

The Children Are Watching: A History of Age-Rating Television in Brazil

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Histories of Brazilian media regulation typically emphasize a major transformation with the passing of the federal constitution in 1988, contrasting censorship during the military period of 1964–1985 with age rating, or “indicative classification,” thereafter. Contemporary conflicts among child advocates, television broadcasters, and the state as monitor of the industry’s self-regulation are grounded in a much longer history of age rating in popular media. Drawing on an examination of files from Brazil’s Ministry of Justice and interviews with current examiners, this article provides a history of age ratings for television in Brazil and of the processes by which classification decisions are made. We argue that the desire to limit young people’s access to television through age ratings has had significant ramifications in Brazil, evident in the formation of legal regimes, reform of institutional practices, and even the revision of time zones.

Keywords: media classification, age rating, youth, minority, time zones, legal reform, Brazilian television, telenovelas

The passing of Brazil’s federal constitution in 1988 was a central achievement in the nation’s transition from a prolonged era of military government to renewed democracy. Regarding media regulation, the constitution is usually understood as a shift from state-led censorship characterized by inconsistency, opaque decision making, and restrictions on political criticism to protected freedom of expression with media subjected to a system of differentiated age-based classifications. This article demonstrates that, while the practices and relative power of regulators and broadcasters have certainly differed under various regimes,

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the regulation of media consumption by age has been continuous in Brazilian laws since the Minors Code of 1927 (Ministry of Justice, 1927). A conception of “minoritised adolescence,” in which presumptions of development and susceptibility to media influence are restricted to the former side of the minority-majority citizenship binary (Grealy & Driscoll, 2015), has underpinned a long history of media classification advocacy and governance in Brazil.

Compared with industry-based self-regulation systems in nations such as Japan and the United States, state laws and ordinances direct media governance in Brazil. As a result, resistance to the implementation of age rating, chiefly by television broadcasters, has adopted legal means to delay the formation of the system and its penalties, dispute its constitutionality in the courts, and even reform Brazilian time zones. The detailed legal history that follows is necessary to understand the regimes that govern media producers and distributors in Brazil, and the consistency of reform is indicative of the limited efficacy of these regimes’ and broadcasters’ efforts to avoid and undermine them. The establishment of age-based ratings for television, and the eventual formalization of processes for consistent decision making around their application, has played an important role in Brazilian television culture, influencing what content can be exhibited at what times. A 2016 Federal Supreme Court (STF) decision that allows television broadcasters to air programs of any age rating at any time in the schedule prompts questions about the ongoing significance of television age ratings in Brazil, similar to those often posed about streaming platforms.

This article draws on recent fieldwork in Brazil, including interviews with examiners at the Content Rating Coordination (COCIND) of the Ministry of Justice—which is responsible for age rating—and analysis of examination files for television programs. The first of the article’s five sections describes the legal regime underpinning the contemporary system of indicative classification in Brazil, attending closely to the refinement of categories over time. The second section demonstrates the presence of age-based ratings and considerations in earlier Brazilian law and policy, in periods typically characterized by state censorship. The third section examines the cultural and political context surrounding the emergence of the current system following the 1988 constitution, while the fourth section analyzes various responses of television companies to a system perceived to restrict broadcasting freedoms. The fifth section examines the practice of age-rating television in the Ministry of Justice, demonstrating that this dynamic process involves institutional expertise, ongoing negotiation with broadcasters, and awareness of both the public role of age rating and associated political controversy.

The Legal Regime for Indicative Classification

Brazilian media classification is based on a set of federal laws established after the end of the 1964–1985 military regime. Key documents include the constitution, the Child and Adolescent Statute, and the Ministry of Justice ordinance 368 of 2014.² In the constitution, the seventh enacted since independence in 1822, article 5 guarantees free expression, and article 21 states that “the Government has the responsibility to classify, for indicative purposes, public entertainment and radio and television programs.” These ideas come together in article 220, which guarantees protection from censorship and legitimates indicative classification

² This article employs the common convention for Brazilian laws whereby Ministry of Justice ordinance 368 of 2014 is abbreviated as MJ 368/2014 (see <http://www.contabeis.com.br/legislacao/>).

by authorizing the federal government to “regulate public entertainment and shows, and . . . to advise about their nature, the ages for which they are not recommended and the places and times unsuitable for their exhibition.” For age-rating advocates seeking to strengthen broadcasting restrictions, it has been important that these principles are specified in the constitution.

In 1986, Brazil established a National Committee on the Child and the Constitution, which included nongovernmental organizations such as the National Street Children’s Movement and was supported by UNICEF. Following article 227 in the constitution—which describes the rights of young people as a “duty” and “absolute priority” of “the family, the society and the Government”—in 1990 the Brazilian National Congress passed the Child and Adolescent Statute, establishing councils for the rights of children and adolescents at federal, state, and local government levels. This statute designated the state as responsible for age-rating media. Article 76 outlined time-of-day broadcasting restrictions:

Radio and television stations may only exhibit educational, artistic, cultural and informative programs in the schedule recommended for child and adolescent audiences. No show will be presented or announced without notification as to its classification, prior to its broadcasting, performance or exhibition.

Articles 253–258 outline the penalties for exhibiting theater plays, films, or television shows without age ratings; for transmitting radio or television shows at times that they are not authorized; and for exhibiting and selling particular media to minors for whom age ratings determine they are not appropriate.

