



CesnikQuintino&Salinas

A D V O G A D O S



Opportunities for international co-productions
with Brazil

Fábio Cesnik
Toronto - September, 12, 2016.

THE BRAZILIAN MARKET



Brazilian AV market is greatly influenced by public policies aiming at developing national industry

Beginning in the 90's, these policies are two prong = (a) funding national production and (b) creating quotas for national content to be exhibited

These policies benefit AV content for all windows – there are some tiny initiatives towards online content

There is a national film agency who oversees these policies = Ancine

THE BRAZILIAN MARKET



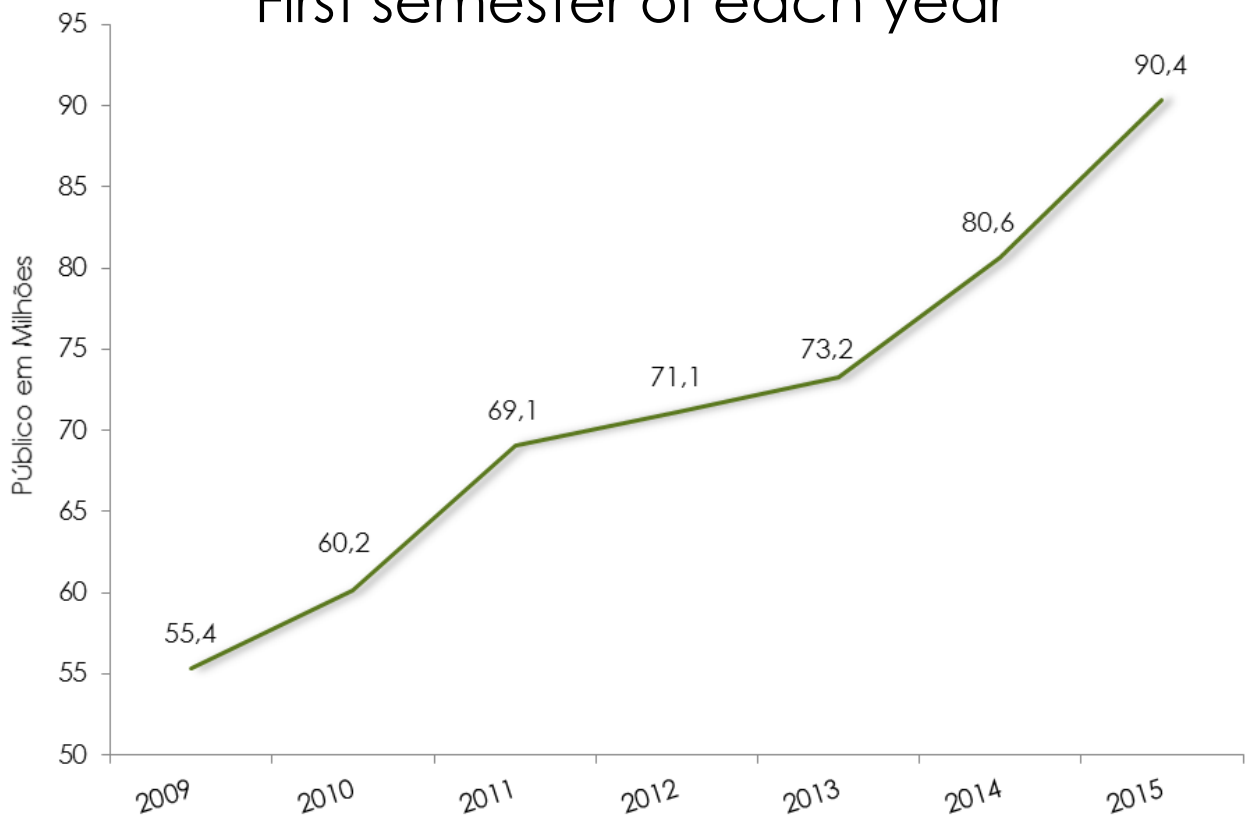
Theatrical

THE BRAZILIAN MARKET



Theatrical: Growth of admissions

First semester of each year



90,3 million admissions in the first semester of 2015

THE BRAZILIAN MARKET



Theatrical: Movie theaters and screens

Salas de Exibição / Box Office					
Indicador / Indicator	2010	2011	2012	2013	2014
Salas de exibição / Screens	2.206	2.352	2.517	2.678	2.833
Salas de exibição digitais (padrão DCI) / DCI Digital Screens	ND / NA	ND / NA	784	1.353	1.770
Salas de exibição 3D / 3D Screens	262	467	617	854	955
Número de complexos / Movie theaters	662	686	701	721	746

