

## *Executive summary*

High-quality communication services at competitive prices are the backbone of the digital transformation of the Brazilian economy. The *OECD Telecommunication and Broadcasting Review of Brazil 2020* analyses market performance of the communication and broadcasting sectors, as well as underlying policies and regulations. Based on its findings, the report recommends actions in five key areas: improving the policy and regulatory framework; overhauling the taxation, fees and tariff framework; improving market conditions; fostering competition in communication and broadcasting markets; and strengthening national policies and evidence-based policy making. These should be approached simultaneously for a holistic approach to reform.

### Findings

**Brazil's geography creates a challenge for inclusive digital transformation.** With its 8.5 million square kilometres, Brazil is nearly eight times the size of France and Spain combined, while comprising 60% of the Amazon forest within its borders. In addition, a large percentage of the population is sparsely distributed. This makes it difficult to expand communication networks into rural and remote areas. Subscriptions to communication services in Brazil have continued to increase, however, the country still lags behind the OECD average in a number of key indicators such as fixed and mobile broadband penetration and quality of service.

**Brazil has strengthened its legal and regulatory communication framework in recent years.** The government has clearly understood the need for regulatory reform, a sound institutional framework and effective competition in the country. It has made strides to strengthen the independence of the communication regulator, and incorporated other reforms that are best practice in the OECD, such as issuing wholesale measures to promote competition in mobile markets.

**Brazil's institutional structure for Internet governance is a strength.** CGI.br, the Brazilian Internet Steering Committee (Comitê Gestor da Internet), co-ordinates and integrates Internet service initiatives in Brazil. It has been an example of best practice of multi-stakeholder institutional arrangements in the Internet ecosystem.

**Free-to-air broadcasting television remains the audio-visual medium that reaches the most people and the greatest distance.** Brazil has enacted legislation to strengthen domestic content in its cinema in the past decade. As a result, audio-visual content production has intensified over the last ten years.

**Several important weaknesses, however, persist that call for regulatory reform.** Areas for action include the high level of taxes and fees for communication services; the lack of an institutional design adapted to an increasingly convergent environment; the personal liability of public servants that may dissuade high calibre candidates from joining the public service and lead to overly cautious regulations; and a complex licensing regime that raises barriers to market entry and may lead to regulatory arbitrage, among other areas.

## Recommendations

### ***Adapting the policy and regulatory framework to a convergent environment***

The creation of a converged, independent regulator would help simplify the regulatory regime and address the new convergent reality. A single entity should assign spectrum for broadcasting and communication services. To ease market entry, and to adapt the legal framework to convergence, a simple class-licensing regime for communication and broadcasting services would be advisable. In addition, Brazil should remove legal restrictions on the vertical integration of the pay TV value chain and cross-ownership between telecommunication and pay TV services on both foreign and domestic service providers. The assessment of vertical mergers should be conducted on a case-to-case basis.

### ***Overhauling the taxation, fees and tariff framework***

Brazil should harmonise its tax on communication services across states and reduce them where possible. A single-class licensing regime would minimise legal costs, administrative burdens and the potential for tax arbitrage. In the long run, Brazil should pursue efforts for a fundamental reform of the indirect tax framework to reduce distortions caused by the current indirect tax treatment.

### ***Improving market conditions***

Brazil should reduce barriers to entry for communication providers as much as possible. These efforts should further ensure fair and non-discriminatory access to ducts, poles and rights of way. Brazil should also continue to reduce costs of infrastructure deployment through dig-once policies and streamlining rights of way. As it monitors competition in the market, the government should encourage communication providers to share passive infrastructure. It should also further increase backhaul connectivity, and promote open wholesale access models. Efficient spectrum management is key to facing the increased demand on communication networks. Brazil should closely monitor the effects of recent legal reform of successive renewal of spectrum licences on market entry and competition in mobile markets. In particular, Brazil should carefully design the upcoming 5G auction given its implications for the competitive dynamics of the market.

### ***Fostering competition in communication and broadcasting markets***

Brazil should embrace recommendations from the OECD's recent peer review of competition policy. It should remove the 20% threshold for market share as a proxy for market power from the competition law.

### ***Strengthening national policies and evidence-based policy making***

Brazil should expand broadband networks and services, establishing targets for the Connected Brazil Programme and others. It should help entities across different levels of government (national, state and municipal) work together to implement broadband connectivity initiatives. Fostering investment in infrastructure to bridge the digital divide would help expand high-quality broadband networks to underserved regions. Finally, it should promote inclusive and forward-looking audio-visual public policies, while improving data collection for evidence-based policy making.



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