New laws and Ministry of Justice ordinances explicating and reforming this statute over the decades since provide the framework for our discussion. MJ 368/2014 governs indicative classification in contemporary Brazil, combining and superseding former regulations. However, it was MJ 773/1990 that began the post-1988 history of regularly updating the framework governing youth media consumption by specifying four age-rating categories—suitable for all, and unsuitable for children under age 12, 14, and 18—along with associated scheduling restrictions. MJ 796/2000 added a fifth age-rating category for children under age 16. MJ 899/2001 required the Ministry of Justice to rate video games according to the same categories and specify restricted content as “violence, the practice of sexual intercourse and misrepresentation of ethical and moral values.” In 2002, MJ 766/2002 added role-playing games to the material classified by the ministry, through prior analysis and according to the same five age-rating categories. MJ 1597/2004 added a sixth category, unsuitable for children under age 10, and provided complex specifications about parental guidance at shows and public amusements. This ordinance also includes a document for authorizing a minor’s film attendance without an adult guardian present, although in practice this was rarely used. MJ 1100/2006 emphasized the role of parents, established a Permanent Group of Volunteer Collaborators to work with the ministry, and loosened the formerly complex system of parental accompaniment. MJ 264/2007 introduced an ER (especially recommended) rating in a *Manual of the New Rating System* (hereafter *Manual*) published in 2006 (COCIND, 2006).³ Finally, MJ 1642/2012 and MJ 1643/2012 introduced the *Practical Guide for Content Rating* (hereafter *Guide*), with new principles for evaluation and decision making.

³ The ER category was unpopular inside the ministry, rarely used, and gradually phased out through omission by media-specific ordinances; it disappeared completely with MJ 368/2014.

Of particular importance for our focus here is MJ 1220/2007, which references a discussion on improving classification, most likely denoting a meeting between Justice Ellen Gracie and civil society organizations regarding the STF Action of Unconstitutionality (ADI) 2398, discussed below. This ordinance specifies that the ministry should “classify television programs in general,” with age rating working through self-classification by legal representatives such as broadcasters, alongside regular monitoring by the Department of Justice, Ratings, Titles and Qualification (DEJUS), during child and adolescent protection hours (6:00 a.m. to 11:00 p.m.). Genres of television exempted from this process were journalism, news, sports, and electoral programs, advertisements, and live programs.⁴

MJ 368/2014 is also crucial, superseding the above ordinances for all media subject to classification: films, DVDs, video games, role-playing games, television, and museums and public amusements. It distinguishes between “self-classification”—the “attribution of the indicative classification by the person in charge of the work, to be confirmed by the Ministry of Justice”—and “matrix classification”—“assigned by the Ministry of Justice valid for all vehicles and market segments.” The Department of Justice Policies (DPJUS; DEJUS before 2017) is responsible for classification, which involves content analysis, assignment of classifications, and compliance monitoring. MJ 368/2014 also links existing age ratings to corresponding times when rated material can be aired on “open” (free-to-air) television:

- I. Child protection range
 - a) 6 a.m.–8 p.m.: General audience or Not recommended for ages under 10
- II. Protection of adolescents
 - a) 8 p.m. onward: Not recommended for ages under 12
 - b) 9 p.m. onward: Not recommended for ages under 14
 - c) 10 p.m. onward: Not recommended for ages under 16
- III. Adult range
 - a) 11 p.m.–6 a.m.: Not recommended for ages under 18

Films to be exhibited in cinemas and for home video require prior classification, as do video games, although according to a subsequent partnership with the International Age Rating Coalition, DPJUS directly classifies games sold as physical copies and merely monitors online games and apps (Driscoll & Grealy, 2018). Video-on-demand must be self-classified using the ministry’s age ratings, and material for exhibitions and festivals may also be self-classified. Most relevant here, broadcast television programs are exempted from prior analysis, provided they are self-classified and a detailed synopsis is provided to the ministry. This self-classification is valid until a definitive rating is published by DPJUS in the government gazette within 60 days of the program’s exhibition.

Age Rating in an Era of Censorship

Histories of age rating in Brazil typically begin with reference to the above framework, restating the distinction between the military era and the period following the 1988 constitution. For example,

⁴ This exemption has caused concern among children’s advocates. For example, news programs that follow police officers tend to broadcast serious violence with no specific warning.

Frederick Schiff (1993) writes that, from 1988, "film censorship was replaced by a parental-advisory rating system" (p. 475). To be sure, this periodization captures important historical differences in the power and transparency of government regulators to determine media content production and distribution, as compared with television broadcasters in particular. However, differentiating Brazilian media consumption by age is not a post-1988 invention. Instead, it traces back to a bureaucratic system of assessing public entertainment present in former dictatorial and democratic republican administrations. This acknowledgment helps explain the difficulties and reforms that have arisen since 1988.

Age-based media classification begins with the 1927 Minors Code. Popularly known as the "Mello Mattos Code," after its author, this law focused primarily on children in "vulnerable situations," addressing matters such as child labor and state guardianship (De Araújo & Coutinho, 2008). Thus, it is not typically considered in discussions of Brazilian age rating, given the significance attributed to the Child and Adolescent Statute. Nevertheless, the Minors Code prohibited children under 14 from the cinema unless accompanied by a parent or guardian, and it forbade access to exhibitions that concluded later than 8:00 p.m. Children under five could not "under any circumstances be taken to [cinema] representations," and minors under 18 were prohibited from accessing any "film which may have a harmful influence on moral, intellectual or physical development, and may dangerously arouse their fantasy, arouse bad or sickly instincts, [or] corrupt them by the force of suggestion." Foreshadowing the ER category of 2006, the code also included the request that cinemas organize "for children up to 14 years of age, daytime sessions, in which instructional or recreational films are duly approved" for unaccompanied minors.