147 new screens in the first semester of 2015

THE BRAZILIAN MARKET



Theatrical: Brazilian releases

First semester of 2015

Título no Brasil	Distribuidora	Gênero	Data de Lançamento	Salas no Lançamento	Público em 2015	Renda em 2015 (R\$)	PMI (R\$)
Loucas pra Casar	Downtown/Paris	Ficção	08/01/2015	604	3.722.683	45.637.138,35	12,26
Os Caras de Pau em o Misterioso Roubo do Anel	Imagem	Ficção	25/12/2014	527	1.206.899	14.227.178,13	11,79
Qualquer Gato Vira-lata 2	Downtown/Paris	Ficção	04/06/2015	551	804.476	9.978.254,45	12,40
Superpai	Universal	Ficção	26/02/2015	321	439.410	5.159.394,63	11,74
Entre Abelhas	Imagem	Ficção	30/04/2015	342	438.782	5.738.814,70	13,08

“Loucas para casar” was among the highest grossing movies in Brazil in the first semester/2015 (6th place)

THE BRAZILIAN MARKET



Theatrical: General Data

Tabela 1 – Público e Renda Acumulados dos Títulos Exibidos em 2015 – Semanas 1 a 26

Títulos	Público	Renda (R\$)	Participação de Público	Participação de Renda	PMI (R\$)	Títulos Exibidos	Títulos Lançados
Brasileiros	7.362.397	90.100.171,67	8,1%	7,4%	12,24	116	50
Estrangeiros	82.988.158	1.134.361.501,27	91,9%	92,6%	13,67	320	139
Total	90.350.555	1.224.461.673	100,0%	100,0%	13,55	436	189

Tabela 2 – Público e Renda Acumulados dos Títulos Exibidos em 2014 – Semanas 1 a 26

Títulos	Público	Renda (R\$)	Participação de Público	Participação de Renda	PMI (R\$)	Títulos Exibidos	Títulos Lançados
Brasileiros	11.453.756	133.103.377,19	14,2%	13,0%	11,62	110	57
Estrangeiros	69.186.012	893.419.837,96	85,8%	87,0%	12,91	281	137
Total	80.639.768	1.026.523.215	100,0%	100,0%	12,73	391	194

