find piracy sites via search engines.

At a Latin American level, the report "Dimension and impact of online piracy of audiovisual content in Latin America" [b-cet.la] published by Cet.la with the consulting firm Ether City, analyses how much piracy affects 10 Latin American countries using big data as a method.

According to the report, digital piracy in Latin America causes potential annual losses of USD 733 million to the legal market, and heavy losses of resources for tax authorities. In addition, the illicit business represents a potential profit of USD 675 million per year based on clicks on illegal sites.

The big data analysed supply, demand and the impact of piracy from the perspective of the user searching for content or equipment online. Explore domains, social networks, marketplaces and applications: in the countries referred there were at least 15.6 billion illegal online visits in 2019.

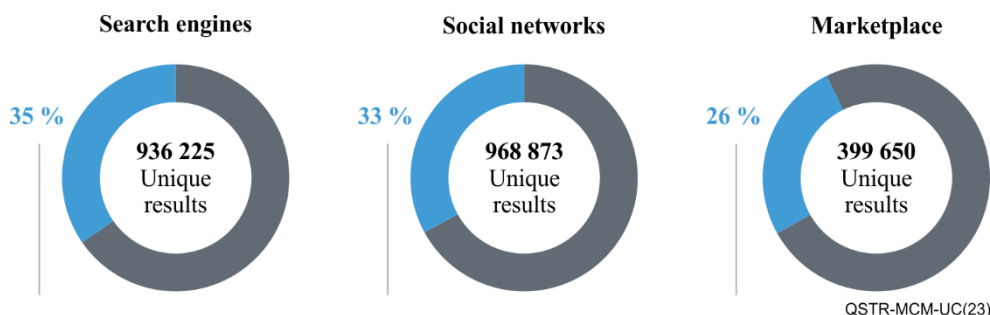


Figure I.3 – Percentage of illegal results by environment in Latin America

I.4 Central African Republic

General requirements

The Government will work with the Regulatory Authority for Electronic Communications and Posts (ARCEP) and the High Council on Communications (*Haut Conseil de la communication* (HCC)) for the protection of the intellectual and property rights associated with multimedia content and its supporting distribution mechanisms, either by over-the-top (OTT) offers or by offers whose traffic is based on regulated telecommunication networks.

Desirable procedures

When deploying a solution to combat multimedia content misappropriation, the Central African Republic intends to follow the following procedure.

Make Internet navigation secure

- Emphasize firewall activation for networks;
- Use a secure search engine;
- Use a VPN for each network;
- Private, secure Internet browser use;
- Ongoing application of antivirus upgrades;
- Browsing via HTTPS websites;

- Use of robust passwords or secure keys.

Protect the digital space

- Obligatory data backups;
- Avoid use of public Wi-Fi networks;
- Blacklist suspicious and illicit websites;
- Check user account permissions;
- Protect personal data.

Appendix II

Other related actions

INTER-AMERICAN TELECOMMUNICATION COMMISSION (CITEL)

II.1 CITEL Regional efforts on the combat of multimedia content misappropriation

In the 39th Meeting of Permanent Consultative Committee I: Telecommunications/Information and Communications Technologies (PCC.I) of the Inter-American Telecommunication Commission (CITEL), held on October 2021, was presented a report with responses to a questionnaire held with CITEL members that aimed to collect their actions and experiences on the combat of multimedia content misappropriation. The tables bellow summarizes the consolidated information.

i. Regulatory framework

Country	Normative	Year ²
BRAZIL	Penal Code – Dec. Law 2948/1940 Copyright Law: Law 9610/1998 Decree 5244 of 10/14/2004: creates the National Council against Piracy (CNCP)	2004
COLOMBIA	Andean Decision 351/1993; Law 23/1982; Law 599/2000 Law 1403/2010; Law 1519/2012 Law 1915/2018 Art 12. Technological measures and information on rights management. Regardless of whether there is an infringement of copyright or related rights, whoever performs any of the following behaviours will incur civil liability: a) Without authorization, circumventing the effective technological measures imposed to control access to a work, performance or phonogram protected or that protect any copyright or any rights related to copyright against unauthorized use. b) Manufacturing, importing, distributing, offering to the public, supplying or otherwise commercializing devices, products or components, or offering the public or provide services that, with respect to any effective technological measure: 1. Are promoted, advertised or marketed with the purpose of circumventing said measure; or 2. Have a limited purpose or commercially significant use other than to circumvent such action; or 3. Are designed, produced, executed primarily for the purpose of enabling or facilitating the circumvention of said measure; c) With knowledge of the facts. or having reasonable grounds to know: 1. Deleting or alter without authorization any information on rights management. 2. Distributing, or importing for distribution, rights management information that has been suppressed or altered without authorization. 3. Distributing, importing for distribution, issuing, communicate or making available to the public copies of works, performances or phonograms, with information on rights management suppressed or altered without authorization.	2018
DOMINICAN REPUBLIC	Law 65-00 Copyright: protects artistic works including audiovisual works, to which are assimilated those expressed by any analogous procedure, fixed on any kind of support. Law 32-86 Creates the National Copyright Office (ONDA), as a state body in charge of administering, regulating and protecting everything related to	2000