In 1979, the Minors Code was revised to specify prohibitions on children under 10 attending "theatrical, cinematographic, circus, radio, television and similar venues" if unaccompanied by a responsible adult and remaining in those venues beyond 10:00 p.m. This update also specified time-based restrictions on broadcast media with age ratings, banning "the broadcasting, in radio and television, of shows prohibited for minors of: I ten years of age, until 8 p.m.; II fourteen years of age, until 10 p.m.; III eighteen years of age, at any time." The 1962 Brazilian Telecommunications Code and the associated formation of the Brazilian Association for Radio and Television Stations (ABERT) established a code of ethics of Brazilian broadcasting in 1964; however, Alvaro Moreira (2009) suggests that, "due to internal differences [among broadcasters] the Code was never applied" (p. 50).⁵

Brazilian media censorship had been legitimated well before 1979, and even before the military regime. Decree Law 1949 of 1939 had approved censorship under the Department of Press and Propaganda (DIP). An Official Publicity Department had been created in 1931; it was renamed the Department of Propaganda and Cultural Diffusion in 1934, and then, in 1938, under the *Estado Novo* (New State), the National Propaganda Department. Among other functions typical of contemporaneous state media regulators, the Department of Press and Propaganda was responsible for censoring cinema, which required a certificate of approval for public exhibition. In Decree Law 1949/1939, age rating was clearly outlined under article 23, which specified that "The impropriety of films may be declared for children up to 10 years

⁵ Early versions of ABERT's code of ethics are unavailable. The inclusion of age-based content regulations most likely followed the new constitution, as suggested by press reportage of Globo founder Roberto Marinho (1988) instructing his staff to follow the constitution's articles on youth and media.

old, for children up to the age of 14 years, or for children under the age of 18, under the DIP judgment." Positive designations could also be attributed to films in the Department of Press and Propaganda's published decisions, such as "educational," "recommended for children," and "recommended for youth" (article 28). Chapters 3 and 4, dealing with theater and public entertainment and radio, respectively, outlined similar restrictions, though they did not specify age restrictions. Chapter 8 of this act addressed minors in overarching terms, specifying that "spectacles of any nature . . . may be considered unfit for minors" with reference to the Minors Code (article 115).

It is on this foundation that Decree Law 20493/1946 established the Public Entertainment Censorship Service in the Department of Public Safety. The service was to be responsible for prior censorship of cinematographic projections, plays, other public performances, and "television exhibitions" (article 4). It required warnings for movies considered unfit for minors; legitimated recommendations for youth for films that arouse "good feelings, artistic tendencies, scientific curiosity, love of country, family and respect for institutions" (article 13); and specified age limits at 10, 14, and 18 years on access to films and theater, to be nationally supervised by both the Public Entertainment Censorship Service and the Juvenile Court. Thus, when the military regime passed law 5536/1968, the age ratings it specified for theater and cinema—GA, 10, 14, 16, and 18—were a refinement rather than an innovation.

Across this history, television slowly assumed a central position in Brazilian culture and became an object of intense regulation. Following the popular radionovelas of the 1940s, Brazil's first telenovela, *Sua vida me pertence* (*Your life belongs to me*), was aired twice weekly by Rede Tupi in São Paulo in 1950 (Rêgo & La Pastina, 2007). The first daily telenovela was broadcast in Brazil in 1963, two years before the formation of Brazil's most powerful broadcaster, Rede Globo (Ribke, 2010). Cacilda Rêgo and Antonio La Pastina (2007) characterize Latin American telenovelas in terms of their daily broadcasts, definitive endings after typically 180 to 200 episodes, narratives based on class conflict and social mobility, and aim to attract broad audience demographics (also see La Pastina, Rêgo, & Straubhaar, 2003). Nahuel Ribke (2011b) argues that the genre achieved mass appeal in Brazil in 1968 with Tupi's *Beto Rockefeller*. For media anthropologist Esther Hamburger, *Beto Rockefeller* marked a shift from former telenovelas' emphasis on literary dialogue and exotic settings to become "more realistic, transforming themselves into a space of dialog about Brazilian national identity" (Ribke, 2011b, p. 662). Indeed, under the military period, the state and major television broadcasters shared an interest in the creation of a national audience and market, exemplified by the simultaneous nationwide broadcast of news program *Jornal Nacional*. This common ground was later shattered through the enforcement of age ratings for television, generating the contestation over time zones discussed below.

The regulation of telenovelas is a useful case study to consider continuities and differences in age-based media regulation, comparing contemporary classification practices (examined in the final section) with those of the military period. However, the archive of Brazilian telenovelas is significantly incomplete following the neglect of bankrupt broadcasters, suspicious fires during the military era, and Globo's restrictive management of material reflecting its complicity in the military regime (Sinclair & Straubhaar, 2013). Censor records located at the National Archive in Brasília paradoxically provide one of the best representations of Brazilian television through the 1960s, 1970s, and 1980s while illustrating the negotiations between telenovela writers and the authorities that presage contemporary challenges. This is

equally evident in contemporary Ministry of Justice examination files, which, through age-based assessments, convey semantic and syntactic limits for the broadcast schedule. During the military period, censorship was undertaken in the Public Entertainment Censor Division (DCDP) under the jurisdiction of the federal police. The DCDP was restructured and centralized at this time, incorporating a wider range of cultural forms— theater, cinema, television, and popular music—and became increasingly attuned to “moral offences” (Ribke, 2011a, p. 51). A document used by censors to assess films not only asked for a classification chosen from “a. GA; b. 10 years; c. 14 years; d. 18 years; e. INTERDICTION,” but also questioned whether the film offers positive messages and, more specifically, how it represents moral issues such as “generational conflicts” and “the practice of free love” (Stam, 1979). This assessment was made by “expert censors” who joined the DCDP from the late 1960s, many of whom had already worked as bureaucrats or had backgrounds in the humanities and social sciences.