THE BRAZILIAN MARKET

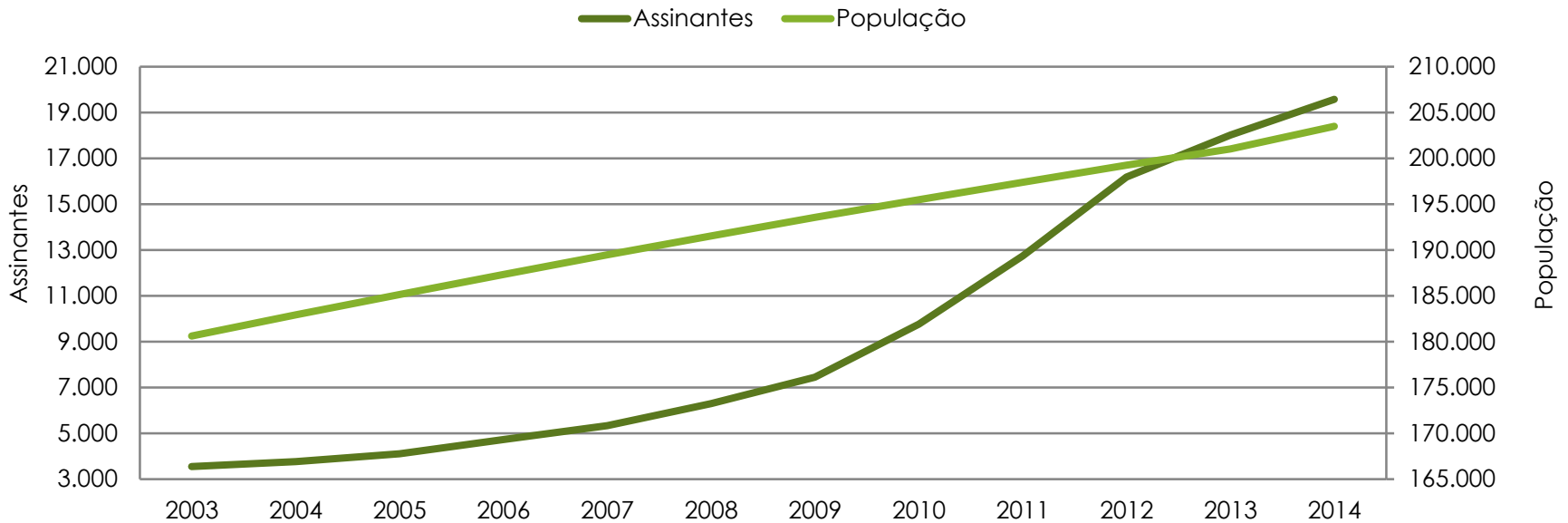


Pay TV

THE BRAZILIAN MARKET



Pay TV: Subscribers



2014: nearly 20 million subscribers and growing.

Growth associated with (i) infrastructure investment and (ii) an increase in the number of pay tv operators (telcos) since 2011.

THE BRAZILIAN MARKET

TV and Internet: General Data

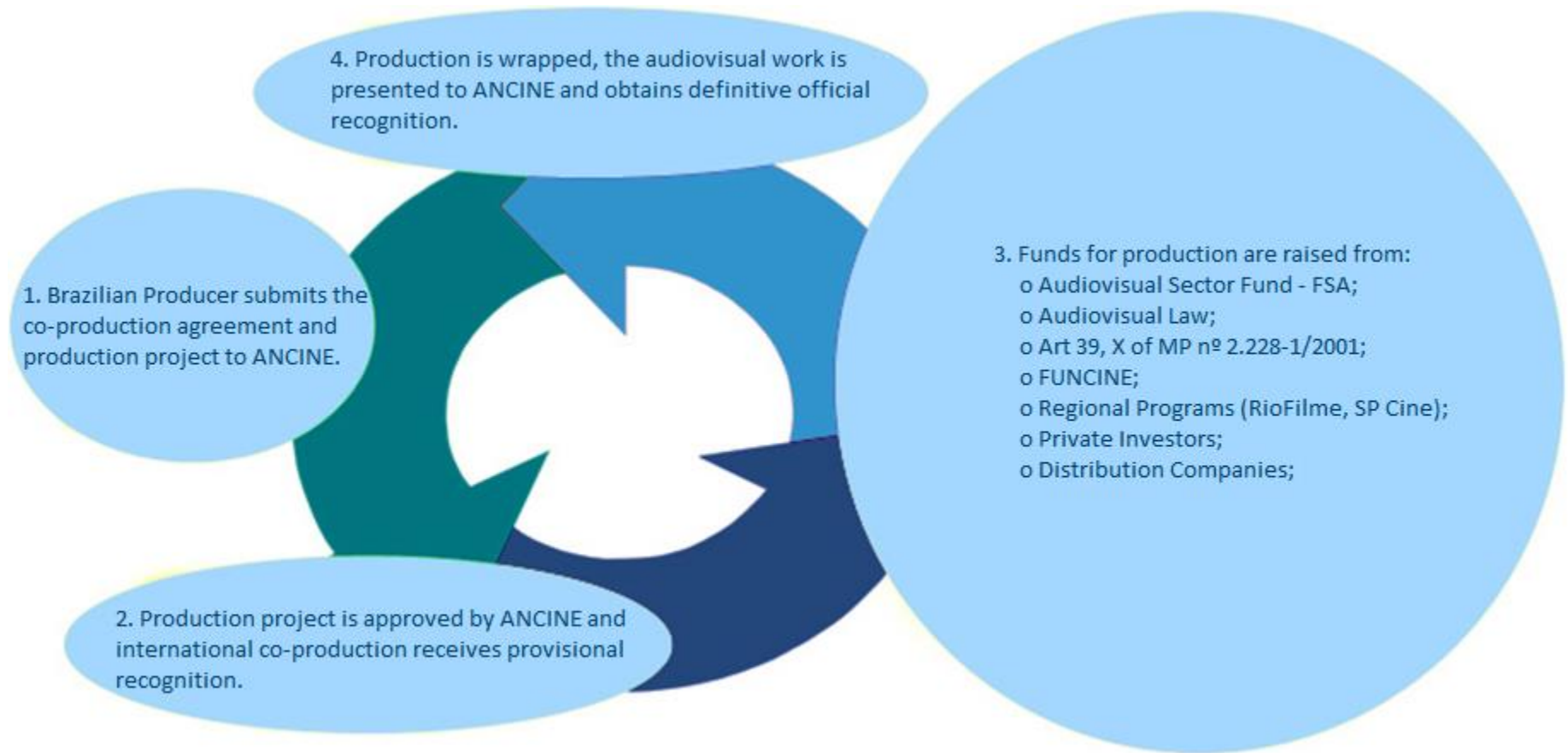
Indicador	2015 1º Trim	2014 4º Trim	% Trim	2014 1º Trim	% Período
Assinantes TV por assinatura	19.657.679	19.574.111	0,4%	18.426.381	6,7%
Assinantes Banda Larga	7.769.291	7.560.910	2,8%	6.873.244	13,0%
Faturamento Total (incluindo publicidade)	R\$ 7.693.751.974	R\$ 8.515.836.199	-	R\$ 7.500.164.137	-
Faturamento com publicidade	Não informado	R\$ 617.034.363	-	R\$ 368.647.893	-
Empregos Diretos e indiretos	134.841	126.875	6,3%	109.209	23,5%