² This refers to the year in which the last modification or incorporation of the norm related to the subject of study was made.

Country	Normative	Year ²
	copyright. Among its functions are to dictate and carry out inspections, preventive or precautionary measures, including for the collection of evidence, being able to act by express and well-founded declaration of the owner of the right, their duly authorized representatives or cause-holders, or by the corresponding collective management company, and even ex officio.	
ECUADOR	<p>Organic Law of Telecommunications (Art. 22 numeral 18; Art. 24 numeral 17; Art. 36 numeral 2.2; Art. 117 literal b)</p> <p>Regulations for the Provision of Telecommunications Services and Subscription Broadcasting Services, Description of the Subscription Audio and Video service</p> <p>Organic Code of the Social Economy and Knowledge (COESC), Art. 565, numerals 3 and 4.</p> <p>Comprehensive Organic Criminal Code (COIP), Art. 234, Art. 188.</p> <p>Regulations of the Intellectual Property Law, Art. 91, Art. 93.</p> <p>Resolution of the Ministry of Foreign Trade No. COMEX-93-2012 of 11/19/2012</p> <p>Resolution of the Agency for the Regulation and Control of Telecommunications No. ARCOTEL-2018-397 of 8/5/2018.</p>	2018
GUATEMALA	<p>Decree 33-98 of Congress Law on Copyright and Related Rights. This does not include that related to television signals.</p> <p>Penal Code that incorporates the crimes approved in the Law of Copyright and Related Rights – Chapter VII of crimes against copyright, industrial property and computer crimes. – Chapter IV of SPECIAL PROVISIONS FOR CERTAIN CATEGORIES OF WORKS, Art 26: The producer of an audiovisual work is presumed, unless proven otherwise, the natural or legal person that appears indicated as such in it. Art. 27: the disclosure or non-disclosure of the work, adapt it according to the different formats for its fixation or disclosure and exercise the defence of moral rights over the audiovisual work. Art 66: It will be illegal, without the authorization of the right holder and without payment of remuneration, with the obligation to mention the source and the name of the author of the work used.</p> <p>Decree 17-73 of the Congress of the Republic of Guatemala, Penal Code Art. 274. Violation of Copyright and Related Rights. This establishes a penalty with prison and a fine. Attribution of false quality of owner of a copyright, artist, performer, phonogram producer or broadcasting organization, regardless of whether they are exploited economically or not. The fixation, reproduction or retransmission of a broadcast transmitted by satellite, radio, wire, cable, fibreoptics or any other means without the authorization of the owner of the right.</p>	
NICARAGUA	Law No. 312. ARTICLE 1. Regulates the Copyright on literary, artisan, artistic or scientific works and the Related Rights of performers, producers of phonograms and broadcasting organizations. There are no specifics on audiovisual content.	
PARAGUAY	<p>Decree 7132 of 05/18/2017. Approves the National Plan for Intellectual Property https://www.dinapi.gov.py/portal/v3/assets/archivos-pdf/DECRETO-7132-Que-aprntación-el-Plan-Nacional-de-Propimonio-Intelectual.pdf *</p> <p>Decree 3074 of 12/18/2019. Creates the National Center for the Coordination of Intellectual Property Rights https://www.presidencia.gov.py/archivos/documentos/DECRETO3074_ldkf_bmky.PDF</p>	2019

Country	Normative	Year ²
URUGUAY	<p>Copyright: Law 9739 of 12/17/1937 and art. 20 of Law 17.616 of 1/10/2003 and by arts. 12 and 13 of Decree 154/04 of 3/5/2004.</p> <p>Law 17.520 of 07/19/2002: punishes with a fine those who capture signals transmitted by any means destined exclusively to be received under the subscriber regime without being so; and to those who, for profit or not, carry out in favour of a third party, the installations, manipulations or any other activity necessary to obtain signals that require subscription.</p> <p>Decree 276/12 of 8/24/2012 prohibits the import and sale of satellite receivers that do not have the authorization of the regulator.</p> <p>Law N 19.924 art. 712 of 12/18/2020: empowers the Communications Services Regulatory Unit (URSEC) to adopt sanctioning and preventive measures against those who broadcast television services for subscribers through the Internet or similar network, for commercial purposes, without being legitimized to offer such signals.</p>	2020

The regulatory frameworks of the countries that are the object of the survey show that there are few specific norms regarding the distribution of audiovisual content; they are framed in general norms of copyright and criminal law.

