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Digitization of music and audio-visual industries in Brazil: new actors and the challenges to cultural diversity

Leonardo De Marchi[1] and João Martins Ladeira[2]

Abstract

Over the last two decades, the Brazilian cultural industries experience the digitization of their contents with different levels of difficulties. Since the 2010's, global digital platforms started their operations in the country. In a matter of years, they consolidated the market for both digital music and video on demand (VoD). If there is no doubt that global digital companies were pivotal to the growth of the digital content market, it is true that they present new challenges for cultural diversity. For if, on the one hand, they open the market to a plurality of cultural expressions in an unprecedented level, on the other, they change qualitatively the relations between production, distribution and consumption of cultural goods. Actually, little is known about how such plurality of artistic expressions will be accessed by consumers. It is a sensitive issue especially for developing countries, inasmuch as they have little control upon the technology provided by international platforms. We intend to address the challenges to cultural diversity in developing countries by analysing the digitization of the music and audio-visual industries in Brazil. In order to do so, we describe the digitization of both markets, underlying the market players, their vested interests and conflicts. In the concluding remarks, we address the challenges to both sectors and comment on the difficulties encountered by the Brazilian government in its attempt to regulate digital content markets in favour of the local cultural diversity.

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Résumé

Au cours des deux dernières décennies, les industries culturelles brésiliennes ont connu une numérisation de leurs contenus impliquant différents niveaux de difficultés. Depuis 2010, les plateformes numériques mondiales ont commencé leurs opérations dans le pays et en quelques années, elles ont consolidé le marché de la musique numérique et de la vidéo à la demande (VoD). S'il ne fait aucun doute que les entreprises numériques mondiales ont joué un rôle crucial dans la croissance du marché du contenu numérique, il est vrai qu'elles représentent de nouveaux défis pour la diversité culturelle. Car si, d'une part, elles ouvrent le marché à une pluralité d'expressions culturelles à un niveau sans précédent, de l'autre, elles modifient les relations entre production, distribution et consommation de biens culturels. En réalité, on sait encore peu de choses sur la manière dont les consommateurs auront accès à cette pluralité d'expressions artistiques. C'est un sujet sensible, en particulier pour les pays en développement, dans la mesure où ils n'ont guère de contrôle sur la technologie fournie par les plateformes internationales. Nous proposons d'interroger la question de la diversité culturelle dans les pays en développement à travers l'analyse des processus de numérisation des industries musicales et audiovisuelles au Brésil. Pour ce faire, nous présenterons pour chacun de ces deux secteurs, les différents acteurs qui le sous-tendent, leurs perspectives et les conflits générés. Dans les remarques finales, nous aborderons les défis auxquels sont confrontés les deux secteurs et commentons les difficultés rencontrées par le gouvernement brésilien dans sa tentative de régulation des marchés de contenu numérique en faveur de la diversité culturelle locale.

Mots-clés : Marché de la musique numérique ; Marché de la vidéo à la demande ; Diversité culturelle, Brésil.

Introduction

Over the last two decades, the Brazilian cultural industries experience the digitization of their contents with different levels of difficulties. Some sectors had a significant market loss, as in the case of the recording industry (De Marchi, 2016). Others attempt to make this transition gradually, as the audio-visual sector (Ladeira, 2017). In both cases, the digitization was initiated by players that were part of the local market: local start-ups, in the case of the recording industry, and cable television channels in partnership with telecommunication carriers, in the audio-visual case. Little progress has been achieved, though. Since the 2010's, however, international digital platforms started their operations in the country: YouTube (USA), Spotify (Sweden), Netflix (USA), Deezer (France), Amazon Prime Video (USA), among others, as well as the digital distributors, as The Orchard (USA), Believe Digital

(United Kingdom), One RPM (USA-Brazil) and Altafonte (Spain). In a matter of years, these global brands boosted the market for both digital music and video on demand (VoD). The figures for the music market indicate that the digital segment alone corresponded to 60.4 % of the US$ 295.8 million revenue in 2017 (Pro-Música Brasil, 2018). Independent surveys suggest that Netflix had 2.9 million subscribers by the end of 2016, making Brazil its fourth largest market (Siebert, 2017).

If there is no doubt that global digital companies were pivotal to the growth of the digital content market in the country, it is also true that they present new challenges. As international brands introduce a new business model designed for a global economy, offering a huge number of files and being supported by millions of users worldwide, they necessarily change the relation between content producers, traditional intermediaries and consumers in both fields. For instance, many start-ups that attempted to drive the digitization of the local music industry went out of business since the entry of iTunes, YouTube and Spotify. In the audio-visual sector, the presence of Netflix prompted a fierce competition between cable television channels, free-to-air television channels and even telecommunication carriers. As a result, the Brazilian state starts to debate the nature of its participation in the regulation of digital content markets. In sum, it is clear that the newcomers alter the balance of forces inside both markets.