Although age ratings were used in both periods, greater attention was paid to political criticism in the military era, compared with the contemporary emphasis on violence and sexual content for minors. James Cimino (2013) describes the changes censors required to the telenovela *Escalada* (*Climbing*, 1975, 197 episodes, 8:00 p.m., Globo). This program followed the protagonist, Antônio Dias, over a long period: as a young man who travels to the fictitious Rio Pardo in Brazil’s interior to work as a cotton grower, as a middle-aged industrialist who becomes rich through Brasília’s construction, and finally as an older man who returns to Rio Pardo. The censors prohibited *Escalada* from explicitly naming former president Juscelino Kubitschek de Oliveira, who founded Brasília but was opposed to the military dictatorship in 1975. *O bem-amado* (*The beloved*, 1973, 178 episodes, 10:00 p.m., Globo) was also censored on political grounds. In the fictional town of Sucupira, a corrupt mayor builds a cemetery but is unable to open it because a talented young doctor is keeping the town’s residents alive. The censors cut 37 of its 178 episodes, finding the representations of corrupt politicians and the use of titles such as “colonel” and “captain” provocative (Cimino, 2013; Porto, 2011). The program used such titles humorously “to criticize the military regime’s grandiloquent discourse of national development and the bombastic infrastructure projects launched during the period” (Ribke, 2011b, p. 665).

The censor files of this period represent the complex process by which broadcasters would initially submit a program synopsis and its first 10 episodes to the DCDP, which were approved or subject to advice on required cuts or occasionally (but rarely) banned outright (Ribke, 2011b). Filming could begin only after the approval of the synopsis, scripts, and character profiles, although completed episodes also required approval prior to broadcast. Schiff (1993) notes that, by 1969, the standards by which censorship was applied were often “uncertain. Censors deferred decisions to more senior officials . . . or they suggested that other teams of censors review the decision” (p. 487). For example, scenes involving a lonely maid’s conversations with a cat were inexplicably cut from the program *Quarta nobre* (*Fourth noble*, 1983). In a meeting in Brasília, the writer Aguinaldo Silva asked Solange Teixeira Hernandez, DCDP director from 1980 to 1984, for an explanation of the script’s deletions. Hernandez called on the censor responsible for the assessment, who explained, ambiguously, “Oh, Dr. Solange . . . A maid talking to a cat? There you go!” (Cimino, 2013).

As with contemporary pressures on age-rating television, Ribke (2011b) notes,

Censor chiefs and technicians worked under a lot of pressure from opposing forces—regime factions, TV stations, printed press and viewers—and their considerations undoubtedly included the unpopularity of their decisions as well as their economic impact on TV companies. (p. 664)

The censor at this time might also determine that a program contained “incompatible content” for its scheduled broadcast time, which typically acted as a warning to curb content. Television companies usually preferred to change a program’s content rather than its time slot, which generally must remain fixed to establish viewers’ long-term habits. For example, in *Selva de pedra* (*Stone jungle*, 1972–1973, 243 episodes, 8:00 p.m., Globo), the protagonist, Cristiano, pursues a love affair with Fernanda, believing his former lover Simone to have been killed. Because Simone was not really dead, censors accused the program of promoting bigamy, reclassifying it for the 10:00 p.m. time slot. Significant rewrites were required to allow the program to air at 8:00 p.m. (Cimino, 2013). One of the major challenges of censoring telenovelas during the military era thus was due to the fact that series were being written while they aired, incorporating feedback from viewers, station executives, advertisers, and civil society groups. Technicians complained about the difficulty of establishing a “final opinion” on any program (Ribke, 2011b, p. 667). This continues to be a major challenge for contemporary examiners in DPJUS, even while the emphasis on establishing a national audience has shifted toward ensuring national standards for young people’s media consumption, and the focus on political representations has shifted toward violence and sex (Gomes, 2013).

Building a New System of Age Rating for Television

A 2015 Ministry of Justice booklet commemorating 25 years of indicative classification in Brazil emphasizes the construction of a new ratings system in 2005 and 2006, claiming it “ensured more transparency and objectivity” in a contentious area of public policy (COCIND, 2015, p. 2). This reform was based on public consultation across five Brazilian regions and more than 2,200 submissions online in 2010 and 2011. This consultation led to both MJ 368/2014 and the 2012 *Practical Content Rating Guide* (COCIND, 2012). Prefacing this reform, a major event in formalizing indicative classification for television was the passing of MJ 796/2000 under José Gregori, former national secretary for human rights and minister of justice, which outlined age ratings, time-based restrictions for television broadcasting, and penalties for noncompliance.

On November 24, 2000, Gregori (2000) published a newspaper article in which he downplayed the novelty of MJ 796/2000, noting that age-based rating “had already been going on for ten years, and there was no substantial change leading to the need for a long period of adjustment” (2000, p. 1). This article responded to criticism from television executives who had expressed surprise at the ordinance and characterized it as unconstitutional censorship. Such surprise was feigned, Gregori argued, because there had been “numerous meetings” with ABERT “sponsored by the Ministry of Justice . . . to find formulas capable of establishing limits for television programming” (p. 1). Gregori claimed, “The government’s expectation was that broadcasters would devise a system of self-regulation that would curb excesses and stimulate positive programs” (p. 1). However, formal commitments from ABERT had failed to produce this outcome and the ministry had been meeting with “the directors of Globo, RecordTV, SBT and Bandeirantes, among others” since 1998 to establish a ratings system for television (p. 1). In the following months, press

coverage described a lunch held on November 23 at Globo executive Antônio Drumond's home, where the president and Globo employees supposedly discussed the classification ordinance ("Judge Siro Darlan," 2000). ABERT subsequently brought a case against MJ 796/2000 in the Superior Court of Justice, and on December 28, the ordinance was suspended. Age ratings for television were still required; however, scheduling restrictions would no longer be enforced. Such legal action by broadcasters was a sign of things to come.

