

## **Does the Privatization Worth It? Factors Influencing the Quality of the Brazilian Privatization**

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**ABSTRACT:** *The state's economic participation has been intensely debated over the past three decades. In Brazil, especially after the advent of the Federal Constitution of 1988. Privatization in Brazil, however, was instituted by Law 8.130/90, which instituted the National Privatization Plan, aiming to transfer to the private sector activities improperly exploited by the public sector. This article investigates the quality of services provided by privatized companies or public concessions through interviews. The main conclusions indicated a complex privatization process, as there is evidence related to five topics: (i) oversight, (ii) quality in privatization, (iii) regulation, (iv) competition, and (v) public service. In addition, the careful analysis suggested implications for the privatization process and public concessions. In addition, implications for the public administration to focus its efforts on improving oversight and scheduling itself in pre-regulating the privatization process. Finally, free competition aimed at competitiveness and low prices are topics to be discussed in this article.*

**KEYWORDS:** privatization, public administration, regulation, denationalization

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### **INTRODUCTION**

This article is the third in a series of three articles on how privatization influenced the quality of public service provision in Brazil, written as part of the Doctoral Program in Business Administration at the Rennes School of Business in France. The study investigates how the participation of privatized companies and public concessions influenced the privatization process in Brazil, through qualitative exploratory research, combining in-depth interviews and

extensive archival research. The research suggests the amendment of the Law of privatization. Therefore, the creation of guidelines for improving the Brazilian privatization system.

Privatization or denationalization is characterized as the transfer of a state-owned enterprise (SOE) or concession to the private sector. (Dias, Teles and Pilatti, 2018). The subject has attracted scholars' attention currently (Teles and Dias, M., 2022, 2022b; Dias, Teles and Pilatti, 2018; Dias, Aylmer, 2018; Anuatti-Neto, F. et al., 2003).

The work bridges a gap in the Brazilian privatization process literature, and its contribution, according to Corley and Gioia (2011), can be understood as (i) incremental and (ii) theoretical. Incremental because it adds new perspectives to the existing epistemology on the theme and theoretical because it investigates, according to Whetten (1989), the time and contextual factors that delimit the limits of generalization and contribute to the increase of the extent of the theory.

The Evaluation evidences an instrumental profile aiming to expand and improve the quality of the privatization process in the Brazilian legal system, in addition to assisting in allocating resources to policy-making policy-takers in the definition of public policies.

The first National Denationalization Program (I PND) was created by Law No. 8,031 on April 12, 1990, by the government of Fernando Collor de Mello and later improved by Law No. ° 9.491, of September 9, 1997, in the government of Fernando Henrique Cardoso. The current Law repealed the previous one and was called the second National Denationalization Program (I PND).

The Evaluation of the quality of the privatization process is a topic addressed and discussed. Still, it has been a critical factor in Brazil due to the new challenges imposed by legislation, market, and technological efforts. When well conducted, external Evaluation produces significant results, allowing privatized institutions to improve by comparing their performance with that of similar institutions. In addition, the Evaluation also informs the government of the importance of implementing several guidelines; it allows the public sector to direct its resources better and allows the preparation of studies, additive terms, and extracts from the planning of denationalization with quality.

In addition, the position of the Federal Court of Auditors (TCU) already pointed to the maintenance of and supervision as the central aspect of the review of the acts of the executive government, particularly in the improvement of the quality of the privatization process, to the extent that it could detect characteristics that would allow significant changes in the context of privatized companies or public concessions.

Finally, evidence suggested the following themes emerged after careful content analysis, such as (i) public service, (ii) oversight, (iii) quality in the provision of services, (vi) previous regulation, and (v) competition. Moreover, it was conducted through in-depth qualitative interviews with users of privatized services or public concessions, as described exhaustively in the next sections.

## **METHODS AND RESEARCH LIMITATIONS**

This article addressed the privatization of privatization and influenced the quality of the provision of public services in Brazil provided by privatized companies or concessionaires through qualitative research. Inductive logic and interpretive approach were applied to the study through a multi-method approach, combining (i) file research and (ii) in-depth qualitative interviews, while secondary data from the Federal Court of Auditors database and primary data were collected from N=20 users of the sector. The interviews are based on Goffman's dramatist theory (1959, 1961), in which the parties act in social interactions (e.g., interviews) as a drama. In addition, the raw data were transcribed, encoded, and analyzed, as described in the following paragraphs.