It brings into question the theme of cultural diversity[3]. A significant number of studies have demonstrated the existence of complex relations between the productive structure of the analogue culture markets and the levels of cultural diversity: verticalized and concentrated market structures can be detrimental to the access of a plurality of artists to consumers; horizontal (or open) market structures can facilitate the access to a plurality of cultural expressions (Benhamou and Peltier, 2007 ; Farchy and Ranaivoson, 2011; Peterson and Berger, 1975; Ranaivoson, 2010). Nonetheless, digital platforms open a brand new chapter in the debate. For if, on the one hand, they open the market to a plurality of cultural expressions in an unprecedented level, on the other, they change qualitatively the relations between production, distribution and consumption of cultural goods. Actually, little is known about how such

3. The concept of cultural diversity is broad. In certain contexts, the term materializes the principle of the "market of ideas", according to which the greater diversity of cultural goods available can foster different desired objectives: from the rational choice of consumers to the correct functioning of the democratic system (Napoli, 1999; McQuail, 1998). In the article, we adopt that of the UNESCO (2005, p. 4), according to which: “"Cultural diversity" refers to the manifold ways in which the cultures of groups and societies find expression”. And as reinforced in the declaration of cultural diversity (2001, p. 13): “This diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind”. Being compatible with the definition of “culture” in cultural anthropology, the UNESCO concept provides room for an political understanding of the culture markets.

plurality of artistic expressions will be accessed by consumers (Hoelck and Ranaivoson, 2017). The promise of access to unlimited content does not necessarily imply an increase in cultural diversity. As a matter of fact, it could mean the opposite as AI becomes a key component in the digital market. The algorithms of digital platforms can create music and films filter bubbles, locking users in a limited number of options to the detriment of many others (Kulesz, 2018; Pariser, 2011). It is a sensitive issue especially for developing countries, inasmuch as they have little control upon the technology provided by international platforms.

We intend to address the challenges to cultural diversity in developing countries by analysing the digitization of the music and audio-visual industries in Brazil. The choice is justified for, firstly, Brazil is a major producer of both music and audio-visual contents in the global south. Secondly, the digitization of both sectors share a important feature: it was initiated by local players, but experimented a drastic reversal when international digital platforms started their operations in the country. From this point forward, they has set the coordinates of the development of both markets. The question that arises is: how do they affect the levels of local cultural diversity?

In order to answer the question, we describe the digitization of both markets, underlying the market players, their vested interests and conflicts. The information presented was collected during the years 2013 and 2018. No quantitative data on the level of cultural diversity in digital platforms will be provided in this paper, though analyses are in progress[4]. Thus, we present primary and secondary data, and also a comprehensive literature review (though we carried in-depth interviews with agents from both markets, there are no quotations transcribed here). In the first part of the article, we discuss the recording industry passage from the physical unities sales to digital services, highlighting the emergence of local start-ups in the 2000's and their replacement by international brands. In the sequence, we analyse the VoD market, considering disputes between television channels, telecommunications carriers, and digital platforms. In the third part, we address the challenges to cultural diversity, highlighting not only the hurdles to local producers and consumer but the attitude of the government regarding the regulation of digital content market. In the concluding remarks, we assess the previous discussions and let open questions on the position the country seems to assume in the digital era.

4. The authors are individually conducting research on the levels of cultural diversity in digital platforms operating in Brazil. Besides, both of them are members of the international Research Project 'Audio-visual Diversity and Online Platforms: Netflix as a case study'.

I - Lost in translation: the Brazilian recording industry in the digital age

The recording industry is the most traditional cultural industry in Brazil. Its beginning dates back to 1900. During the 1970s, this industry expanded remarkably, becoming one of the top 10 record markets in the world. It is characterized by a high level of consumption of local repertoire (from 60 % to 70 % of all content available), and a continuous release of artists, as the bossa-nova stars Antonio Carlos "Tom" Jobim, João Gilberto and Sergio Mendes, the tropicalists Caetano Veloso, Gilberto Gil and the Mutantes, the romantic singer Roberto Carlos, as well as contemporary pop-rock artists, as the heavy-metal band Sepultura or the funk carioca singer, Anitta.

