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Digital Platforms Regulation in Brazil: The Political Context of New Laws Adoption¹

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Abstract

Brazil is a major market and a member of both the Group of 20 (G20) and the BRICS group of states (in addition to Russia, India, China, South Africa, and others). It is particularly important to analyze Brazil's position on digital platforms and markets regulation in the context of its G20 presidency, during which, since the beginning of the year, it has been trying to agree on common solutions to regulate digital platforms, especially in the aspect of content moderation and the fight against fake news. The fight against misinformation and hate speech is one of the central themes of Brazil's 2024 G20 presidency programme, which aims to ensure the integrity of information in the digital environment. According to Brazilian officials, preventing the spread of misinformation requires action in four directions: guaranteeing regulation by holding digital platforms responsible for the dissemination of illegal and harmful content, implementing media education strategies, strengthening professional journalism, and expanding public policies aimed at disseminating correct information to the public.

The aim of this article is to identify Brazil's main priorities in digital platforms regulation. Project laws dedicated to the regulation of digital platforms are analyzed, as well as the political context of their submission and consideration, because they were proposed during and following the 2018 and 2022 electoral campaigns. Coordinating positions with Brazil on the regulation of digital platforms may help to better address the interests of developing countries, as well as markets where large technology companies play a significant role but are subject to the laws of other jurisdictions.

Key words: digital platforms regulation, Brazil, fake news law, content moderation

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Introduction

Digitalization is one of the major trends in Brazil's economic development. At the beginning of 2023, Brazil had 181.8 million internet users and an internet penetration rate of 84.3% of the total

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population. The growing role of global digital companies constitutes another important trend. There are 152.4 million social media users registered in the country (referring to the number of accounts, not unique users), representing 70.6% of the total population. Updated Google advertising data show that YouTube had 142.0 million users in Brazil at the beginning of 2023. According to the company's own data, YouTube's advertising reach in early 2023 was equivalent to 65.8% of Brazil's entire population at the beginning of the year. Figures published on ByteDance's advertising resources show that TikTok had 82.21 million users aged 18 and older in Brazil at the beginning of 2023. Google, Youtube, and Whatsapp are the most visited sites in the country, while the top also includes the resources of the main national news agency and the Globo TV and radio station [Kemp, 2023]. In 2021, Google's net income was \$76.03 billion in Brazil, an 89% increase from the 2020 figure [Ruy, 2022].

Researchers believe that the active development of Brazilian local digital platforms began around 2011 (by some estimates, 82% of all platforms were launched after 2011). In terms of size (coverage, profit, staff) they, of course, cannot compare with global technological leaders, but they play an important role in the country's economy, generate jobs, provide important services, and, in some cases, have become more effective in addressing the local market needs and have displaced foreign giants (for example, in the field of ready-to-eat food delivery from restaurants, Uber Eats could not compete with Brazilian IFood and left the market). Using his own methodology, S. Ribeiro concluded that there are at least 556 companies operating in Brazil that can be classified as digital platforms [Silva, Chiarini, Ribeiro, 2022].

In addition to being mostly new companies, Brazilian platforms are small in terms of number of employees. Almost 65% of them have between one and 10 employees, 22% have between 11 and 50, and 13% have more than 51. The profitability of such firms is also low. Among firms with one to 10 employees, 63% earn less than \$1 million per year, and among firms with 11 to 50 employees, 68% have revenues between \$1 million and \$10 million. About 26% of platform firms are in the commerce and shopping group and nearly 9% are in the community and lifestyle group. Platforms also operate in the internet services, administrative services, healthcare, education, and financial sectors [Silva, Chiarini, Ribeiro, 2022].

Thus, digital platforms, both global and local, are playing an increasing role in the country's economy, covering a significant part of the population with their services and employing more and more people. At the same time, their activities are still not directly regulated by the existing legislation. They are subject to the main antitrust laws and regulations adopted for Internet governance, but there has been virtually no explicit mention of platforms until now. Only the main Law on Internet Rights (Marco Civil da Internet) mentions platforms or, more precisely, operated with an equivalent term. However, in the last three years there have been increased attempts to

impose explicit regulation of platforms in general or social networks in particular, especially in matters related to content moderation. Brazil is a major market and a member of both the Group of 20 (G20) and the BRICS group of Brazil, Russia, India, China, South Africa, and others. Coordination of positions on the regulation of digital platforms can help to better address and promote the interests of developing countries, as well as markets where large tech companies play a significant role and are regulated by the laws of other jurisdictions. The analysis of Brazil's position is particularly important in the context of its G20 presidency, during which, since the beginning of the year, it has been trying to find a compromise on solutions for digital platforms regulation, especially for the content moderation aspect and the fight against false information. The aim of this article is to identify Brazil's main priorities in digital platforms regulation. To achieve this goal, it is important to understand the political context, as the country's main bills have been proposed after the 2018 and 2022 electoral campaigns.