INTERNATIONAL CO-PRODUCTIONS



Opportunities for international
co-productions with
Brazil/Latin America: non-
treaties, bilateral treaties or
Latin-America multilateral
treaty

INTERNATIONAL CO-PRO WORKFLOW



- BRAZILIAN RESOURCES MAY START BEING SPENT ONCE AT LEAST 50% OF THE BUDGET HAVE BEEN RAISED.

TREATY AND NON-TREATY INTERNATIONAL CO-PRODUCTIONS



COPRODUCING WITH BRAZIL

Co-production: “producers from **different countries** undertake the **initiative** and the **economic responsibilities** for the production of a content, contributing towards this production by investing funds, providing goods or rendering services and sharing intellectual property over this content”.

Under a
binding
official
Agreement

Without a
binding
official
Agreement

INTERNATIONAL CO-PROS CLASSIFIED AS “BRAZILIAN CONTENT”



Under a Treaty

- Rules on ownership, financial contribution etc. vary from treaty to treaty; and
- The rules on hiring technical artists vary according to the provisions in each treaty.

Without a Treaty

- Brazilian producer must hold at least 40% of the IP rights; and
- 2/3 of cast and crew must be Brazilian or resident in Brazil for more than 3 years.

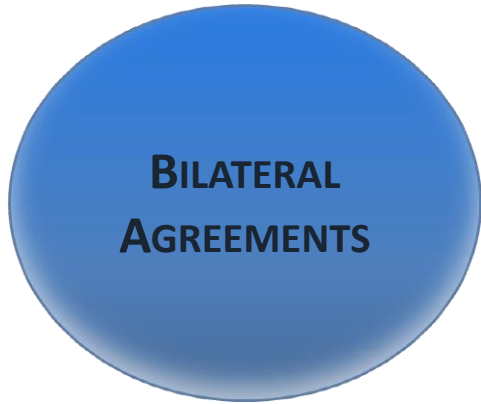
Note: there are **no restrictions to shoot contents abroad neither on the language spoken**

OFFICIAL INTERNATIONAL CO- PRODUCTION WITHOUT A TREATY



Main Requirements:

- Production must be recognized as **INDEPENDENT**:
 - The **party holding the majority** of the intellectual property over it **must not have any bonds**, whether direct or indirect, **with broadcasting companies and Pay TV distributors**.