The digitization of this industry was, however, quite traumatic. To understand it, it is necessary to observe its trajectory since the 1990s. That decade began under the banner of restructuring the major companies that operated in the country. The first move in this direction was the outsourcing of several services, such as recording, pressing, graphic productions and the distribution of records (Dias, 2000). Another important measure was the adoption of a common strategy to transform the full-track Compact Disc (CD) into the only product available on the market. Introduced in Brazil at the late 1980s, this product only became consolidated when key players of the media market decided to reduce the production of vinyl records as well as of magnetic tapes. By the mid 1990s, the consumer did not have options other than the optical disc, whose price followed the international market average (Vicente, 2014). This set of measures allowed the industry to expand the market in an unprecedented way. In 1996, the record companies sold 108 million units, earning US$ 1.40 million (Yúdice, 1999).

In respect to the market regulation, the landmark of the time was the promulgation of a new Copyright Law of 1998. As the legal expert Marcos Wachowicz (Wachowicz and Santos, 2010, pp. 73-4) comments, the spirit of the new copyright law was strongly influenced by the terms of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). The text of the new legislation maximized the protection of copyright, imposing a number of restrictions on the enjoyment of cultural goods by disproportionately expanding the concept of "piracy". That was apparently a demand from record companies and film studios as well in order to protect the sales of CDs and DVDs. Strangely, the text did not provide any legal provisions to deal with new practices of production, distribution and consumption of digital content, creating legal insecurity for new business models.

The prosperous scenario of the 1990s would change dramatically in the early 2000s. One of the most striking signs was the systematic decrease in the consumption of CDs and DVDs. Between 2000 and 2001, The number of units sold declined 23.4 %. Between 2002 and 2003, the decline in sales was of 24.3 %. In 2009, only 25.7 million units were sold in comparison to the 96.9 million units in 1999 (De Marchi, 2016). According to the then Brazilian Association of Disc Producers (ABPD) the causes of this phenomenon were: the production of illegal copies of copyrighted material, commonly referred to as "physical piracy", and the file-sharing practice via digital networks (P2P, blogs and websites), labelled "digital piracy" (ABPD, 2006). Supported by the copyright law, the record industry gave a start to a crusade against what it understood as piracy, without differentiating violation from innovation.

It resulted in a retraction of investments in the digital market by major plyers of the industry. The vacuum created opened room for local entrepreneurs to experiment new business models. On the one hand, start-ups such as iMusica, Trevo Digital or FunStation developed new tools for digital music services (De Marchi, 2015). On the other, independent artists decided not to sign contracts with any kind of label, major and independent alike, and began distributing their digital recordings for free through their own websites, under Creative Commons licenses, or even through informal street vendors in order to attract fans for live concerts (Lemos and Castro, 2008; Herschmann, 2010). Artists like Móveis Coloniais de Acaju, O Teatro Mágico and ForFun and those that were part of the tecnobrega music scene took advantage of this opportunity to consolidate their careers independently of the mainstream music market.

Despite the creativity of those entrepreneurs, their initiatives did not consolidated the digital music market. Among several reasons, deserve mention:

- The lack of confidence of traditional players of the music industry: record labels and music publishers considered the digital environment as the locus of piracy. As a result, they never facilitated the access to their valuable catalogue or supported the start-ups.

- Cannibalization of the market: the free distribution of the independent artists clashed with the attempt to sell digital files through retail platforms.

- The absence of a regulation of the digital market: there was no move to create a regulatory framework specific to the internet.

During the interviews conducted then with market players, it was possible to perceive a strong pessimism about the future of the music business in the country (De Marchi, 2016). As underlined in point A, this feeling was determinant to the failure of the start-ups. It created, though, a favourable atmosphere for the global digital platforms.

Two events marked a turning point: the beginning of YouTube and iTunes operations in Brazil. Despite that YouTube was available to Brazilian users since 2007, it was only in 2010 that an agreement was reached with the Central Office for the Collection and Distribution of Copyright (acronym in Portuguese ECAD) for the payment of performance rights. In 2011, Apple turned Brazilian Union of Music Publishers (acronym in Portuguese UBEM) into its one-stop-shop for iTunes[5]. Although these agreements did not solve the problem of legal uncertainty, they established minimum conditions for dialogue between local players and international digital companies. It is no coincidence that other foreign companies started to operate in the country right after, such as digital distributors (The Orchard, CD Baby, Believe Digital, One RPM, Altafonte) and streaming services (Deezer, Rdio, Spotify, among others).