In 2006, DEJUS, along with ANDI (Agência de Notícias dos Direitos da Infância, News Agency for Children's Rights), Save the Children Sweden, and the Avina Foundation, published research calling for a reformed indicative classification system for television (ANDI, 2006). Minister of Justice Marcio Thomaz Bastos described the publication as "the outcome of a wide range of discussions held over the past four years by the Ministry of Justice" (ANDI, 2006, p. 4), and as legitimating a new system, established under MJ 1100/2006 and MJ 1220/2007. Bastos "categorically" stated that "the new TV Rating System does not institute self-regulation—much less censorship—by subterfuge" (ANDI, 2006, p. 4). Such a system should not surprise the broadcasters, Bastos inferred, and its basis in broad consultation demonstrated its popular support. For the minister, "This work narrates part of the story of Brazil's redemocratization" (ANDI, 2006, p. 5).

TV Rating System (ANDI, 2006) outlined various limitations of Brazilian age rating for television throughout the 1990s and early 2000s, including the lack of defined standards for designating ratings, the subjective application of categories by government examiners, and the absence of content description alongside age ratings. As one contemporary COCIND coordinator recalls, the system prior to the 2006 ordinance was inconsistent: "There were guidelines. But that's why they changed everything here, because it was sloppy" (personal interview, October 19, 2017). Films and television were often rated by synopsis alone; additional checking tended to be driven by intermittent complaints. Another limitation was central to the STF case decided in 2016:

The ministry did not have sanctioning powers to require that broadcasters air their content at the recommended times. . . . An example of this has been the failure of broadcasters, on occasion, to observe the different time zones in Brazil—in other words, the possibility always existed in states located in different time zones than Brasília that a particular program might be aired in a time-slot outside of the designated broadcasting time. (ANDI, 2006, pp. 28–31)

The suspension of scheduling requirements allowed the authors to claim that, while the constitution "rejected any differentiation among Brazilian citizens according to their region of origin," "the rights of the children of Acre," who may receive broadcasts outside times deemed appropriate, "are not ensured to the same extent as those of children in the state of São Paulo" (ANDI, 2006, p. 163). This point about geographic inequality and regulators' attempts to establish national standards for young people's media consumption at the expense of simultaneous broadcasts is discussed in the next section.

Based on close analyses of other countries' regulatory systems, the authors proposed a co-regulatory model for television, in which the state would monitor ratings determined by broadcasters,

governed by a legislative framework that outlined age and content categories, associated time restrictions, and penalties for noncompliance. This system, largely instituted by 2007, increased the objectivity of the ratings process and established content- as well as age-based categories. It also advocated for the inclusion of “adequacies” in ratings determinations, meaning recognition of content that would contribute to favorable evaluation, eventually leading to the introduction of the ER category. The authors noted that many of their recommendations were drawn from ABERT’s own code of ethics, which allowed for “the application of penalties on broadcasters found to have committed excesses in their programming” and specified time-based scheduling restrictions (ANDI, 2006, p. 61). However, a gap was highlighted between the principles outlined by ABERT and the “day-to-day activities of companies” (ANDI, 2006, pp. 61–62). For example, throughout the 1990s, the popular program *Banheira do Gugu* (*Gugu’s Bathtub*) aired at 4:00 p.m., featuring segments where men and women in swimsuits wrestled in spa baths, generating many viewer complaints.

Both the public consultation process and analysis of other nations’ systems were important for legitimating this revised classification system, especially against claims of censorship. With the release of the *Manual* (COCIND, 2006), broadcasters’ criticisms could be rebuffed with a public mandate: “There was a sense that the Brazilian population did this. So the previous guide, you could say, ‘Oh, that’s the government trying to control me.’ But this one, you say, ‘No, this was agreed by the population’” (COCIND coordinator, personal interview, October 19, 2017). But the television companies were unwilling to accept such restrictions.

Television Broadcasters Respond

The industry’s responses to this new system bear closer consideration, beginning with the highly specific problem of Brazil’s centralized television production for a wide geographical terrain. MJ 1220/2007 established scheduling restrictions for free-to-air television based on programs’ age ratings, made more complicated by Brazil’s four time zones. The first zone covers an archipelago in the Atlantic Ocean at coordinated universal time (UTC) –02:00. The second time zone, Brasília time, comprises states in the northeast, southeast, and south regions and some central states (Goiás, Tocantins, Pará, and Amapá)—an area with about 94% of Brazil’s population. Brasília time is UTC –03:00, shifting to UTC –02:00 when daylight saving is observed, except in some northeastern states. Brazil’s third time zone, UTC –04:00, applies to the central and western states of Mato Grosso, Mato Grosso do Sul, Rondônia, Roraima, and most of Amazonas. This time zone shifts to UTC –03:00 during daylight saving time, except in some northern states. The fourth Brazilian time zone, UTC –05:00, encompasses southwest Amazonas and the far-western state of Acre—an area with about 0.5% of Brazil’s population. This time zone does not observe daylight saving.

