

TELECOMMUNICATIONS: AN UPGRADE OF THE INSTITUTIONAL FRAMEWORK

- *The regulatory framework of the telecommunications sector, approved in the 1990s, succeeded in ensuring universal access to fixed and mobile telephony services in Brazil.*
- *Because of technological changes, this regulatory framework became outdated due to its focus on fixed telephony services, while demand shifted to universal access to fixed broadband and on expanding the mobile broadband infrastructure.*
- *In order to boost broadband investments, it is necessary to modernize the sector's regulatory framework and ensure that resources from sectoral funds can be used to expand the broadband infrastructure and promote digital inclusion.*

The General Telecommunications Law (LGT, in the Brazilian acronym), passed in 1997 and seen as a major landmark for the sector, has become obsolete due to the enormous changes brought about by the technological revolution and its implications both for the organization of industry and for competition in this market.

It is imperative to review the legal framework and the regulatory model to ensure that Brazil will be able to keep up with the digital revolution triggered by Industry 4.0 and to enjoy the gains in terms of efficiency and well-being that the transformations under way are making possible.

The sector faces challenges related to legal and regulatory barriers, which end up becoming obstacles to investments, and to a high tax burden, which constitutes a barrier to consumption. The inefficiency of direct interventions of the federal administration in the sector through Telebras, which consumes resources from the Brazilian Treasury Department without ensuring universal access to telecommunications services, also deserves special mention.

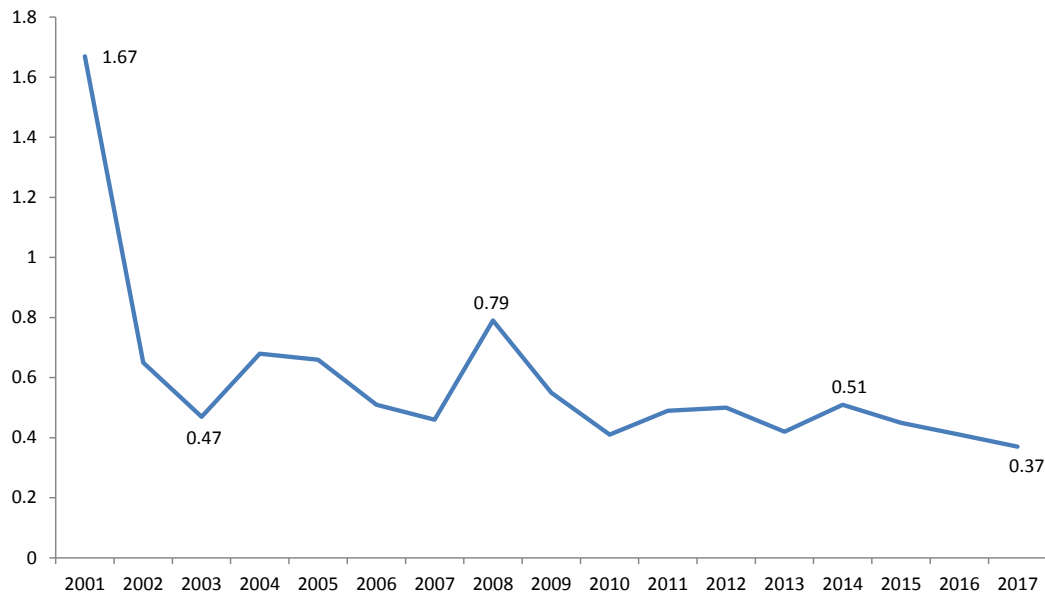
There is a clear discrepancy in the concession model provided for in the LGT law. The goals to ensured universal access to fixed-line telephone

services, which were necessary and feasible back then, end up imposing high operational costs on operators currently. In addition, the regulatory model needs to be reviewed as a whole, including in what regards the operation and financing of the National Telecommunications Agency (ANATEL).

There are two main obstacles to investment: first, a combination of low profit margins in the sector, limitations in terms of cash generation and high capital costs in a context of regulatory impositions has been absorbing precious resources and further limiting the investment capacity of companies operating in the sector. Second, a set of restrictions imposed on the allocation of capital from sectoral funds - particularly from the Fund to Promote Universal Access to Telecommunications Services (Fust).

The improvement of the legal and regulatory framework is necessary to foster the investment capacity of operators and enable them to adopt new technologies and provide new services. Resources available in sectoral funds - mainly in the Fust fund - and part of the funds from auctions or of assets resulting from converting concessions into authorizations, should be used to expand the access to fixed broadband in Brazil, thus promoting greater digital inclusion, though private sector guidelines.

INVESTMENT IN TELECOMMUNICATIONS IN BRAZIL (% OF GDP), 2001-2017



Source: Prepared by Inter.B. *Adjusted for 2017 prices based on the Expanded Consumer Price Index (IPCA).

Main recommendations

1 The migration from the concession model to that of authorization to provide telecommunications services should be supported by passing Complementary Bill 79/2016.

2 The technical and financial autonomy of regulatory agencies, particularly of Anatel, should be ensured in support of Bill 6,621/2016.

3 The sector's regulatory vision, which is currently based on an ex-ante and technology-specific vision, should be changed to an ex-post and technology-neutral vision.

4 A new General Concession Plan (PGO, in the Brazilian acronym) should be reviewed at ten-year intervals to avoid unnecessary costs and meet the objectives of promoting the development and modernization of the sector and of the services

provided to the population, which wishes state-of-the-art services.

5 The regulation applied to sectoral funds should be updated with the aim of ensuring the feasibility of broadband investments.

6 Telebras should be privatized or liquidated, so that its assets may be used to promote universal access to telecommunications services without the burdens and restrictions faced by the company today.

The full version of the document can be accessed through the QR code on the side or at: <http://www.cni.com.br/eleicoes2018/downloads/> This summary is part of the series Proposals of Industry for the 2018 Elections comprising 43 documents. The series, which is based on the *2018-2022 Strategy Map for Industry* is a CNI contribution to the new federal administration and presents analyses and proposals of priorities to increase Brazil's competitiveness. Any part of this publication may be copied, provided that the source is acknowledged. Brasília-DF, July 2018.