These international brands changed the evaluation of record companies and music publishers in relation to the digital environment. After all, such companies had sufficient capital to generate revenue through the advance payment of copyright royalties, something impractical for local startups. They also offered direct access to the global market, what was interesting for domestic music producers. Last but not least, the digital distributors has made it cheaper and faster to access such platforms for different types of players, from the major record label to the standalone artist. To the former, piracy began to be a secondary problem. To the latter, there was no more reason to distribute for free their recordings; a real possibility to monetize her or his work was available.

As for market regulation, there was one important novelty: the Internet Bill of Rights, of 2014 (Souza, Viola and Lemos, 2017). At least two legal provisions deserve mention, the Net Neutrality and the Internet Intermediaries Liability. Present in Chapter III, Section I, Article 9, the Net Neutrality clause established a minimum legal framework to warrant a fair competition between digital platforms. In Section III, Article 18, the law determines that the internet connection provider shall not be civilly liable for damages generated by third parties. It is suffice to the platforms to comply with court notifications that require the withdrawal of certain content. It should be noted

5. The União Brasileira de Editoras de Música, UBEM, is a collecting society created in the year 2010, bringing together the main music publishers operating in the country, notably the multinationals EMI Songs / Tapajós, Warner Chappell Edições Musicais Ltda., Universal Publishing / MGB and Sony Music ATV / SM.

that no amendment of the copyright law was made. In fact, the chapter on the subject had to be excluded from the final version of the bill so that it could be approved quickly. The political commitment was that some new copyright law would be approved as soon as possible - what has not happened.

The whole context allowed the international digital platforms to evolve rapidly. In a matter of few years, they have established a digital trade through the streaming services especially. The record companies revenues raised, although moderately, throughout the decade. If, in 2010, the total revenue of the recording industry was US$ 228.5 million worth, in 2017, that number rose to US$ 295.8 million (Pro-Musica Brasil, 2018). A closer look at the factors that compose this number reveals that the sale of physical discs continues its systematic decline, but the digital commerce shows a remarkable growth. Between 2010 and 2017, its share in the total revenue of the music industry increased from 16 % to 60.4 %. In particular, the streaming services were responsible for 55.1 % of the total revenue of the digital segment alone in 2017.

This rapid growth of the digital music market has provoked, however, certain negative externalities. The presence of global companies changed the conditions for Brazilian digital platforms. As soon as iTunes began operations in the country, local digital stores, such as iMusica, stopped operating as retail platforms. Competition has extended to the lucrative mobile phone market[6]. If during the 2000s, iMusica monopolized this niche, in the following decade, most mobile operators started to hire services powered by streaming platforms: three of the four major operators have signed either with Rdio, Deezer and Napster/Rhapsody. In 2014, the last one, Claro (América Móvil, Mexico) bought the shares of iMusica, transforming it into a department of its own company (Claro Música). Through these contracts, streaming services obtained immediately, albeit indirectly, access to a huge amount of users who pay for the services of mobile operators.

It created a challenge to traditional radio stations. As they realize their listeners are replacing radio handsets with smartphones, they understand that they have to compete with digital platforms that operate with millions of music files and are already in synergy with mobile phone operators. As a result, even corporations (Rádio Globo or Rádio Bandeirantes) have given up on music in their web versions, focusing on all-news programs and/or talk shows (Kischinhevsky and De Marchi, 2016; Kischinhevsky, 2016).

6. According to a recent report published by Fortumo (2018), for a population of approximately 209 million people, Brazil has 248 million active cell phones. In this scenario, 67 % of the handsets are made up of smartphones, and access to the Internet via such devices reaches 73 %.

II - Between the multichannel model and TV Everywhere: the construction of the VoD market in Brazil

The audio-visual is the most important sector of the cultural industries, in economic as well as in political terms. According to the National Cinema Agency[7] (acronym in Portuguese, ANCINE), in 2014, the audio-visual activities earned US$ 6.55 billions, what then corresponded to 0.54 % of national GDP that year (ANCINE, 2016, p. 9). Along the last century, the film industry was able to build a high-quality production structure reaching international recognition, as in the 1960s with the avant-garde cinema (known as *Cinema Novo*) and, recently, with the so-called new Brazilian cinema, being the film *City of God* (*Cidade de Deus*), directed by Fernando Meirelles (2002), its biggest success.

Television is though the most important segment of the industry. Introduced in the mid-1950s, television has gained the contours that it still presents today during the civil-military dictatorship, that lasted from 1964 to 1985. During this period, the military *intelligentsia* believed that the success of the regime would be determined by the adhesion of the majority of the population to its political and moral project, that is, the promotion of Christian values and capitalism against the so-called "communist threat". This depended on a strategic use of modern media by the regime, they believed (Ortiz, 1988). In particular, television seemed to be the most efficient tool for this purpose. It was the symbol of modernity and economic progress experienced in the so-called "Brazilian economic miracle", which lasted from 1969 to 1973. Besides, it could access through images a huge audience in a country marked by high illiteracy rates[8].