First, a sampling strategy was adopted because the quality of the answers is more relevant than their quantity for this research. In addition, some aspects and nuances of quality in the privatization process cannot be evaluated using a Likert scale or any other statistical approach. Therefore, this exploratory research comprises nuances and subjectivities of the entry of nationalized companies or public concessions to the private sector regarding the quality of the privatization process. Therefore, we decided to investigate through a qualitative inquiry why such privatized companies or public concessions have performed moderately in the quality of the privatization process in recent decades.

Secondly, a research protocol containing heating questions and a semi-structured questionnaire with three open questions were posed: (i) How do you see the privatization process in Brazil? (ii) What is your perception of privatized services? (iii) If you were called to recommend the privatization process related to privatized services. What would you recommend? The interviews were planned to last from 15 minutes to 50 minutes. In addition, all interviewees were assured: (v) the confidentiality of the disclosure of information for ethical purposes; (vi) the freedom to interrupt the interview at any time, without any justification; (vii) access to data transcription; (viii) formal acceptance of the quotation.

Third, N=20 interviewees were selected, experts in the sector, following the selection criteria: (i) all interviewees should be at least twenty-five years old; (ii) all interviewees must be Brazilian; (iii) all interviewees must be users of public services derived from privatized

companies or concessionaires. The N=20 interviewees, from now on referred to as I#1 to I#20 to protect their real identities, were invited face-to-face, followed by an email invitation, with a response rate of 100 percent. Finally, in the interviews, three interviewees were teachers, two accountants, two retirees, two public servants, one doctor, one computer systems analyst, an image consultant, a manager, one pharmaceutical, one investment analyst, and five lawyers, meeting all the established criteria. The rationale behind the requirements is to avoid elite bias (Myers, 2007) and present different and richer perspectives on the phenomenon under investigation.

Then, the data was collected through synchronous chats and recorded on video through the Zoom virtual chat platform®. The primary data were collected in Portuguese, the mother tongue of all interviewees, and later transcribed and translated into English. The interviews were conducted in quiet places, especially in domestic offices. Therefore, no significant noises or distracting eventualities were recorded, such as interruptions. In addition, the interviews lasted, on average, between 5 minutes and 50 minutes, as planned.

Then, the raw data were coded in waves, following Miles Huberman and Saldaña (2014) and Saldaña (2013). Then, (i) Structural, (ii) description, and (iii) in vivo encoding were applied to the raw data. The interviewees (E1 to E20) authorized direct citations, preserving their identities for compliance and ethics issues. Finally, the raw data were analyzed through content and cluster analysis, following Girbch (2012) and Miles Huberman and Saldaña (2014).

Moreover, this research is limited to the process of Brazilian privatization, which is associated with the entry of public companies and concessionaires to private initiatives. Therefore, the privatization process and public concessions in different countries are not part of this research and should be investigated in separate studies. Before discussing the influence of the entry of public companies and concessionaires to the private initiative in the capacity of the Brazilian privatized system, it is necessary to reveal how the process of supervision of the privatization process works. Thus, the following section addresses the review carried out by the Federal Court of Auditors, including (i) regulatory aspects, (ii) evaluation, and (iii) regulatory process.

This article is limited to the Brazilian privatization process instituted by Law 8.130/90. The discussions presented are limited to the dataset gathered from the qualitative inquiries. Lastly, other countries, processes and laws may send the wrong message and should be looked at in different studies.

## FINDINGS AND ANALYSIS

This section outlines the research findings. N=20 interviews were conducted, and interviewees were invited face-to-face with a 100 percent response rate. The interviews resulted in 10,842 words. Figure 1 shows the frequency distribution findings' from the dataset:

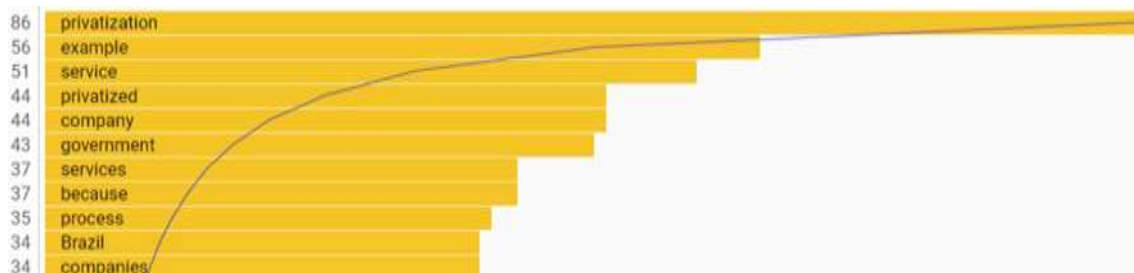


Figure 1 Frequency distribution. Source: dataset

Figure 1 shows the entry “privatization” as the leading frequency. Next, Figure 2 depicts the word cloud of the dataset:



Figure 2 Word Cloud. Source: dataset

The first question of the interview "How do you see the privatization process in Brazil?" took place in the highlight of the word privatization, as shown in Figure 3:



Figure 3 Word Cloud (Question one). Source: dataset

The second question of the interview "What is your perception of privatized services?" has as a face and the word example, according to figure 4:



Figure 4 Word Cloud (Question two). Source: dataset



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I see it lacks oversight. The State loses power a little and does not oversee it. Andle abandons and plays in the hand of the company and, from there, does not have a follow-up. (I#13)

So either you privatize 100% and let the goals be met, and then you monitor everything. (#1)

So if I were to consider some advice for someone who asked me about privatization, it is a lack of control that there is a lack of oversight. (I#13)

In addition, the need to create a regulatory agency is pointed out as evidence:

Terwas is going to have a regulatory agency to control these privatizations. Better oversight. Because the government cannot see, it cannot be supported to oversee. (I#14)

## **THEME TWO: QUALITY IN PRIVATIZATION**

The analysis of the evidence suggests that surveillance is a sensitive issue regarding Brazilian Privatizations, making it elusive that privatized services or public concessions must provide quality service.

It does not mean that the government can provide quality service in several areas. Therefore, there is a need for some specific services to be privatized. (I#11)

We would have to undergo several adaptations to arrive at a quality service. (I#13)

When we seek a privatization process, we will find, for example, the depletion of the state apparatus, reduction of bureaucracy to solve some problems of the company, and improvement of the quality of services provided most of the time. (I#15)

The privatization or privatization of government activity in you improves the service quality. (I#19)

And you see that if the services are quality made services. (I#3)

We realize that a privatized highway, for example, has much more quality in general, both in the State of the highway and in the service provided than in comparison with highways that have not been privatized yet. (I#8)

Quality. When I see a company involved that is taking care of that agency and managing some public service, I feel more confident, more supported, and more confident in the work being provided. (I#12)

On the other hand, the evidence is that the services are not of excellent quality and need improvement.

Services are not of excellent quality because for these services, acquiring quality needs many investments. (I#20)

Privatization must be reviewed in many respects because the quality of the services presented could be better. (#1)



We highlight the need to improve the work team to offer quality services:

That people are aware of the need to offer a good job, a good service, and an improvement and work team. (I#6)

Another piece of evidence is that services are privatized to have higher quality care at a reasonable price:

But today, when we talk about privatization, the population complains that care is not quality. Many things are privatized exactly to have a higher quality of care. (I#2)

Provide the consumer with a quality service and an acceptable price. (I#18)

### **THEME THREE: REGULATION**

The analysis of the evidence suggests that oversight is a sensitive issue regarding Brazilian Privatizations, which some sectors are overregulated undermining the privatized company's performance, as quoted:

I believe that privatized services are good, but some are still tied by regulatory issues, that although it makes the privatized company, in practice still acts on the short rein of the State, that is, that benefit that was commenting on the free market or at least private initiative as a target of the market. (I#4)

It's no use you privatizing a company and keeping it under the short reins of a regulatory agency that, in practice, creates bureaucratic demands even if privatized. (I#4)

However, other evidence highlights that the lack of regulation harms the private sector and recommends prior regulation in a privatization process.

It starts bad and then improves because regulation comes. (I#9)

It would be a survey or minimum guidelines for a privatization process. As if it were a prior regulation. The minimum regulation. (I#9)

In addition, another interviewee reinforces that regulatory agencies and the Federal Court of Auditors strengthen consumer protection of the services performed.