These different time zones present a problem for powerful broadcasters, mostly located in Rio de Janeiro and São Paulo. To observe restrictions required under MJ 1220/2007 and MJ 368/2014 using a single broadcast from Rio de Janeiro, a 12-rated program would need to be shown at 11:00 p.m. Brasília time to be simultaneously screened at 8:00 p.m. in Acre. This issue led to the establishment in April 2008 of the Rede Fuso (Fuso/Spindle Network)—the name for Globo’s differentiated broadcast signal but also referring to the alternative broadcasts of multiple television stations. The Amazon Network broadcasts the Fuso signal to Acre, Amazonas, Rondônia, and Roraima, while the Matogrossense Television Network broadcasts the Fuso signal to

Mato Grosso and Mato Grosso do Sul. Television stations outside the Brasília time zone had, until this point, typically broadcast their own programming on weekday mornings and coordinated broadcasts from midday Brasília time during the week and in general across the weekend. Daylight saving time required these local stations to record and rebroadcast programming at an appropriate time. Following MJ 1220/2007, broadcasts had to be delayed to accommodate age-rating restrictions, and one unpopular effect concerned football. Seven and eight o'clock telenovelas were broadcast locally at those times, prioritized over live football matches, which were televised either partway through the contest or afterward in a truncated form. The delayed broadcast also meant that some viewers were unable to participate in the live voting of reality programs such as *Big Brother* and *The Voice*. For television companies, the Fuso networks also constituted an additional expense.

The requirements of indicative classification thus prompted the reform of time zones themselves—an unprecedented effect of age rating internationally. In the days following the enactment of MJ 1220/2007, Brazil's federal Senate approved Law 11662/2008, establishing a new division of national time zones. Mainland time zones were reduced from three to two, with Acre and southwest Amazonas incorporated into UTC -04:00 and the western half of Pará included in UTC -03:00. This bill was proposed by Senator Tião Viana (subsequently Acre's governor), at the request of Globo and Rede Amazônica de Televisão ("Rede Globo," 2011). The response of local citizens was mixed, with some concerned about interruptions to daily life and some concerned about business interests requiring synchronization with eastern Brazil. Later in 2008, Senator Arthur Virgílio authored another bill proposing that Brazil have a single time zone. This was approved by the Senate Committee of Economic Affairs on June 16, 2009, but it was withdrawn by Virgílio after it was criticized by children's rights advocates and journalists for lacking public consultation, and Virgílio confirmed it had been developed at the request of a television network owner ("Brazil Considers," 2009).

In 2009, the federal government held a referendum in Acre, and 56.87% of voters supported a return to the former time zone. Attempting to slow the reform process, ABERT appealed that the declaratory act this change required was of insufficient legal standing to overturn the 2008 decision, which instead required a bill to pass the Brazilian congress (Machado, 2011). Under this pressure, Senate president Jose Sarney transferred his decision to the Commission of Constitution and Justice, led by Senator Sérgio Petecão. A Commission of Constitution and Justice meeting at which Petecão's report was to be voted on was then canceled and the reform stalled. It was not until September 2013, following further delays—including a 2011 veto by President Dilma Rousseff—that the referendum results were finally approved in the Senate under Law 12876/2013, reinstating Brazil's fourth time zone at UTC -05:00 in November 2013. This was not, however, the last of the legal battles over age-based broadcast time restrictions, which continued in the Federal Supreme Court.

In 2001, the Federal Council of the Brazilian Bar Association brought a direct action of unconstitutionality (ADI 2398) against MJ 796/2000. The action argued against the ordinance on the grounds that it implied prior censorship and restriction. On February 2, 2007, after a 5-5 tie in the STF, the matter was suspended to await the judgment of its president, Justice Ellen Gracie. At a meeting with Gracie on February 7, representatives of civil society organizations—including ANDI, the Federal Public Prosecutor's Office, and the National Council for the Rights of Children and Adolescents—argued for indicative classification's importance for protecting young people. On June 25, Gracie voted against ADI 2398, and the action brought by the Brazilian Bar Association failed.

The broadcasters' goal to reduce regulation by age ratings was not abandoned, however, and on November 30, 2011, an STF hearing began for ADI 2404, moved by the Brazilian Labor Party at the request of broadcasters and written by ABERT's legal counsel (Intervozes, 2015). ADI 2404 sought to establish the unconstitutionality of article 254 of the Child and Adolescent Statute, under which broadcasters could be penalized for not complying with scheduling restrictions associated with age ratings. During this hearing, four votes were cast for the unconstitutionality of the article, including by rapporteur Dias Toffoli. In his vote, Toffoli (2011) wrote that the state "does not censure [but] indicates only" (p. 13). His decision referenced the Motion Picture Association of America as a self-regulating association of film companies and claimed that the Brazilian model "involves an administrative mechanism that interferes in freedom of expression" (p. 21). Justice Joaquim Barbosa called for a stay of proceedings, and a hearing on indicative classification was held in December 2011. At the hearing, the deputy director of DEJUS, Davi Pires, argued that removing penalties would render the system ineffective: "For fear of these punishments, I believe that the companies have tried very hard to improve the level of open TV programming" (Haje & Macedo, 2011, para. 6). In contrast, ABERT representative Heloísa Almeida argued that the responsibility for educating children lies with parents and that age ratings "should be indicative only, not binding" (Haje & Macedo, 2011, para. 5). In December 2014, a public letter was co-signed by about 80 organizations protesting ADI 2404 and expressing support for the current system (de Barros & Nazario, 2013). The case was again opened briefly and suspended in November 2015, and in March 2016 a panel titled "Indicative Classification: The STF Action and the Risks for the Protection of Children and Adolescents" was held in Brasília. Involved in the panel were the National Human Rights Council, National Council for the Rights of Children and Adolescents, and other civil society organizations.