Instead of promoting state-owned television channels, the civil-military politicians preferred to establish collaborations with private media companies. While the state invested heavily in building a sophisticated telecommunications technology infrastructure (satellites, cabling, communication networks, etc.), which were managed by state-owned enterprises, family-owned businesses (that already owned newspapers and/or radio stations that were sympathetic to the coup d'état) became responsible for providing contents (Ortiz, 1988; Ribeiro et alli, 2010; Simões et alli, 1986). Among these agents was the Grupo Globo (Marinho family), whose Globo TV Network, created in 1965, became the most important company (Brittos and Bolaño, 2005). Such policy has

7. Regulatory agency of the audio-visual sector, whose objective is to promote, regulate and supervise the national cinematographic and videographic industry.

8. Renato Ortiz (1988) observes that the number of television receivers in Brazilian households was 4.259 million in 1970 (56% of the population at the time). In 1982, that number rose to 15.855 million (73% of the population at the time).

made the television market to be characterized by: (1) being closed to foreign operators, (2) firmly controlled by an oligopoly of family-owned businesses that (a) could invest without any concern with regulation (including being allowed the cross-ownership of media outlets) and (b) are politically influential.

With the rise of neoliberal governments in the 1990s, though, an agenda to liberalise the telecommunications infrastructure was presented. The goals were to privatize public telecommunications companies and to increase the presence of (foreign) private players in the audio-visual market. If the first goal had massive support from the media players, the second clashed with their vested interests. To keep moving their agenda, the neoliberal politicians left intact the regulation of the open-to-air television, but intervened in the emerging cable television market (Bolaño, 2007; Brittos, 2000; Possebon, 2009).

Known as Cable TV Law, of 1995, for it was exclusively devoted to cable television, brought novelties to the regulation scenario. It is worth mentioning the provisions dedicated to guarantee the plurality of contents, as the requirement of availability for channels dedicated to Brazilian audio-visual production. This allowed the creation of channels dedicated to transmitting independent audio-visual productions. The law also permitted the participation of foreign companies in that market, regardless of any partnerships with local stations (Bolaño, 2007). This opened room to companies such as Disney, Fox or Time Warner, among others. The cable television market has developed remarkably along the years, creating a well-consolidated business model. According to the Brazilian Association of Television by Subscription (ABTA), in 2017 there were 18.9 million cable television subscribers.

The cable television business model matters because it became a first paradigm for the VoD market (Ladeira, 2017). By the time of privatizations of the telecommunications infrastructure, international corporations became interested in creating a synergy between landline telephony, cable television and Internet access. At the same time, local media players were more interested in content production than in the maintenance of an very expansive infrastructure. The partnership was materialized when the Grupo Globo sold its company Net (a telecommunications company that offers access to cable television, Internet and landline telephony) to Telmex (Mexico) in 2004. For the latter, the acquisition represented a strategic investment to control the future of audio-visual operations. For the former, it was an opportunity to get rid of a costly infrastructure that generated a massive debt to the organization, but maintaining the decision-making control over issues relating to audio-visual content[9]. A common goal seemed to lie in subordinating the future VoD market to the cable television: the digital content should serve as a complement to television programming[10] (Catch Up TV business model). In the same vein, Telefónica S.A. (Spain) also started investing in the multi-channel sector, with the acquisition of the TVA operator, owned by Abril Group (Civita family) in 2006, as well as the internet provider service GVT (Vivendi) in 2014. As a result, the audio-visual sector became then intertwined with the telecommunication industry.

The intention to submit the digital market to cable television found an unusual hurdle in the global VoD platforms. Netflix started operating in Brazil in 2011. So far, the company signed agreements to produce series, films and stand-up comedy shows for its label "Original". It is interesting to notice that Netflix appears as a problematic new player in the scenario outlined above: it is an OTT service, with no strings attached to cable television, whose business model (payment of a monthly fee) attracted the local consumer. A RBC Capital Markets survey indicated that Netflix had 2.9 million subscribers by the end of 2016, making it its fourth largest market (Siebert, 2017). Another survey forecasted the company would reach 24.408 million subscribers by 2020 (ANCINE, 2016).