Privatized services that follow the standardization. Regulating its sector, that is, in the opinion, most of the companies that are privatized are audited by the Federal Court of Auditors (TCU) and audited by regulatory agencies, for example, The National Land Transport Agency (ANTT), the National Agency for Oil, Natural Gas and Biofuels (ANP), the National Telecommunications Agency (ANATEL). So these agencies ensure that the consumer has their right guaranteed. (I#18)

Finally, the evidence points out that the State has to be regulatory and not meddle in economic activity.

The State has to be a regulator. The State doesn't have to be in economic activity. It has to be regulatory. (I#3)

It's no use you privatizing a company and keeping it under the short reins of a regulatory agency that, in practice, creates bureaucratic demands even if privatized. (I#4)

#### **THEME FOUR: COMPETITION**

The analysis of the evidence suggests that oversight is a sensitive issue regarding Brazilian Privatizations, privatization process restricts free competition in the bidding procedure.

I believe that it is still not so effective: the market is very closed yet; even if the company is privatized, it does not yet have that free competition, and other companies do not enter the business to compete. (I#13)

The evidence highlights the importance of competition:

The State can only provide some services at a satisfactory level, and competition is mainly interesting for the consumer. (I#16)

Privatization and reducing bureaucracy have to go along with the competition. (I#4)

It is not point that competition entails discursion concerning prices, competitiveness, and low prices. (I#18)

It brings benefits, not privatization itself, but increased competition, competition, and discursion concerning prices. (I#18)

Privatization is the transfer of public service administration to private enterprise, and it must ensure free competition, competitiveness, and low prices. (I#18)

#### **THEME FIVE: PUBLIC SERVICE**

The analysis of the evidence suggests that oversight is a sensitive issue regarding Brazilian Privatizations, that there was an improvement in public service in privatizations and public concessions:

Public service has improved a lot. (I#14)

However, the evidence that highlights the precariousness in the service to the public carried out by privatized companies or public concessions:

The quality of service in the services provided by the concessionaires also leaves much to be desired. (#1)

Moreover, in comparison to public service by the government, there was rather an improvement, but I still see it as deficient. (I#16)

The evidence that privatizations and public concessions need to improve public service:

I recommend it would be served to the public because today, when we talk about privatization, the population often complains that the service is not of quality. Many things are privatized to have a higher quality of care. (I#2)

The care with the service to the public. Because there is no care with public care in public institutions. (I#12)

## CLUSTER ANALYSIS

We followed Miles, Huberman, and Saldaña (2014) in outlining clusters aiming at avoiding the elite bias (Myers, 2007). Two clusters best suited with the research objectives: (a) hierarchical level within the organization (High, Intermediary, and Low), as illustrated in Table 1, and (b) Public sector versus private sector, as displayed in Table 2. The themes that emerged after the coding process and careful content analysis were added to the following Tables 1 and 2:

Table 1 *Cluster Analysis (Level Management)*

Clusters		Outcomes				
Level	Interviewee	Oversight	Quality	Regulation	Competition	Public Service
H	I1, I3, I6, I8, I10, I15 and I18	So either you privatize 100% and let the goals be met, and then you monitor everything.	When we seek a privatization process, we will find, for example, the depletion of the state apparatus, reduction of bureaucracy to solve some problems of the company, and improvement of the quality of services provided most of the time.	The State has to be a regulator. The State doesn't have to be in economic activity. It has to be regulatory.	It is not point that competition entails discussion concerning prices, competitiveness, and low prices.	The quality of service in the services provided by the concessionaires also leaves much to be desired.
I	I2, I4, I5, I13, I17 and I19	So if I were to consider some advice for someone who asked me about privatization, it is a lack of control that there is a lack of oversight.	But today, when we talk about privatization, the population complains that care is not quality. Many things are privatized exactly to have a higher quality of care.	It's no use you privatizing a company and keeping it under the short reins of a regulatory agency that, in practice, creates bureaucratic demands even if privatized.	I believe that it is still not so effective: the market is very closed yet; even if the company is privatized, it does not yet have that free competition, and other companies do not enter the business to compete.	I recommend it would be served to the public because today, when we talk about privatization, the population often complains that the service is not of quality. Many things are privatized to have a higher quality of care.
L	I7, I9, I11, I12, I14, I16 and I20	Terwas is going to have a regulatory agency to control these privatizations. Better oversight. Because the government cannot see, it cannot be supported to oversee.	Services are not of excellent quality because for these services, acquiring quality needs many investments.	It would be a survey or minimum guidelines for a privatization process. As if it were a prior regulation. The minimum regulation.	The State can only provide some services at a satisfactory level, and competition is mainly interesting for the consumer.	The care with the service to the public. Because there is no care with public care in public institutions.