THEATRICAL ONLY

**ARGENTINA
FRANCE
ITALY
PORTUGAL
SPAIN
VENEZUELA**

THEATRICAL AND TV

**CANADA
CHILE
GERMANY
INDIA
ITALY*
ISRAEL*
UK***

*to be ratified



LATIN AMERICA CO-PRODUCTION TREATY (THEATRICAL AND TV): ARGENTINA, BRAZIL, COLOMBIA, CUBA, ECUADOR, SPAIN, MEXICO, NICARAGUA, PANAMA, PERU, DOMINICAN REP., URUGUAY AND VENEZUELA.

BILATERAL AGREEMENT – BRAZIL AND CANADA



- Signed - January, 27th of 1995.
- Cinema and TV
- Each co-producer shall be required to make an effective technical and creative contribution. In principle, this contribution shall be in proportion to the investment.
- The producers, writers and directors of co-productions, as well as cast & crew must be Brazilian or Canadians citizens or permanent residents in Brazil or Canada.

BILATERAL AGREEMENT – BRAZIL AND CANADA



- Production shall in principle be made alternately in Brazil and Canada. Third countries are allowed, with authorities' approval
- The language shall be English, Portuguese or French, and other languages shall be justified by the script and be subject to authorities' approval
- Revenues shall be split proportional to each co-producer contribution, and be subject to authorities' approval

BILATERAL AGREEMENT – BRAZIL AND CANADA



- Production costs:
 - Minimum contribution 20%
 - Maximum contribution 80%
 - Third countries:
 - It is allowed to establish a co-production with third parties which country has a co-production treaty with Canada or Brazil;
 - The proportion of any minority contribution in any co-production with more than two co-producers will not be less than 20%;
 - Each minority co-producer shall be obliged to make an effective technical and creative contribution.

SOFT-MONEY MECHANISMS



GRANTS or SPONSORSHIP: against corporate tax incentives

INVESTMENT: private or public funds

CO-PRODUCTION: against tax incentives for theatrical distributors, pay-tv programming companies and channels.

THE FSA

(MOSTLY INVESTMENT)



- The **Audiovisual Sector Fund** (“FSA”) is a public fund
- FSA’s main goals are the **development** of projects/screenplays/trademarks/formats; the **production and exhibition** of Brazilian contents; renovation/growth in the number of movie theaters; and professional training/education;
- The FSA funds are mostly invested through **public bids**, each one with its own objectives, requirements and characteristics (check for requirements related to licensing and managing power); and
- **Funding can be used for up to 100% of the production budget** (some costs cannot be covered – e.g. P&A).

THE FSA

Fundo Setorial do Audiovisual – FSA

Gestão Financeira

Valores em reais (R\$)

ANO	ARRECADAÇÃO	VALOR AUTORIZADO
2007	91.643.737	---
2008	165.695.606	37.000.000
2009	154.548.183	81.514.522
2010	62.991.467	84.000.000
2011	226.533.061	não houve editais
2012	811.026.934	205.000.000
2013	832.352.283	412.000.000
2014	---	480.000.000 + 310.000.000 (Cinema Perto de Você)

BRASIL DE TODAS AS TELAS **1,2 bi** (2013/2014)

fsa ancine

- R\$ 1.2 BILLION TO BE INVESTED IN THE BRAZILIAN AUDIOVISUAL INDUSTRY BY THE FSA.