Similar to what happened in the recording industry, Netflix opened room to a host of other international VoD services: HBO Go (HBO), Amazon Prime Video (Amazon), Apple TV (Apple Inc.), Crackle (Sony Pictures), Play Station (Sony Corp.), Mubi (Independent) e FOX+ (Fox Networks Group). It is worth noting in this list the presence of HBO and Fox: although both companies having channels on cable television, they launched their own applications independently of television subscriptions. Thus, a user can have access to the entire catalogue of each company through applications, without being a pay-television subscriber.

There is not much official information available about the VoD market. However, independent surveys indicate a highly positive performance of these companies. The above mentioned RBC Capital Markets document, in 2015, presented the following scenario: 84% of respondents claimed to use

9. As João Ladeira argued elsewhere (2017, p. 129), in the original agreement with Telmex, the Grupo Globo demanded its previous consent in matters relating to the purchase of domestic contents and the acquisition of foreign products, notably those that were produced by Mexican television media groups (Televisa and Cisneros).

10. In April 2011, Net launched the Net Now service, a Transactional Video on Demand business model (TVoD), for renting single movies or television series. Initially, the service was available only to subscribers of Net's cable television service. At the very year, Grupo Globo launched the digital platform Muu, a Catch Up TV business model, dedicated to the products of both Rede Globo (open-to-air television) and Globosat (multichannel television). In 2015, Muu would be renamed GloboPlay.

YouTube, 71 % Netflix, 50 % Globo Play, 40 % SBT, 40 % Google Play, 20 % Amazon, 17 % iTunes, 12 % NetMovies, 11 % Terra, 11 % others (ANCINE, 2017 , p. 50). A report on the use of mobile applications in Brazil indicated that, among the 20 most downloaded applications, YouTube ranked 7th (11 %) and Netflix the 9th position (9 %) (Opinion Box, 2017, p. 8). The same document indicated that an increasing number of Brazilians began to download applications for entertainment purposes (32 % of the sample, whereas in the previous survey this number corresponded to 24 %). Netflix ranked first in respondents' preference, corresponding to 64 % of all downloads, followed by Spotify (19 %), Deezer (5 %) and GloboPlay (4 %). The growing importance of the VoD services called the attention of mobile phone operators. Increasingly, these companies are offering services in which the use of certain VoD applications (as YouTube, Netflix, or Claro Videos) are as much free of extra charge as WhatsApp, Skype Facebook or Twitter. It may enlarge the number of VoD services users in a short time.

This scenario generated a fierce and unexpected competition among players audio-visual industry. As other international platforms are coming to the local market, there is a mobilization of local television corporations to compete with them. In particular, it is known that Grupo Globo intends to transform its GloboPlay into a OTT service capable to compete with both Netflix and Spotify. As cable television channels start to retransmit their contents through OTT applications, cable television carriers are lobbying for less regulatory restrictions in order to provide digital content services by themselves (what they are forbidden by law). In the middle of this crossfire, there is a dispute about how the state must regulate the VoD market, what will be addressed in a later section.

III - Digital platforms and the challenges to cultural diversity

The above descriptions make clear that digital platforms are transforming the structure of the music and audio-visual markets. It raises questions about a fundamental aspect of culture markets: cultural diversity. It is well known that the structure of cultural goods markets in the analogue era affected, although not in a straightforward way, the levels of cultural diversity available (Benhamou and Peltier, 2007 ; Farchy and Ranaivoson, 2011; Peterson and Berger, 1975; Ranaivoson, 2010). In the case of digital contents, though, the relations between production, distribution and consumption change qualitatively, what requires a reassessment the subject. It is indeed necessary to understand how digital platforms affect: (1) the ability of any sort of producer to access the digital market, (2) the treatment given to different types of producers (corporations and independents alike) by digital platforms and digital distributors, (3) how content producers are rewarded, and (4) how cultural goods become available to the public.

In the case of the digital music, one aspect raises many concerns: copyright. The absence of legal provisions in the current legislation to deal with the digital market adequately creates problems of different orders. Take as an example the conditions of management and licensing of authors' public performance rights of musical works by collecting societies. Brazil presents a unique collective management system[11], and it creates confusion when it comes to digital platforms. As observed, YouTube has initially agreed to pay ECAD the royalties for performance rights. Shortly afterwards, claiming to be a service for private consumption, the company has taken the unilateral decision to suspend the payments. It relied on a case law determining that webcasting platforms were not a form of public performance (Francisco and Valente, 2016). It is true that, in 2016, a new decision reversed that understanding, obliging YouTube to renegotiate with ECAD. However, the case illustrates the complete inability of the current legislation to deal with an important issue for the digital market.