Based on this, it is perceived that the rules exist and protect the formal content industry, but the control mechanisms and penalties are not specifically defined, especially when the fraud uses support for distribution in new technologies, which makes it difficult the detection and control processes and their speed, a fundamental element for this type of practice. They are laws that require the intervention of a criminal process (presided over by a Judge) with the consequent costs and associated times.

Some countries have incorporated or are studying ways to develop more flexible and immediate oversight mechanisms. This is the case in Uruguay (2020), where a law was approved that enables those who have rights to content, to appear before the regulator so that it may order a precautionary measure that blocks access to distributed content when it is not legitimated to do so. Brazil is also going in the same way and ANCINE and ANATEL are working on a project that aims to regulate the administrative blocking of Internet addresses that distribute audiovisual works illegally.

ii. Competences on illegal practice affecting the audiovisual content sector

Country	Competent bodies in the matter
BRAZIL	<p>Prosecutor's office</p> <p>Ministry of Justice</p> <p>National Film Agency</p> <p>Federal Police / State Police</p> <p>Brazilian Federal Revenue Secretariat (Receita Federal)</p>
COLOMBIA	<p>National Directorate of Copyright</p> <p>Office of the Attorney General of the Nation</p> <p>Ministry of Information and Communication Technologies (MINTIC)</p> <p>National Spectrum Agency (ANE)</p>
DOMINICAN REPUBLIC	<p>National Copyright Office (ONDA) controls the content.</p> <p>The telecommunications regulator (INDOTEL) does not control the content on piracy issues.</p>
ECUADOR	<p>Ministry of Telecommunications and the Information Society, National Service of Intellectual Rights (SENADI)</p> <p>State Attorney General</p>

Country	Competent bodies in the matter
GUATEMALA	Advisory and Planning Commission (CAP) of the Technical Secretariat of the National Security Council (STCNS) Vice Ministry of Information Technology and Communications, Ministry of the Interior
NICARAGUA	National Police Judicial system General Directorate of Customs General Directorate of Income
PARAGUAY	National Center for the Coordination of Intellectual Property Rights, made up of: National Directorate of Intellectual Property (DINAPI), which is who coordinates it, Ministry of Industry and Commerce (MIC), National Police (PN), Ministry of Foreign Affairs (MRE), National Directorate of Sanitary Surveillance (DNVS), Ministry of Information and Communication Technology (MITIC), National Service of Quality and Plant and Seed Health (SENAVE), National Directorate of Customs (DNA), Secretariat of Consumer Defence and the User (SEDECO) and the National Telecommunications Commission (CONATEL).
URUGUAY	Ministry of Industry: Telecommunications Directorate, Industrial Property Directorate Regulatory Unit of Communication Services. EGEDA: collective management entity for the protection, defence, management and representation of the interests and rights of audiovisual producers in Uruguay. Ministry of Education and Culture Ministry of the Interior (Police) Power of attorney National Customs Directorate

All the countries have institutions with competence in the matter. The case of countries such as Brazil and Paraguay, where there is a body that involves several of the actors who have interference on these issues, is of particular interest. In the case of Brazil, the relevant body is the National Council against Piracy (CNCP) and in Paraguay the National Center for the Coordination of Intellectual Property Rights, both of which involve the telecommunications regulatory authority.

iii. Level of coordination between involved and the regulatory authority

Country	
BRAZIL	All the institutions mentioned above are members of the National Council against Piracy (CNCP), coordinated by the Ministry of Justice. Coordination on the subject of policy definitions and inspection.
COLOMBIA	Policy definitions and inspection
DOMINICAN REPUBLIC	On 18 March 2021, the Association of Communication and Technology Companies (COMTEC), the Ministry of Industry, Commerce and MIPYMES (MICM) and the National Copyright Office (ONDA) signed an inter-institutional agreement that aims to establish a framework of action to promote and guarantee the legality of the broadcasting of audiovisual content.
ECUADOR	Policy definitions and inspection
GUATEMALA	On specific issues and as the need arises, other agencies are contacted within the state scope. The Superintendency of Telecommunications, according to its area of competence and as a regulator, acts as a link between other institutions, organizations or authorities that have competence in cybersecurity issues and with the existing telecommunications operators in the country.