This was a time of political upheaval in Brazil, and on August 31, 2016—the day the Brazilian Senate impeached President Rousseff, and thus with limited media coverage—the STF ruled that enforcing time restrictions on television broadcasts was an illegal form of prior censorship. The key point of the ruling is that broadcasters continue to be required to include age ratings in programming, but they are no longer restricted regarding the hours when programs can be broadcast. For Renato Godoy of the Alana Institute, "The STF decision did not take into account the absolute priority of the rights of the child" (CAIOC, 2016, para. 13).⁶ Despite the ruling, in February 2017, Globo closed its Fuso Network, removing the delayed signal from many Brazilian states, and Amazon Network Acre, which had previously transmitted popular programs after a two-hour delay, reduced this difference to one hour. The schedule of Brazilian television broadcasting is thus now restricted by historical norms and public feedback rather than any legal obligation.

The Practice of Indicative Classification

Today, the indicative classification system is implemented by COCIND within DPJUS at the Ministry of Justice rather than by the federal police. COCIND has about 30 staff divided into three sections responsible for films and DVDs, television, and video games and role-playing games, respectively. Age rating is performed according to the 2012 *Guide*, distinguished from the 2006 *Manual* by the addition of attenuating and aggravating categories focused on audiovisual language, relevance, frequency, context, and

⁶ CAIOC is a user name for online posts made within the "Programa adulto em horário adulto" ("Adult programming during adult hours") campaign, collectively led by children's rights and media organizations ANDI, Intervozes, Prioridade Absoluta, and Article 19.

insinuation/simulation. Content is classified according to six age ratings (see Table 1), with reference to the three broad categories of violence, sex and nudity, and drugs.

Table 1. Age Ratings for Various Media in Brazil, 1927–2014.

Year	Age rating						
1927	5	14	18				
1939	10	14	18				
1968	GA	10	14	16	18		
1990	GA	12	14	18			
2000	GA	12	14	16	18		
2004	GA	10	12	14	16	18	
2006	ER	GA	10	12	14	16	18
2014	GA	10	12	14	16	18	

Note. GA = general audiences; ER = especially recommended.

To request a rating, broadcasters submit an application to COCIND that includes an age rating and selected content descriptors for the program. Once a show premieres, COCIND monitors it for at least 60 days to confirm that the broadcaster's rating conforms to the guide's standards and then publishes the official rating in the government gazette. To make this determination, COCIND analysts produce a report for each episode of the program, which includes factual description, thematic description, and age classification. Every text is analyzed at least twice, but usually three times, typically first by an intern and then by the section coordinator for television. COCIND monitors all programs on Brazil's five major broadcast television stations, with priority given to popular programs. The *Guide* states that there is a 90% correspondence between broadcasters' classifications and the Ministry of Justice assessments.

The relationship between COCIND and broadcasters thus involves ongoing consultation and monitoring. While COCIND might agree with the original self-classified rating, shifts in the program's content can require a new rating or suggestions to curb content. One section coordinator emphasized the consultative aspect: "We try to negotiate, 'What's happening? Are you having trouble? Was it a mistake?' And so, in the case you actually don't agree with the correct rating, 'What's going on?' We try to solve it like this" (personal interview, October 19, 2017). Another coordinator described how an original consensus is subject to ongoing assessment:

We spoke yesterday or the day before with the producer of the show, and then we were telling them that [if] they're going to have a murder or something like that in the end of the show, it could not be allowed in that rating. And then they said that they're going to cut some scenes to adjust to the main rating they want. (personal interview, October 20, 2017)

This monitoring of content is especially relevant to telenovelas, in which sexual and violent content often increases as relationships develop across serialized drama and especially toward a finale. A COCIND coordinator described one exchange with a broadcaster about a program that depicts a girl dealing with bulimia. COCIND suggests that this might warrant a higher rating; however, the broadcaster responds that

it intends to “make a point of the situation” or provide a public health or educative framing of the scenario. For COCIND, the question is, “When is that going to happen?” “If you have one show that has 200 episodes and until the last episode you don’t know [whether something was educational or a spectacle], the damage is done in the other 199” (personal interview, October 20, 2017). These challenges are exacerbated by systematically rating programs in general rather than according to each episode. COCIND is necessarily both rating identified content and anticipating shifts toward more mature content based on generic expectations of narrative development.

A program usually debuts with at least 15 episodes produced, but content is likely to change based on audience feedback. During the monitoring process, COCIND regularly contacts broadcasters to discuss content shifts. For one section coordinator:

In a way we cannot and we do not like to ask them to remove content, we never do this. But the thing is, we’re saying, okay, your show is going to move from 12 to 14 because of murder, because murder is 14 criteria. They say, “Well, I want to see the report,” and we have to show it. And then they say, “Okay, we’re going to cut the scene,” and then we can’t avoid it, because it’s their scene they cut. (personal interview, October 20, 2017)

The *Guide*, in this sense, positions the COCIND coordinator as an advisor to broadcasters. This combination of self-classification and monitoring results in a situation in which inappropriate content is only identified after the fact. For example, if a program is rated GA (general audiences), but its content warrants a 14, COCIND may take up to 60 days to negotiate with the broadcaster to limit the mature content or to publish a higher rating. Similarly, a program whose content is rated as 10 may have increased sexual or violent content as a narrative climax approaches. The following exchange demonstrates the limitations of retrospective classification:

Greal: For example, if I’m making a soap opera and it’s coming to the end and it’s exciting and I want to get higher ratings, I could increase the content, the adult content, and then you might give it the higher age rating in the end?

