

# Reporters Without Borders

<http://www.rsf.org/call-for-quick-adoption-of-02-10-2012,43480.html>

---

Americas - Brazil

Content removal

## Call for quick adoption of Internet law amid continuing harassment of technical intermediaries

2 October 2012

---

On the evening of 27 September, Google Brazil finally yielded to pressure from the Brazilian courts and blocked access to a YouTube video that was deemed to defame one of the many candidates in the [two-round municipal elections due to be held on 7 and 28 October](#).

Earlier in the day, Google Brazil president Fabio Jose Silva Coelho had been arrested for failing to withdraw the video within a 48-hour deadline after a judge in the state of Mato Grosso do Sul ruled that it contravened the electoral law. The [video was a personal attack](#) on Campo Grande mayoral candidate Alicides Bernal.

A judge in the northeastern state of Paraiba ordered the arrest of Google Brazil CEO Emundo Balthazar on 14 September on a similar charge after an online [video](#) was deemed to insult another candidate, Romero Rodrigues. Google had requested a review of the ruling in the light of the constitutional guarantees of freedom of expression and thought.

[The ruling was overturned](#) the next day by the Regional Electoral Court, which referred to the precedent set by the [Superior Court of Justice](#) 26 June decision in an appeal (Special Appeal No. 1.316.921 - RJ) by a government minister, Nancy Andrichi.

The June ruling said: "When the essential conditions, including URL identification, are satisfied for removing an Internet page that is determined to be illicit or offensive, the plaintiff will have no interest in taking action against the search engine in the absence of a legal basis. If the victim has identified the illicit content's creator via the URL, there are no grounds for suing the platform that allows access to the content available to the public."

Reporters Without Borders deplores the jailing of technical intermediaries such as Google representatives.

"Imposing a jail sentence on a technical intermediary who cannot be held responsible for an insulting video is out of all proportion," Reporters Without Borders said. "The way the 1965 Electoral Code, which was adopted during the 1965-85 military dictatorship, regulates criticism during an election campaign is completely inappropriate, especially to the Internet, digital content and platforms that host content.

"The repressive nature of such a decision encourages technical intermediaries to censor themselves, with the result that Internet users are likely to become more and more reluctant to participate in online election debates."

The United Nations special rapporteur for freedom of opinion and expression, Frank La Rue, [said in a June 2011 report](#): "Holding intermediaries liable for the content disseminated or created by their users severely undermines the enjoyment of the right to freedom of opinion and expression, because it leads to self-protective and over-broad private censorship, often without transparency and the due process of the law."

Brazil was nonetheless regarded by many as a pioneer when it produced a draft civil law for the Internet that became Draft Law No. 2.126/2011.

"It is time the Brazilian authorities sent a clear signal by getting legislators to pass this law,

which would protect the flow of information online,” Reporters Without Borders added.

The justice ministry’s Bureau of Legislative Affairs, Rio de Janeiro’s law school and the Getúlio Vargas Foundation have meanwhile been working on a proposed “Marco Civil da Internet,” a Charter of Internet Rights, since October 2009.

The [federal attorney-general’s office](#) (MPF) [announced](#) on 24 September that it was studying the proposed Internet law, explaining that it wanted to propose amendments concerning the responsibility of technical intermediaries or to add provisions guaranteeing access to justice.

A parliamentary vote on the Internet bill has already been postponed three times since June and is now scheduled for late October, after the municipal elections. Alessandro Molon, a PT-RJ congressional representative and special rapporteur of the committee set up to evaluate the bill, said the delay was due to the absence of many parliamentarians during the run-up to the municipal elections, when certain kinds of criticism of candidates are banned.

From July to December 2011, [Google](#) received 194 requests from Brazilian government departments for the removal of a total of 554 online items, complying fully or partially with 54 per cent of the requests.

During the same period, [Google](#) received 1,614 requests for information about users, involving a total of 2,222 user accounts. Google complied fully or partly with 90 per cent of the requests.

Internet users concerned about possible changes to the Internet laws have posted a [petition](#) online. It [was launched during the Olinda Internet Forum](#) after a conference on Internet governance in Brazil.

---

You can download those documents on our website :

- , (JPEG - 93.4 kb)
-