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Brazil’s VOD Bill Poses Key Trade Barriers for U.S. Streaming Services

In early November, Brazil introduced an amendment to its audiovisual law **Bill 8.889/2017**[1] that proposed a combination of taxes and regulatory mandates to support local audiovisual content. The bill was passed by Brazil’s Chamber of Deputies (Lower House) and now awaits Senate approval. While aimed at developing the national film industry, the bill creates significant and discriminatory barriers for U.S. streaming and content-sharing platforms, meriting a strong pushback from U.S. policymakers. This legislation establishes a **new tax levied on gross revenue** of impacted companies, and imposes a series of non-tariff barriers, including **content quotas** and a **“prominence” mandate**. Based on current projections, the new measures could extract an annual tax of nearly **$500 million by 2029** from U.S. streaming services alone, an estimate that does not capture the considerable tax impact on content sharing platforms and any future entrants to the market.[2][3][4] This estimate does not include the additional costs associated with non-tariff barriers, such as content quotas and "prominence" mandates, which would also impact operational expenses.

Background

On November 4, 2025, Brazil’s Lower House passed a significant amendment to Bill 8.889/2017. Its primary function is to regulate and tax all major forms of streaming and content-sharing platforms provided to Brazilian users, regardless of where the company is headquartered. The law’s scope is broad, capturing **1) Video-on-Demand (VOD) services** such as Netflix and Prime Video, **2) Audiovisual Content Sharing platforms** like YouTube, Facebook, and Instagram, and **3) Television via Internet Application services** such as Google TV or Hulu + Live TV.

The bill’s two most impactful pillars are the new tax and content mandates. The first is the **Condecine Tax**, a new annual tax levied on the gross annual revenue of in-scope companies, including all advertising revenue. VOD services face a progressive rate based on revenues ranging from **0.5% to 4.0%**, while content-sharing services face a fixed rate of **0.8%**. The highest brackets are clearly designed to target large-scale global platforms, which are predominantly U.S.-based. Crucially, for streaming companies, the law allows up to a **60%** deduction of the tax if the money is spent on specific approved Brazilian content or training. Additionally, the tax may be reduced by **75%** if more than half of the total audiovisual content offered by the platform qualifies as Brazilian–a threshold U.S. firms are unlikely to be able to meet. No deduction is approved for content-sharing platforms.

The second pillar involves content and operational mandates. VOD providers must maintain a minimum **10% quota** of Brazilian content in their catalog, half of which must be

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[1] https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=1612085&filename=PL%208889/2017
[2] This figure assumes a total Brazilian online video market size of $14.4 billion by 2029 and that U.S. firms will maintain their current estimated market share of 83%, resulting in a projected $11.95 billion in revenue for U.S. firms, which, when subjected to the bill's maximum 4% CONDECINE tax rate, yields an estimated annual tax liability of $478 million.
[3] https://www.meioemensagem.com.br/midia/prime-video-lidera-mercado-de-streaming-no-brasil
[4] https://www.advanced-television.com/2025/05/28/263928/

"independent." This is waived only if the catalog already contains over **700 Brazilian works**—a condition that clearly benefits incumbent local suppliers. The bill defines "Brazilian content" by referencing existing legislation (Provisional Measure No. 2.228-1 of 2001), which bases the classification on the nationality of the producer, director, and the percentage of Brazilian capital involved. To the extent that a company cannot source content at that level (e.g., through lack of availability of content that meets its quality standards, or inability to obtain licensing rights) the inevitable result will be a shrinking of the size of its catalogue, undermining the key consumer benefit of streaming services—their large and varied catalogues. The new bill also provides its own specific definition for "independent Brazilian content" to distinguish works produced by companies that are not vertically integrated with or affiliated with the streaming platforms or broadcasters themselves. A key clarification states that the sale of a work's copyrights to a foreign entity does not strip it of its "Brazilian content" status for the purpose of meeting quotas. Additionally, a related **"prominence" mandate** requires platforms to give "direct and highlighted access" to this Brazilian content, interfering with catalog curation and user-interface design. Furthermore, the bill imposes a **theatrical window**, prohibiting streaming a film until 9 weeks after its Brazilian theatrical release, directly targeting the global "day-and-date" release strategies of many U.S. studios and platforms. Finally, all foreign-based providers must appoint and maintain a legal representative in Brazil.

Key Barriers for U.S. Companies

Discriminatory Financial Burdens

The Condecine tax is a significant financial barrier that is clearly discriminatory, as its structure is designed to specifically **target foreign-controlled companies** while exempting domestic competitors. Levying a tax of up to **4%** on gross revenue is punitive. It ignores the high costs of content licensing, production, creator monetization and infrastructure, and taxes companies regardless of their profitability in the market. This is an additional burden on top of Brazil's already complex tax environment and creates a risk of double taxation (since foreign firms often pay on income derived from Brazil in their home jurisdiction, consistent with long-established tax principles). The bill's exemptions are also discriminatory; it exempts providers with fewer than 200,000 registered users *unless* that provider is controlled by or dependent on a foreign legal entity. This is a blatant **violation of the "national treatment" principle**, creating a protected class for local startups while applying the full force of the law to U.S. services. Moreover, the bill's deduction scheme functions as a forced investment mechanism. For streaming, it allows a 60% deduction on Condecine payments, but only for specific expenditures on Brazilian content. This co-opts U.S. companies' revenue to subsidize local productions chosen by the government, effectively commandeering private capital for state industrial policy.

Content Quotas

The quota and "prominence" rules are classic non-tariff barriers that interfere directly with core business operations and undermine the very premise of an interactive service (i.e., consumer choice, bolstered by large and varied catalogues). Brazil has long enforced screen quotas for cinemas and even video rental stores, and this bill is a clear attempt to extend that same protectionist logic to the digital economy, shielding local incumbents from global competition. While that logic has a plausible basis in a world of scarce physical resources (cinemas, spectrum, cable channels) such a basis vanishes in an internet-enabled medium. The 10% quota and “prominence” mandate override a platform’s primary value proposition; curating a catalog based on consumer demand and personalizing the user experience, in an ecosystem of multiple platforms characterized by minimal switching costs. It forces each platform to artificially boost content to comply with an arbitrary goal, potentially degrading the user experience. The 9-week theatrical window mandate, while beneficial for theater owners, directly targets the streaming business model, crippling a platform’s ability to execute a global day-and-date release and fracturing global marketing strategies.

Compounding Compliance and Legal Risk

Finally, the requirement for “credenciamento” (accreditation) with the national film agency (ANCINE), coupled with new reporting requirements and the need for a local legal representative, adds significant operational overhead and legal risk. The law also **favors local incumbents**. A local player with a deep, pre-existing catalog of Brazilian content is inherently compliant with the 700-title quota exemption. This exemption is a significant competitive advantage that is practically unattainable for new or specialized foreign entrants, entrenching the local incumbent.

Conclusion

Brazil's Bill 8.889/2017 introduces a new regulatory framework that, while intended to support cultural objectives, presents significant market-access challenges and distortions. The combination of the Condecine tax on gross revenue and various non-tariff measures—such as content quotas, "prominence" mandates, and theatrical windowing—is structured in a way that will disproportionately impact U.S. streaming and content-sharing services. The bill's specific tax exemptions and deduction mechanisms appear designed to discriminate in favor of specific business models and state-selected content producers. As this legislation proceeds to the Senate, it represents a notable trade development, with financial implications for U.S. firms projected at nearly **half a billion dollars annually**, and warrants careful review and engagement by U.S. policymakers.