Country	
	The Superintendency of Telecommunications also has approaches and participation with the aforementioned working groups; since it is invited to participate in the different technical tables for the implementation of actions related to Cybersecurity.
NICARAGUA	Policy definitions and inspection
PARAGUAY	Policy definitions and inspection
URUGUAY	Policy definitions and inspection

All the Member States that responded to the query have a level of coordination between actors that can sustain an oversight that accompanies the policies that are defined to promote control. At this point, it is necessary to investigate further the technical capabilities and resources available to enhance that strength.

It is mentioned in this document, what the States stop receiving in terms of taxes or losses due to the non-generation of genuine jobs, but we must also consider the cost that the control and combat against this scourge imply for the governments.

iv. Informative campaigns

Country		
BRAZIL	YES	Anatel website (https://www.gov.br/anatel/pt-br/regulado/fiscalizacao/combate-a-pirataria), which also contains information on the results in the fight against telecommunications products that are dedicated to the distribution of illegal audiovisual content. Additional information can be found on the CNCP site https://www.justica.gov.br/sua-protecao/combate-a-pirataria
COLOMBIA	YES	Between 2012 and 2019, the National Television Authority designed information and preventive campaigns aimed at users regarding the contracting and use of illegal television services. Likewise, it carried out surveillance and control functions, as well as seizure of clandestine operators.
DOMINICAN REPUBLIC	NO	Not on the specific issue of piracy, if there have been campaigns on other illegalities that the telecommunications regulator controls.
ECUADOR	YES	Through the Telecommunications Regulation and Control Agency (formerly the Telecommunications Superintendency), on its website and informative magazine.
GUATEMALA	YES	The private sector has carried out campaigns related to the issue through the radio. However, they have been limited.
NICARAGUA	NO	
PARAGUAY	YES	Educational campaigns aimed at consumers have been carried out to prevent violations of Intellectual Property Rights.
URUGUAY	YES	Public-private participation campaigns in the media and through social networks. https://www.youtube.com/watch?v=OEDqs3GxsJI

In addition to the formal industry, those who are most affected by this practice are the consumers of illegally distributed content themselves, who tend to remain unaware of the negative consequences of this misuse.

Raising awareness among users helps protect them and cut the chain of crime. To the extent that the number of users who consume this type of content drastically decreases and that consumption is redirected towards the formal industry, all those involved win, and the governments are also making savings in terms of control.

The preventive protection advertised by these campaigns also alert those who, without having greater knowledge of the rules, carry out actions that go against legal activity, even if it's not for -profit.

v. Conclusions

Although this is a problem that has not been solved on a global scale, the region is aware of the adverse effects and has been working on the issue, developing mechanisms to combat content piracy. Even so, content piracy is growing and the industry is strongly impacted by this growth, which challenges to develop new instruments, closer to technological development, faster execution, in close coordination with all the actors involved and even in close collaboration between countries since it is a problem that transcends limits or borders.³

As we mentioned before, there are many activities that can be characterized as piracy and therefore the appropriate control mechanisms must be developed for each one of them.

To deepen this analysis would require more information and statistical data to effectively measure the economic and social impact. It would also be appropriate to keep statistics of the judicial procedures carried out and the criminal proceedings initiated based on the available legislation.

Opinions regarding aspects that have mobilized other civil society groups against the development of control and oversight tools are not considered in this preliminary analysis, as they are considered to affect the right of expression in one way or another. However, within the copyright protection laws against unfair competition, exceptions are created so as not to fall into actions to restrict freedom of expression, the right to communication or other aspects that undermine the authors' own rights to spread their work.

Finally, referring to the situation in this context of a pandemic, the confinement triggered this consumption option and the existing control mechanisms made it clear that they were not enough to counteract this greater demand, much to the dismay of the authors themselves or other stakeholders that made great efforts to give free access to content.

II.2 CITEI Recommendation – PCC.I/REC. 33 (XXXIX-21) - Efforts against the piracy of television content and signals in Latin America and the Caribbean

In the 39th Meeting of Permanent Consultative Committee I: Telecommunications/Information and Communications Technologies (PCC.I) of the Inter-American Telecommunication Commission (CITEI), held on October 2021, the Recommendation – "PCC.I/REC. 33 (XXXIX-21) - Efforts against the piracy of television content and signals in Latin America and the Caribbean". was approved. The full text can be found below.