Legend: H= High Level Management I= Intermediary Level Management L= Low Level Management

Table 2 Cluster analysis

Cluster Analysis		Outcomes				
Role	Interviewee	Oversight	Quality	Regulation	Competition	Public Service
Public sector	12, 13, 17, 18, 19, 114, 119 and 120	The State can exercise oversight if it has a good structure. Moreover, it carries out good supervision of private activities.	But today, when we talk about privatization, the population complains that care is not quality. Many things are privatized exactly to have a higher quality of care.	It would be a survey or minimum guidelines for a privatization process. As if it were a prior regulation. The minimum regulation.	I believe that it is still not so effective: the market is very closed yet, even if the company is privatized, it does not yet have that free competition, and other companies do not enter the business to compete.	I recommend it would be served to the public because today, when we talk about privatization, the population often complains that the service is not of quality. Many things are privatized to have a higher quality of care.
Private sector	11, 14, 15, 16, 110, 111, 112, 113, 114, 116, 117 and 118	Terwas is going to have a regulatory agency to control these privatizations. Better oversight. Because the government cannot see, it cannot be supported to increase.	Privatization must be reviewed in many respects because the quality of the services presented could be better.	It's no use you privatizing a company and keeping it under the short reins of a regulatory agency that, in practice, creates bureaucratic demands even if privatized.	It brings benefits, not privatization itself, but increased competition, competition, and discretion concerning prices.	Moreover, in comparison to public service by the government, there was rather an improvement, but I still see it as deficient.

Two cluster analyses were performed. Therefore, the first analysis is at the management level to avoid elite bias. The second analysis was carried out by members of the public and private sectors in order to avoid researcher and elite bias (Myers, 2007). Cluster analysis by managing level is found in Table 1. However, cluster analysis by the public and private sectors is evidenced in Table 2.

Table 1 showed the evidence indicating the following themes: (i) supervision, (ii) quality, (iii) regulation, (iv) competition, and (v) customer service. Interestingly, other less critical themes, such as management, transparency, corruption, and reducing bureaucracy, were highlighted.

Finally, Table 2 showed the convergence of both clusters, except for the quality of services provided by the concessionaires.

## THE INSPECTION CARRIED OUT BY THE COURT OF ACCOUNTS OF THE UNION IN PRIVATIZATION PROCESSES OR PUBLIC CONCESSIONS

The Federal Court of Auditors (TCU) oversees the denationalization processes carried out by the Federal Public Administration, comprising the privatization of companies, public service concessions and permits, the hiring of Public-Private Partnerships (PPP) and the concessions of economic activities reserved or monopolized by the State.

Article 71 of the Federal Constitution of Brazil describes that "Art. 71. External control, under the responsibility of the National Congress, shall be exercised with the help of the Federal Court of Auditors, which is responsible for: IV - to carry out, on its own initiative, the Chamber of Deputies, the Federal Senate, the Technical Committee or inquiry, inspections and audits of an accounting, financial, budgetary, operational and patrimonial nature, in the administrative units of the Legislative Powers, Executive and Judiciary, and other entities referred to in item II; and II - to judge the accounts of the directors and other responsible for money, assets and

public values of direct and indirect administration, including foundations and companies established and maintained by the federal public authorities, and the accounts of those who give cause the loss, loss or other irregularity resulting in injury to the public waste;"

Thus, there is no doubt that the role of the TCU is the "inspections and audits of an accounting, financial, budgetary, operational and patrimonial nature" of the "administrative units of the Legislative, Executive and Judicial Branches."

The competence of the TCU is also established to assess the denationalization processes included in the following legislations (i) in the II National Denationalization Program (II PND), as provided for in Article 2, c/c Article 18, VIII of Law No. 9,491 of September 9, 1997, (ii) in the Investment Partnerships Program, as provided for in articles. 5th and 6th, IV of Law No. 13,334 of September 13, 2016, and as well as (iii) extensions and rebidding of investment partnership contracts, as provided for in article 11 of Law No. 13,448 of June 5, 2017.

