

As already mentioned, another relevant legal impact on telecommunications is the approval of the 1988 Constitution which further strengthened the state monopoly for telecommunication services. The former Constitution and the Law No. 4177, gave the federal government monopoly on "basic telephone services" by means of a state owned company, but the new constitution in Article 21 states the Union's competence in telecommunications as: "XI - explore, directly or by concession to companies under state control, the telephone services, telegraphic and data transmission services and other telecommunication services, assured to entities of private right the provision of information services through the Union explored public telecommunications network. XII - Explore, directly or by means of authorization, concession or permission: a) the radio broadcasting of sounds and images and other telecommunications services,..."

The interpretation of this double use of the term "other telecommunications services" was at the time result of both broadcast and information service lobbies, giving today ground to a legal controversy about the constitutionality of privatization of services at the Federal Supreme Court.

Specifically regarding data communication services, Resolution 109 issued in 1979, granted a virtual monopoly over these services to Embratel, within and outside the Telebras System, imposing restrictions on the formation of data communication networks within telcos, on the use of bandwidth-optimizing devices, and the resale of data access circuits by information and data processing service providers. In the mid to late 80's, discontent with the burden generated by providing local access lines to Embratel and with unequal revenue division, some telcos put pressure on Telebras and the Ministry of Communications, for the decentralization of the data communications services. Although packet-switched services were already available at that time, Resolution 525/88 was then issued, allowing the Telco's to build and commercialize their own dedicated-circuit services, and encouraging them to sign operational agreements with Embratel for the take-over of the respective inter-state operations.

The above panorama prevails to date. The negative effects of performance on the Telebras systems and the retraction international investments has started to revert to less protectionist and interventionist market practices, favouring fair competition and technologically updated products.

### A.3 DEREGULATION AND PRIVATIZATION PROCESS

This chapter briefly focuses the changes of legal and regulatory policies during the present government with special emphasis for the legal controversy around the extinction of the telecommunications monopoly, and the consequences on the local industry.