Political Context

J. Bolsonaro's victory in the 2018 Brazilian presidential election was an important cause for the adoption of regulation aimed specifically at digital platforms. Opposition parties' representatives have consistently noted that a disinformation campaign played an important role in the candidate's victory. The importance of such a campaign was later confirmed by official bodies [Chicarino, Conceição, 2020] and by researchers [de Castro Azevedo, 2023; Dourado, 2020; Ruediger, 2018]. Also, for example, companies supporting Bolsonaro during the electoral campaign were accused of purchasing mass mail outs via messaging services, primarily WhatsApp, in which they portrayed the opposition Workers' Party in a negative light. The purchases amounted to R\$12 million [Cunha, Nunes, 2018]. Such behaviour during the second round of elections is considered a violation of presidential election campaign financing rules.

When preparations for new elections began, left-wing parties, especially the Brazilian Workers' Party, currently represented by President Lula da Silva ("Lula"), tried to consolidate efforts to introduce regulation on content disseminated on social media. In 2020, the so-called fake news bill was introduced [Chamber of Deputies of Brazil, 2020]. In addition to content moderation requirements and the imposition of moderation duties on platforms (which contradicts the provisions of the Internet Law), the first draft provided for localization of data and payments to journalists whose content allows platforms to attract users and earn from them through advertising. The law also potentially introduced strict rules on personal data transfer and processing, which were not in line with the adopted Law on Personal Data Protection (LGPD). In the end, this inconsistency with virtually all existing laws, a major change in the platforms' responsibilities, and stricter content moderation led to the bill being strongly criticized by civil society, the platforms

themselves, more moderate parties, and the Supreme Court, which declared it unconstitutional [Maia, 2022].

During the last electoral campaign, with Bolsonaro and Lula of the Workers' Party as the main contenders, the parties again accused each other of using social networks and platforms to spread misinformation. The Workers' Party and its representatives were particularly outraged about the spread of false information in the context of the elections. The so-called "bolsonaristas" posted about three times as many videos on YouTube as Lula supporters, leftists, and centrist and mainstream media, according to a study by the digital security group of the Igarapé Institute, a Brazilian think tank. The far right's YouTube channels also garnered more than a billion views between August and October 2022, with similar reach among Facebook and Instagram followers [Margolis, Muggah, 2023].

Brazil's third largest newspaper, O Estado de São Paulo, emphasized that an important target of the far right was the Supreme Court, whose staff, it said, had been subjected to a barrage of "threats, insinuations and abundant misinformation" [CNN Brazil, 2021].

All these actions helped ensure a very narrow victory for Lula in the second round, which he won by a margin of only two million votes [Superior Electoral Court of Brazil, 2022], the narrowest margin since the return of electoral democracy in Brazil in the late 1980s. On 8 January, Bolsonaro's supporters attempted to seize power and stormed the government in a scenario implemented by Trump supporters in the United States [Cruz, 2024]. A poll conducted shortly after the 8 January riots showed that nearly 40% of Brazilians still believed that Bolsonaro won the presidential election.

It is therefore not surprising that one of Lula's first actions as president was to declare war on disinformation: he created a special Cabinet for the Defence of Democracy within the National Prosecutor's Office to combat the spread of false information, primarily on the Internet through social networks [Richter, 2023]. This initiative provoked a furious reaction from right-wing parties, who accused the government of creating an Orwellian ministry of truth to promote censorship. But it is not just the far right that is unhappy about Lula's new office. Digital rights and freedom of speech advocates have expressed concerns about uncertainty on what constitutes "disinformation," who decides what opinions are inflammatory, and what powers the office will have.

In November 2022, a Workers' Party representative introduced a bill to regulate digital platforms in Brazil, the first law of its kind. In April 2023, the party announced that it was bringing the fake news bill back for consideration and hoped to pass it, this time through an expedited procedure. The bill was heavily amended, removing almost all controversial points, but retaining in full the requirements on content moderation, issues of information campaigns during elections,

and increased accountability of major platforms. In addition, during his election campaign, Lula stated that platform employment in its current form does not provide protection of workers' rights, so he would do his best to ensure social protection and appropriate regulation in this area [Pires, 2024]. Lula's leftist and anti-imperialist views and policies in general make him an opponent of the uncontrolled activities of large multinational companies, a supporter of workers' rights, and of overcoming injustice and bridging the gap between developed and developing countries. This shapes the main idea of the policy aimed at regulating platforms: greater responsibility of the largest tech companies, increasing their contribution to the national economy through taxes, and ensuring the rights of workers employed in the platform economy. The law is still in the process of discussion and harmonization.

Certainly, digital platforms regulation, even without Brazil's domestic political context, is an important trend in the development of norm setting related to digitalization. But the political motivation of the current government may lead to the adoption of stricter laws that emphasize content moderation over other important aspects of platforms' operations.