In this step, the TCU currently carries out the supervision of the processes of denationalization by means of Normative Instruction (IN) No. 81, of June 20, 2018. For the purpose of planning control actions, the managing bodies of the denationalization processes must forward to the Federal Court of Auditors extract of the planned denationalization planning, which contains the description of the object, review of the value of the investments, its relevance, location and respective bidding schedule, at least one hundred and fifty days before the date foreseen for publication of the notice. (Art. 2, § 2, of IN No. 81/2018).

It is important to highlight that the inspection is provided for the signing of the privatization or concession contract, according to the diction of IN No. 81/2018. The inspection after the signing of the privatization contract, public concession or additive term is carried out by the TCU in case of complaints.

The supervision by the TCU is due in privatized companies due to Golden Share as described in Brazilian legislation, because "in companies subject to denationalization may be created preferential action of special class, exclusive property of the destative person, to which the bylaws may confer the powers that specify, including the power of veto to the deliberations of the general assembly in the matters that specify" (Art. 17, § 7 of the Corporations Law), as shown in Table 3, as follows:

Table 3 *Privatization Laws*

Law	Article	Description
8.031/90	8	Golden share to state-owned companies
9.491/97	8	Included Financial Institutions
10.303/01	17, paragraph 7	Included Corporations

## IMPLICATIONS AND DISCUSSION

This work was designed to address the privatization process begun in the 1990s. This article has implications in other fields of study, attracting the attention of scholars in recent years, such as: (i) privatization in Brazil (Silva and Dias, 2022; Dias et al., 2018; Dias, M., and Aylmer, 2018; Dias and Teles, 2022); (ii) financial transactions (Dias, M.; Pereira, L; Vieira, P., 2022); (iii) corporate entrepreneurship (Silva. G.B., Melo, R.C, Dias, M., 2022; Dias & Navarro, 2018; Dias & Duzert, 2016, 2017, 2018); (iv) civil projects (Dias et al., 2016); (v) governmental institutional relations (Dias, M. & Navarro, R., 2017), among others.

This article is designed primarily to obtain information on the privatizations and public concessions already carried out and how the next privatization process could lead to positive results for both the government and society.

The basic objectives were adjusted by the government of Fernando Henrique Cardoso through Federal Constitution 1988, and Federal Law No. 8,031 of April 12, 1990. The key objectives are:

- I - reorder the strategic position of the State in the economy, transferring to the private sector activities improperly exploited by the public sector;
- II - contribute to the economic restructuring of the public sector, especially through the improvement of the profile and the reduction of net public debt;
- III - allow the resumption of investments in companies and activities that may be transferred to the private sector;
- IV - contribute to the economic restructuring of the private sector, especially to the modernization of the country's infrastructure and industrial park, increasing its competitiveness and strengthening business capacity in various sectors of the economy, including through the granting of credit;
- V - to allow the Public Administration to focus its efforts on activities in which the presence of the State is fundamental to the achievement of national priorities;
- VI - to contribute to the strengthening of the capital market, through the increase in the supply of securities and the democratization of the ownership of the capital of companies that are part of the Program.

The TCU is the external control body of the federal government. It assists the National Congress in monitoring the budget and financial execution of the country and contributing to

the improvement of public administration for the benefit of society. For this, it aims to be a reference in promoting an effective, ethical, agile, and responsible Public Administration.

The Court is responsible for the accounting, financial, budgetary, operational, and patrimonial supervision of the organs and public entities of the country regarding legality, legitimacy, and economics. In addition to the TCU's constitutional and private powers established in the Federal Constitution of 1988, other specific laws bring in their text attributions conferred on the Court. These are the Fiscal Responsibility Law (Lei Complementary no. 101/2001), the Law of Bids and Contracts (Law no. 8. 666/93), and, annually, the Budget Guidelines Act.

The TCU supervises the denationalization process through the normative instruction (IN) n. 81, 20 June 2018. IN No. 81/2018 establishes the new model of supervision of the denationalization processes carried out by the Public Power and was elaborated to improve the dynamics of monitoring the denationalization, especially concerning the internal procedural rites and the selectivity of the TCU performance. Therefore, the standard applies to all denationalization procedures that have published notice from 1/1/2019 and to all contracts or additive terms for the extension or renewal of concessions or permits concluded after that date.

