UN Guidelines for consumers: the situation in Brazil for adoption of amendments on access to knowledge
About Idec

Idec is a Brazilian non-profit consumers organization founded in 1987

**Idec's mission** is to promote education, awareness, protection of consumer rights and ethics in consumer relations, with full political and economic independence

Member of Consumers International, National System of Consumer defense, Brazilian Internet Steering Committee (CGI) and other instances

**Our performance aims to:**
- press decision-makers
- defend and represent the consumers rights and interests
- produce information, provide training
- intervene in the media
- coordinate and mobilize the consumer movement
About Idec

Issues:

- Food
- Health
- Public services (telecommunications, electricity and water and sanitation)
- Internet
- Access to knowledge,
- Quality and safety of products and services
- Banking services and education on consumption
- Sustainable consumption, international trade and corporate social responsibilities (cross cutting issues)
Performing on Access to knowledge

- Idec has worked nationally and internationally on the issue of copyright from the consumer's point of view

- develops projects of the civil society to debate the issue and to enable consumer awareness referring to copyright

- focuses on advocacy and helps to consolidate improvements in the Brazilian law, always in order to reach a balance between copyright and right to access to culture
Brazilian context for insertion of amendments to UN guidelines

- Insertion of amendments in the important **political agenda** of
  - Copyright
  - Regulation of the Internet
  - Privacy and personal data protection
  - Access to digital contents, products and services

- Brazil's situation is complicated, due to the **paralyzation** of several important initiatives to guard consumer rights:
  - Civil Regulatory Internet Framework (Bill 2.126/2011), ongoing in Legislature;
  - reform of the Copyright Act (Law 9.610/98), stalled in Federal Executive
  - draft bill on personal data protection, also stalled in Executive.
In this context, the AMENDMENTS:

● can catalyze the mobilization of entities and movements and be an important tool for pressuring the Executive and Legislative branches to continue progress on these bills;

● encourage organized civil society (consumer defense, communication rights, free software, digital culture, right to education, art classes, etc) to produce inputs which justify implementation of laws and public policies related to the democratization of access to knowledge;

● bring a positive public agenda that decisively contributes to making this demand visible;

● should highly contribute to the process of changing the outline of standards and public policies to balance the fundamental rights to education, information and culture.
COPYRIGHT IN BRAZIL

• is ruled by the law number 9.610, from 1998, the Copyright Act (or LDA);

• Since its implementation, this legislation has not suffered any adjustments that included the new demands for access to culture and knowledge, new opportunities arising from technological innovations and the daily increasing use of the Internet;

• has proven itself insufficient and inadequate to account for the realization of the fundamental rights of citizens and consumers.

• Conclusion: the right to education and access to culture, information and knowledge are constitutional rights with little conditions to be realized under the aegis of the current copyright law.
COPYRIGHT IN BRAZIL

Such situation is evident when considering some key points of the law:

(i) its incompatibility with the new uses of works permitted by new technologies

(ii) the absence of a clause that allows the full use of copyright works for educational and scientific purposes

(iii) the incompatibility with the appropriate preservation work of organizations to protect the cultural heritage

(iv) insufficient guarantees for access to works in the public domain

(v) inadequate protection of authors in their relationship with cultural intermediaries.
This situation is clear if we analyze the position of the Brazilian law in comparison with the laws of other countries.
2010

Brazil's copyright law is ranked as the 7th worst in CI ranking.
2011

IP Watchlist 2011

Introduction

The annual international list of watchlist countries is now in its third year. The watchlist provides a snapshot of how a number of the world’s largest importers, suppliers of radio support, support consumers access to educational, cultural and scientific knowledge, the watchlist aims to educate and inform, not to condemn. We are all part of authorship, and the importance of intellectual property such as "copyright, trademarks, and patents. Supporting innovators helps to ensure that public sector knowledge, and public goods, are freely accessible.

This year’s results

Generally, there is an increase in awareness of philosophical and ethical issues. However, there is also an increase in awareness of intellectual property issues. This year, IP Watchlist examines how a country’s intellectual property laws are implemented and enforced. The watchlist examines how a country’s intellectual property laws are implemented and enforced. The watchlist examines how a country’s intellectual property laws are implemented and enforced.

Best-rated countries

1. Moldova
2. United States
3. India
4. Lebanon
5. New Zealand

Worst-rated countries

1. Thailand
2. Chile
3. UK
4. Brazil
5. Belarus

On the positive side, our new number one country, Moldova, provides an inspiring example of how a country can do what it takes to ensure that intellectual property rights are respected. The watchlist examines how a country’s intellectual property laws are implemented and enforced. The watchlist examines how a country’s intellectual property laws are implemented and enforced.
INTERNET AND PRIVACY
CIVIL INTERNET REGULATORY FRAMEWORK
CIVIL INTERNET FRAMEWORK

- includes principles, values, rights and responsibilities on the Internet

- principles:
  - consumer defense
  - freedom of speech and expression
  - protection of privacy and personal data
  - and net neutrality

- has been stalled in Congress since it was proposed by the President in August 2011

- the Bill is not on the list of voting priorities for 2012 and the outlook is that it will remain shelved

- today, there is a lack of a civil regulatory framework for the Internet
PERSONAL DATA LAW

- there is an absence of a specific law regarding privacy and protection of personal data

- A draft bill was presented by the Ministry of Justice, led by the Department of Consumer Defense and Protection (DPDC)

- The text was based on European guidelines for protecting data and had indispensable provisions regarding how information is handled on the Internet

- Principles: purpose, proportionality, free access, transparency, quality, security and responsibility in preserving data

- However, this bill is stalled on the Executive branch.
AMENDMENTS, IN THIS CONTEXT,

Contribute to the reactivation of the positive agenda (Civil Framework, data protection law, reform of the LDA)

and will serve as a political fact for resuming articulation of civil organizations that debate the matter and place pressure on the government

"Copyright under Debate" publication that explains the implications of copyright on everyday life to the lay population (2010)
Contributes to preventing the continued negative political agenda which is extremely prejudicial to consumers:

For example: Draft Bill 84/99

Under the pretense that it will fight Internet crimes, the proposed Azeredo Act intends to create an atmosphere of online surveillance and monitoring, substantially restricting rights and freedom and criminalizing everyday consumer conduct on the Internet.
The draft has the same line of SOPA (Stop Online Piracy Act) and PIPA (Protect IP Act) (EUA); Sinde Act (Spain); Hadoppi Act (France)

Alongside other organizations and partner movements, Idec promoted the campaign "Consumers against the Azeredo Act", sending over 17,000 consumer messages to legislators (2011)

This initiative resulted in the Azeredo Act not going to a vote, providing room for a broader discussion on the Civil Internet Framework
CIVIL SOCIETY INITIATIVES ON AMENDMENTS

In this framework, and keeping in mind Brazil's participation in the amendment adoption project, the work of Idec and civil society will continue to:

- focus on articulation and mobilization;
- advocate at the government level, with focus on Ministry of Culture, Justice and Foreign Relations, and on the Legislature;
- produce input and evidence, through research and studies, justifying adoption of the amendments;
- and promote public debate, whether through a presence in informative media or by holding seminars.
Thank you!

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