PCC.I/REC. 33 (XXXIX-21)

EFFORTS AGAINST THE PIRACY OF TELEVISION CONTENT AND SIGNALS IN LATIN AMERICA AND THE CARIBBEAN

The 39 Meeting of Permanent Consultative Committee I: Telecommunications/Information and Communications Technologies (PCC.I)

CONSIDERING:

³ https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2021_Legislative_Measures_Related_to_Online_IPR_Infringements/2021_Study_on_Legislative_Measures_Related_to_Online_IPR_Infringements_Phase_2_FullR_en.pdf

- a) That online piracy, understood as the practice of copying, selling, distributing and/or reproducing digital products without the authorization of their creators, developers or owners has been growing significantly in the countries of Latin America and the Caribbean.
- b) That it constitutes a significant threat to the Member States and poses enormous challenges to telecommunications service operators, television operators, programmers, consumers, some technical regulatory and control bodies and governments.
- c) That through piracy, crime illegally exploits legal audiovisual products or content for profit, and, in some cases, the pirate websites used are part of international organized criminal groups that obtain income through the sale of advertising, commissions or payments.
- d) That it significantly impacts the investments of telecommunications companies and their infrastructure, of governments, of television operators and of digital content distribution platforms.
- e) That piracy discourages creativity, entrepreneurship and innovation, which are the pillars of social, technological and economic development.
- f) That the piracy of television content and signals, considerably impacts the tax revenues of governments to the detriment of the overall welfare, impacting the development of the countries in the region.
- g) That the aforementioned practices generate unlawful competition that results in a competitive imbalance to the detriment of formal companies that strive to maintain and improve quality standards in the services they provide and that bear economic, regulatory and compliance burdens.
- h) That said competitive imbalance threatens the security, sustainability and legitimate operation of formally established companies.

RECOGNIZING:

- a) That on line piracy is currently rising significantly, making it an unlawful competitor for television operators and programmers.
- b) That the ongoing growth of this criminal activity is becoming a major challenge the Member States and their regulatory, judicial, and economic agents.
- c) That ensuring the continued growth and stability of telecommunications and its added services requires swift and joint action by the CITEL Member States and Associated Members.
- d) That legislation and regulatory measures are not keeping pace with the swift of technological development.
- e) That these gaps in legislation and/or regulatory capacity provide an opportunity for the practice of online piracy, allowing the growth of a business with wide profit margins for criminals and generating major economic losses for the telecommunications and audiovisual industry in the countries of Latin America and the Caribbean.
- f) That it is necessary to warn users about consuming content offered below market prices or for free, which is usually provided by pirates.

RECOMMENDS:

Observing the regulatory provisions applicable in each Member State:

- a) That OAS [Organization of American States] Member States convey the urgent need to pass and effectively enforce regulations and/or laws aimed at preventing, detecting, and combating piracy of television content and signals.
- b) That OAS Member States examine more closely and raise awareness about the negative consequences of unlawfully consuming television content and signals by promoting expedited norms and administrative procedures by which the appropriate authorities will have the power to, seize

equipment, punish and/or fine ex officio any actors involved in distributing, promoting, advertising or any other role in this chain related to the piracy of television content and signals.

- c) That these procedures be established within an efficient, practical, speedy framework and with all due legal certainty for the blocking of content that is transmitted illegally through telecommunications networks or digital platforms.
- d) That those channels for reporting piracy be adopted or strengthened to facilitate its detection, involving all the stakeholders in the chain (private or public) including intermediaries, platforms and marketplaces.
- e) That OAS member states, in collaboration with industry and academia, study new technologies and tools as well as the incorporation of equipment designed to detect irregularities that allows the combat of piracy of television content and signals.
- f) That the OAS Member States contributes to drafting innovative policies based on best practices to promote business models respectful of intellectual property rights by considering the participation and cooperation of governments through their regulators or governing bodies, the private sector, the academia and consumers.
- g) That the OAS Member States exchange knowledge and actions to identify legal, administrative and political instruments that might help to combat piracy and commercialization of television content and signals, to support and promote the immediate removal of such contents.
- h) That the private sector be encouraged to generate strategies in close coordination with the authorities, to prevent piracy through actions that promote social awareness and invest in technologies that discourages the practice of piracy.
- i) That the OAS Member States gather data to generate statistics that enable monitoring conduct and/or behaviors stemming from online piracy, bases on information voluntarily provided by the operators, as well as information collected by the States, in order to confirm its impact in the region and assess current and potential loss of earnings as a result of this.

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