The standard also provides that the processes already processed or that may be actuated until 12/31/2018 will remain subject to the rites established in Normative Instruction No. 27 of 2 December 1998, Normative Instruction No. 46 of 25 August 2004, and Normative Instruction No. 52 of 4 July 2007, which were repealed.

The study in question concluded as a recommendation for implementing guidelines to guide the privatization process by the Brazilian government. We note the guidelines indicated: (i) public service, (ii) oversight, (iii) quality in the provision of services, (iv) necessary prior regulation, and (v) free competition.

Initially, we highlight the implementation of public service techniques by privatized companies. It is important to establish communication channels and call centers, such as: telephone, e-mail, chats, social networks, or even in person.

However, public service goes far beyond the support agents highlighted above. In this step, the training and qualification of the team to perform a service to the public with quality and professionalism stands out.

Another inherent aspect is that the service to the public is accompanied by solving the problem, ensuring a solution due and insightful to the final consumer in a timely and comfortable time.

Another point is the creation of supervisory rules of the contract for a fixed or indeterminate period to be supervised by a regulatory or responsible state agency. Taking into account the

non-contractual legal order in force. Any privatization process carried out by the federal public administration may be supervised by the Federal Court of Auditors (TCU), according to the guidance of the normative instruction n. 81, 20 June 2018.

Therefore, it reiterates the importance of the supervisory body being carried out by the executive branch and not by the legislature, as is the case of the TCU.

Structuring or restructuring regulatory agencies is important for a review that will give efficient and rapid results to public administration. It is emphasized that creating a centralized body that controls and oversees before or after the privatization contract or public concession will result in positive results for the State, such as tax collection and for the consumer in the quality of services.

The inspection guarantees the quality of the services or products available to society.

Already regarding the quality in the provision of service suggests the creation in the privatization contract of criteria of qualitative analysis of the service provision. The objective is to evaluate the privatization and the nuances that the company or public concession provides to resolve problems.

The service provided must meet the user's real need, and this service should be exactly what the user expects it to be. In addition, the maintenance of the quality of this service confers, over time, reliability to the institution.

Creating an ombudsman is essential for a democratic context. It is based on the construction of plural spaces open to the affirmation and negotiation of consumer demands, which are recognized as legitimate interlocutors and necessary in the national public scenario.

The Ombudsman should act as an agent that promotes change, favoring flexible management and ensuring quality public services.

The regulation must contain clear penalties in case of non-compliance with the privatization contract. However, opportunistically the privatized company or the concessionaire has a deadline to correct the existing adversities. However, the prior regulation becomes necessary to align the interests of the public administration in favor of the company that will require the privatized company to comply with minimum obligations for the benefit of the service population.

The regulations as mentioned above are established in advance in the privatization contract. Another form of regulation carried out by the agencies responsible for each economic follow-



up aims to secure that the institutions offer quality service. The strategy is to increase the number of services or products available to the community while maintaining quality.

Finally, we emphasize the importance of designing or fractionating the privatization project so that free competition, competitiveness, and low prices in the private market are respected. Free competition is a constitutional principle, provided for in Article 170, item IV of the Federal Constitution, which is based on fair competition, and not restricted or limited only to economic agents with greater market power. As a constitutional precept, the free competition must be constantly guarded because it is thanks to it that consumers can choose and enjoy the goods and services that best suit them, in addition to encouraging suppliers to keep the prices of their products or services at economically appropriate levels.

The duty is to comply with the requirements so that free competition is not infringed and consumers enjoy the various possibilities and options of offering goods and services at an economically reasonable price.

## **MANAGERIAL RECOMMENDATIONS**

It is recommended to amend the privatization law, i.e., Federal Law No. 9,491 of September 9, 1997, for the inclusion of guidelines involving the following concepts: (i) public service, (ii) oversight, (iii) quality in the provision of services, (iv) prior regulation and (v) free competition.

It is recommended to create a constitutional amendment to transfer the Federal Court of Auditors from the legislative power to the executive branch. It is recommended to set up a central body responsible for privatizations and public concessions carried out.

## **FUTURE RESEARCH**

We encourage research on the quality of privatization in different countries, with distinct regulations and processes. We also recommend a future revisitation of the themes to apply them in quantitative studies.

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