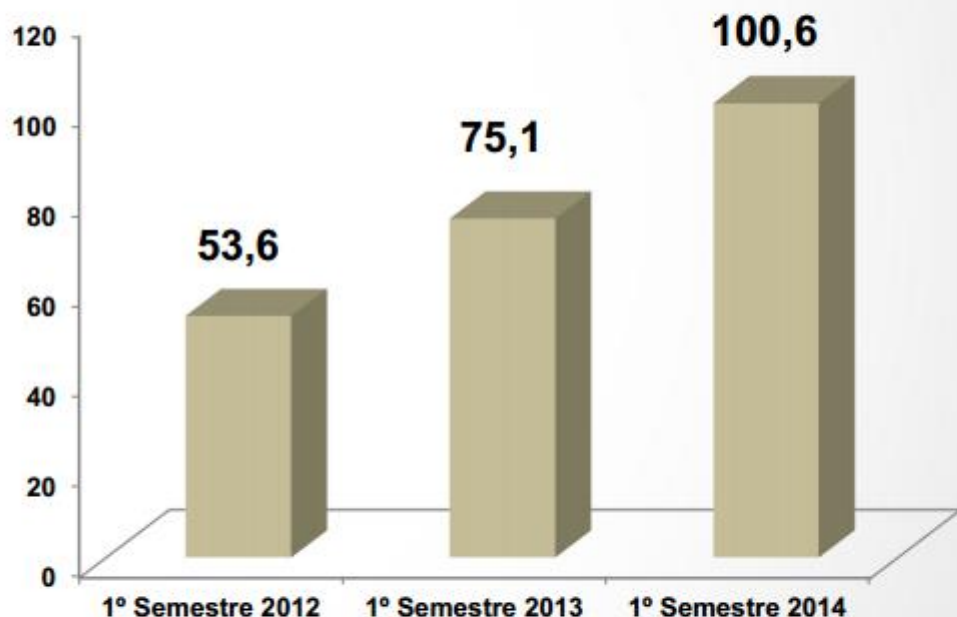
FEDERAL TAX CREDITS MECHANISMS



Mecanismos de Incentivo

Captações: Todos o mecanismos (R\$)

No primeiro semestre de 2014, foram captados mais de **R\$ 100 milhões**, um crescimento de **33%** na comparação com o mesmo período de 2013.



- IN THE FIRST SEMESTER OF 2014 MORE THAN R\$100 MILLIONS (FEDERAL TAX DEDUCTIBLE FUNDS) WERE RAISED.

FEDERAL TAXES TO BE DEDUCTED UPON

FUNDING OF CONTENTS



INCOME TAX:

- Owed by **Brazilian taxpayers** (whether companies which opt for a regime where they are taxed according to what they actually profit; or individuals); or
- Owed by **certain foreign taxpayers** and levied on remittances abroad of royalties arisen out of the exploitation/transmission of foreign audiovisual contents in Brazil (**withholding tax**).

+

CONDECINE (aka tax contribution for the development of the national audiovisual industry):

- Levied on the registration of each foreign or national content, necessary for the exploitation of contents in each window/market segment; or
- Levied on remittances abroad of royalties arisen out of the exploitation/transmission of foreign audiovisual contents in Brazil.

Note: productions can raise up to 95% of the Brazilian production budget (5% must be funded by the Brazilian producer).

MAIN FEDERAL TAX CREDIT MECHANISMS



ROUANET LAW (Law n. 8.313/91):

Art. 18/GRANT - (ref. % of inc. tax owed by companies or individuals);

Art. 26/GRANT - (ref. % of inc. tax owed by companies or individuals);

+

THE AUDIOVISUAL LAW (Law n. 8.685/93) :

Art. 1/INV - (% of the inc. tax owed by companies or individuals);

Art. 1-A/GRANT - (% of the inc. tax owed by companies or individuals);

Art. 3/CO-PRO in most situations - (% of the inc. tax + exemption of Condecine levied on certain remittances to foreign companies – e.g. **distributors**);

Art. 3-A/CO-PRO in most situations - (% of the inc. tax levied on certain remittances to foreign companies – e.g. – **pay tv programming companies**)

+

LAW N. MP 2228-1/01:

Funcines/INV - (% of the inc. tax owed by companies or individuals who invest in Funcines); and

Art. 39-X/CO-PRO (exemption of Condecine levied on certain remittances to **foreign pay tv programming companies**).

CONTATO

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