Another case: the agreement between Apple and UBEM. Although the association represents the major music publishers, contemplating thus an important part of the most popular repertoire, it does not contemplate 100 % of the catalogue available. This means that the non-members of the association find difficulty in receiving royalties for their songs featuring on iTunes or Apple Music. Given the above mentioned lack of exactitude of the current copyright law, there is a fierce dispute between the collecting societies to become the intermediary of the international digital platforms. As Francisco and Valente (2016) suggest, an amendment to the law could bestow ECAD itself the right to collect and distribute the royalties paid by private platforms as well. This slight move would restore at once, they believe, transparency and efficiency to the distribution of royalties to all artists.

What also raises concern is the use proprietary algorithms for automatic recommendation. Access to contents through algorithms transforms qualitatively the relationship between producers, consumers and the platforms themselves. Though digital distributors indeed feed platforms like Spotify and iTunes with many independent artists and YouTube embeds a considerable amount of independent and even amateur productions, it is still necessary to know how algorithms make such content accessible. Knowing the criteria that

11. Although it has a Central Office for the Collection and Distribution of copyright (acronym in Portuguese, ECAD), the office is managed by other collecting societies that compete among themselves for its control.

is used to connect one artist to another is crucial to understanding how content flows through different digital platforms. For it is not enough for any type of cultural product to "be there", that is, simply embedded on the platform; it is necessary to know how the algorithms will connect content to users. As authors like Eli Pariser (2011) or Octavio Kulesz (2018) point out, there is an enormous probability that the proprietary algorithms create bubbles of taste in which similar content is always offered, blocking other possibilities. In this scenario, as underlined by Hoelck and Ranaivoson (2017, p. 25), it is necessary to know to what extent digital platforms are willing to ensure that marginal cultural works not only are available but also if they are accessible in a way that compensates their presumed lack of visibility. This issue becomes even more pressing as traditional local radio stations give up playing music in their web versions, forcing artists to deal only with a few international digital platforms.

In the case of the audio-visual industry, the success of Netflix strained the relations between market players. Apparently, this is good news for content producers because it should mean more buyers for their products. However, there is no guarantee that digital platforms will systematically invest in Brazilian audio-visual productions. Netflix maintains, for instance, relatively low levels of local productions in its Original label[12]. And there are questions if pay-television companies that are offering OTT services will maintain in their web versions the quotas of local productions they are required by law in cable television.

The concern was made explicit by independent producers and distributors. Throughout the discussions about the regulation of the VoD market, which will be addressed below, this group of agents demanded compulsory requirement of quotas also to digital platforms. In their view, a long tail economy alone does not guarantee investments in their productions. On the contrary, there is a real possibility that local products may be replaced by international surrogates licensed to the country. In an interview with a Brazilian newspaper, the renowned director and producer Walter Salles (director of the film *Central do Brasil*, 1998) acted as the spokesperson of the group and stressed the need for public policies to protect the national audio-visual industry. In his words, "the production of independent series, as well as that of dozens of children's programmes or high-quality documentaries are a direct result of the quotas for the Brazilian audio-visual industry on cable television" (Araújo, 2018). In a critical tone, he concludes: "the *laissez faire, laissez passer* [doctrine]

12. In a mapping of the productions available under the label Originals in Netflix Brazil, made by the authors between September and October of 2018, ten Brazilian productions were identified among 612 titles. Among them, 10 % corresponded to documentaries, 20 % to feature films, 30 % to series and 40 % to stand-up comedy shows.

would mean the end of audio-visual [industry] in Brazil". There is, of course, a strategic exaggeration in his rhetoric. Though, his formulation expresses a sincere concern among independent producers and distributors with their own future.

The Brazilian State response has been elusive, at best. After the impeachment of the President Dilma Rousseff, member of the Brazilian Workers' Party (acronym in Portuguese, PT), in 2016, the politicians that came to power advocated a conservative agenda in moral terms and an ultra-liberal one, in economic terms. Claiming to be the opposite to the previous new-developmentalist governments, the measures taken by the new political elite follows the prescriptions of the neoliberal agenda of austerity. It is no different with culture. The administrations of the Ministry of Culture (acronym in Portuguese, MinC) during the PT governments were characterized by a greater level of participation of the state in culture affairs, under the justification of the protection and promotion of cultural diversity[13]. Since the impeachment, unsurprisingly, an antithetical attitude has been established. Radical deregulation of cultural activities has become a priority, leaving investment decisions in the hands of the market. An example of the clash between the two positions can be found in the discussions on regulating the VoD market.