COCIND coordinator: Yes . . . unfortunately, yes. It happens. For example, we had this year one show that they pretend to be—they intend to be 10 years but in the end of the show we have to raise it to 12 years, and it has already been aired. So next time they won’t be able to air it [rated 10]. (personal interview, October 20, 2017)

Under the former system of time restrictions and associated penalties, on June 9, 2009, the Ministry of Justice ordered Globo to cease screening the telenovela *Senhora do destino* (*Lady of destiny*, 2004–2005, 221 episodes) in its reruns slot (Fantinel, 2009). The show was originally broadcast at 8:00 p.m., but in 2009 it was replayed at 2:35 p.m. and rated 10 by the broadcaster. The COCIND director determined it should be rated 12—for murder, physical and verbal aggression, and sex—and thus restricted to 8:00 p.m. or later. Following the STF decision discussed above, the broadcaster’s freedom to determine scheduling

removes the pressure of decision making that might be unpopular with powerful media companies from the relevant COCIND coordinator:

Now the broadcasters will be able to show explicit sex and nudity if they want to, but at least that will be their problem. They have to deal with the criticism of their own audience or the prosecutors that are going to go after them, not us anymore. Even still, they want the lower ratings because after so many years of the Watershed it became kind of a moral issue for them or for the society. (personal interview, October 19, 2017)⁷

The former situation, in which broadcasters could complain about obligatory scheduling restrictions determined by age rating, has shifted to one where television companies are wholly responsible for scheduling decisions and any related public complaints. This coordinator notes that immediately following the STF decision, RecordTV showed the 14-rated program *Vidas em jogo* (*Lives in the game*, 2011–2012, 245 episodes) in the middle of the afternoon, and the broadcaster was quickly subject to public criticism. The broadcaster claimed it was a scheduling error but continued to show a heavily edited version of the show in a similar time slot. Another example of changes following the STF involves *Sai de baixo* (*Get out*, 1996–2002, 241 episodes). The 2005 COCIND file (08017.000025/2005-59) rating for *Sai de baixo* on DVD specified a 12, for sexual insinuations and erotic dialogue, restricting its broadcast to after 8:00 p.m. In May 2017—a little less than a year after the STF decision—Globo commenced reruns of *Sai de baixo* on Saturday afternoons.

A final example suggests the direction of broadcast television in the era following the STF decision. The telenovela *Ribeirão do Tempo* (*River of Intrigues*, 2010–2011, 250 episodes, RecordTV) originally aired at 10:30 p.m. and has been replayed since March 6, 2017. *Ribeirão do Tempo* originally self-classified as GA; however, the inclusion of “repeated consumption of licit drugs, sexual content language, sexual innuendo, eroticization and violence” and “family violence and sexual abuse” led DEJUS to warn RecordTV on June 23, 2010 that the program had been inappropriately rated (Intervozes, 2010). The inclusion of such content continued, and on July 9, 2010, DEJUS rated the program 14 despite a request from the broadcaster for a 10. Although RecordTV had submitted an edited version of the program to COCIND in March 2016, prior to the STF decision, and received a 10 rating (COCIND, 08017.000111/2016-14), in 2017 *Ribeirão do Tempo* was replayed at 2:45 p.m., uncut and with the former 14 classification. The broadcaster has thus clearly exploited the removal of penalties that previously tied broadcasting times to age ratings.

One reading of this situation could be that age ratings no longer matter because the associated time restrictions are not enforceable. Although Brazilian broadcasters remain obligated to age-rate content, and subject to DPJUS oversight, indicative classification no longer legally determines television scheduling. The examples presented here offer instances of this newfound freedom. Despite the STF ruling that time restrictions constitute a form of prior censorship, it is possible, though thus far untested, that broadcasters could be pursued by the public prosecutor’s office regarding indicative classification for their failure to adequately protect minors under the Child and Adolescent Statute. More likely, and more important, age

⁷ The watershed is a broadcasting colloquialism that typically refers to the time in the schedule that divides when mature and general audience rated programming can be screened.

ratings for television programs will continue to inform scheduling based on historical norms that represent the meaning and purpose of age rating itself. Such categories do not simply indicate legal obligation but are a communicative practice between broadcasters and their audiences, driven by audience desires to determine what they and their children watch through age-based classifications that indicate program content.

Conclusion

On an international scale, television is a far more difficult medium for age rating than film or video games. The temporality of TV production demands closer and more continual engagement between the industry and regulators, not only over the mass of material produced in many sites, but given its orientation toward ephemeral engagement with the topical present. Add to this the close associations among television, domestic consumption, and family life, and even films become more problematic objects for age rating once they are reframed as television texts, generating closer observation by regulators in lieu of any evaluation of consumer ages at the point of distribution. Even in countries like the United States, where there is ostensibly no state regulation of film content, the state maintains oversight of broadcast license conditions for these reasons, and television continues to be a special case for content assessment vis-à-vis parents managing their children's media consumption.

At the same time, the case of age rating television in Brazil highlights the cultural specificity of the formation of this generic problem. Age rating has been central to television regulation in Brazil, but its apparent aims are infused with Brazil's geography, media, and political history. Despite close referencing of age-rating reforms to international standards, the legal and administrative situation that has emerged is paradigmatically Brazilian. Understanding the history of reform and contestation that has produced the current state of affairs is crucial not just for making sense of television in Brazil but also for raising new questions about the meaning, operation, and future of television age rating elsewhere, even as Internet access to television continues to problematize both its national frameworks and its association with the domestic family unit.

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