In 2017, ANCINE published a report that resulted from a two-year survey, containing an analysis of the VoD market and recommendations for its regulation. Among the recommendations, two caught the attention: the compulsory requirement of quotas for the exhibition of Brazilian products and the collection of a tax created to foster the national audio-visual industry, known as CONDECINE, based on the revenue of service providers (ANCINE, 2017). The report was published, however, at a time when liberal politicians were occupying the MinC. Immediately, the minister of culture rejected the proposals. In its place, he presented a surrogate text suggesting a regulation based only on the CONDECINE collection, which would be based on the size of the catalogues of service providers (MinC, 2018).

The proposal received harsh criticism. Firstly, from independent producers and distributors, that demanded the compulsory requirement of quotas. The international digital platforms also presented criticism, mainly to the proposal of taxation on the size of the catalogues. Then, major local players demanded tax incentives for Brazilian VoD platforms. Faced with the impasse, the MinC left the decision to the next government, that would begin in early 2019. However, the President Jair Bolsonaro (a far-right politician) decided to extinguish the MinC, transforming it into a mere secretariat within an obscure

13. For an analysis of the nature of the PT administrations ahead of the MinC, see De Marchi, 2014.

Ministry of Citizenship, whereas the ANCINE became an independent agency. Until the conclusion of the article, no decision had been made by the new government. The episode is more than an example of a liberal attitude towards culture. It is a political statement of no commitment to protect and to promote cultural diversity.

Concluding remarks

The international platforms gave dynamism to the digital content market. In the case of digital music, they have provided a direction to scattered efforts. In the case of the VoD market, they have altered an original plan to tie the VoD services to cable television, giving a start to a new level of competition among major players. Regardless the differences, ultimately they have inserted Brazil into the global digital content market. It entails considerable challenges to local culture.

In the case of the music business, it is true that the long tail economy requires the continuous supply of a variety of products. Nevertheless, the financial return is uncertain. The baroque system of distribution of royalties cast doubt on if independent artists are properly receiving the rewards they owe. The situation may jeopardize the presence of local artists in streaming platforms in the medium term. After all, the country has an informal market that may be more attractive than that offered by digital platforms. Finally, the theme of recommendation algorithms plays a decisive role for local artists. Without a public discussion about the rules of automatic recommendation there can be no certainty about the enjoyment of the plurality of cultural expressions in private platforms. In the case of the audio-visual sector, a similar concern is expressed through the demand for quotas on digital platforms. Independent producers and distributors have realized that compulsory requirement is an indispensable tool for guaranteeing investments in the sector. As the digital environment opens space for competition between Brazilian and foreign media corporations, the search for cheaper content (i.e., licensed foreign productions) may become a threat for local independent producers.

In sum, the entry of digital platforms means that the fate of cultural industries became intertwined with the IT industry. This means that the production and consumption of cultural goods are increasingly dependent on innovations in the AI area. As Octavio Kulesz (2018) argues convincingly, investments in neural networks, deep learning, and other methods of using algorithms to track users' tastes are being applied on a large scale. In addition, the creation of scripts for audio-visual products and the recording of pop music by AI are already available in the market. Although such "smart" products may not replace the creativity of famous musicians or great directors, they do tend to occupy the spaces once reserved for many cultural workers: soundtracks, music branding, animations, ambient music, among other possibilities. Besides, these are copyrighted products owned by the programmer company, what can lower the licensing costs for digital platforms (not surprisingly, Goggle and Sony Corp. are major investors in smart systems for cultural goods). It is not an exaggeration to forecast a vicious circle: the continuous consumption of products made by AI, which are recommended by AI, locking users into specific filter bubbles of cultural expressions.

The political aspect constitutes perhaps the greatest threat to cultural diversity. The cornerstone of cultural policies committed to protect and to promote cultural diversity lies in the recognition that cultural goods are not merely utilitarian products, but convey values and identities of human groups (UNESCO, 2001, 2005). The preponderance of the political character of the anthropological concept of culture is, thus, affirmed. The administrations that occupy the state since 2016 do not recognize this conception. On the contrary, they stand against it. Statements against the "political bias" of the previous approach to culture are outspoken continuously. As a matter of fact, there is an effort to undo the few existing policies dedicated to protect local culture. The extinction of the MinC is just the most visible gesture of this radical ideology.

Such an attitude could not be more inappropriate for the moment. For a country with high levels of cultural production as Brazil has, it is mandatory to assume a strategic position in the global scenario. Strategic vision is precisely what is absent from the political scene at the moment, though. As a result, the country is becoming merely a consumer of digital content. It remains to be seen how this will affect its cultural diversity.

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