Current Digital Platforms Regulation

The Internet Rights Law (Marco Civil da Internet, 2014) establishes principles, guarantees, rights, and obligations for the use of the Internet in Brazil and provides guidelines for the actions of the union, states, the federal district, and municipalities in this regard.

According to the text of the law, Internet application providers must report, in accordance with established rules, information that allows them to verify their compliance with Brazilian legislation regarding the collection, storage, retention, and processing of data, as well as the respect of privacy and confidentiality of communications [President of Brazil, 2014].

Article 19 is the most controversial in the context of digital platforms regulation. It states: "In order to ensure freedom of expression and prevent censorship, an Internet application provider may be held civilly liable for damages caused by content created by third parties only if, after obtaining a specific court order, it fails to take any measures to make unavailable, within the scope of its services and within the period specified in the order, the content that has been declared illegal, unless otherwise provided by law." Accordingly, platforms in general are not obliged to moderate content put up by users and its liability is limited to enforcing the court order.

Brazil is the only country in Latin America that has adopted a comprehensive mediator liability regime, albeit only for the enforcement of court decisions [White & Case, 2022].

Those who think that this provision is inappropriate and insufficient (or even unconstitutional) often argue that it conflicts with consumer law liability rules; that it undermines the constitutional guarantee of civil redress for moral damages; and that, as a matter of public policy, it would not incentivize platforms to increase content moderation and remove problematic

postings. They argue that, if such a sparing regime did not exist, platforms would work harder to restrict content that harms fundamental rights, such as misinformation and hate speech [Favaretto, Guimarães, 2022].

Proponents of retaining Article 19 in its current form note that the peculiarities of content production and distribution on the Internet justify the existence of a civil liability regime, distinct from the consumer law regime, for app providers; that there is no real threat of violating the constitutional guarantee of civil redress (since liability is still possible, just under certain conditions); and, mainly, that Article 19's liability model favours the constitutional guarantee of free speech because it prevents the strengthening of private censorship by Internet service providers. [Maciel, 2023].

The issue of Article 19's constitutionality became more actively discussed after Lula came to power. At the end of March 2023, a public hearing was held, which was attended by representatives of both large technology companies and the authorities. João Brant, secretary for digital policy at the Secretariat for Social Communications (Secom), asserted that Article 19 should be revised as a way to make social networks more accountable for content harmful to democracy and the human rights of children and adolescents. Brant participated in a public hearing on the issue before the Supreme Federal Court and suggested that the current model authorizes the inaction of digital platforms. The secretary said it is not a matter of defending a U-turn in Brazilian law, but of finding a model that allows platforms to become more responsible for the content they put in the hands of the Brazilian public. "Establishing full strict liability for platforms could have problematic and equally negative consequences. We cannot consider all third-party content to be subject to moderation because this would hurt freedom of expression and access to information for Brazilian citizens," he explained [Government of Brazil, 2023].

At the same hearing, Attorney General Jorge Messias defended the need to impose stricter accountability and require proactivity from digital platforms based on clear parameters—such as explicit criminal practices—to prevent the emergence of online crime.

Thus, there is an ongoing debate in Brazil about amending the main law governing Internet activities in the country. Any amendment bills will go through the full legislative process through both houses of Parliament and there is no guarantee that the Workers' Party will be able to pass amendments.

Draft Law on Digital Platforms Regulation

Main features of the proposed regulation

In November 2022, Bill No 2.768 was introduced by a representative of the Brazilian Workers' Party to regulate, supervise, and sanction digital platforms that offer services to the Brazilian public. In terms of justifying the need for the law, the authors referred to the European Union's

(EU) experience, with the caveat that the proposed bill is much more lenient than the EU's Digital Markets Act (DMA): "We believe it is appropriate to introduce regulation along the lines of the European Commission, but in a much less detailed form. This is because we are dealing with extremely topical issues that require a regulatory response much faster than is possible with competition policy alone, but new enough to show that we should not impose an ex-ante straitjacket on economic agents with a series of absolute prohibitions" [Chamber of Deputies of Brazil, 2022]. The main purpose of the bill is to introduce regulation aimed at mitigating the effects of significant digital markets access control by some particularly large platforms (gatekeepers).

The bill includes, among other things, discipline and oversight of digital platforms with significant access control powers.

New competences of Anatel, the regulatory body

According to the text of the bill, the National Telecommunications Agency (Anatel) will be given new competences and will have to be responsible for:

- drafting regulations regarding the operation of digital platforms, conducting inspections, and applying sanctions;
- discussing the interpretation of legislation applicable to digital platforms;
- administratively reviewing conflicts of interest involving digital platform operators or professional users;
- suppressing violations of users' rights; and
- exercising legal powers to control, prevent, and suppress violations of economic order, except in cases and areas that fall within the competence of the Administrative Council for Economic Security (CADE).

Principles and objectives of regulation

Digital platforms regulation, in particular those with substantial powers to control access, will be subject to the following principles: freedom of initiative, freedom of competition, protection of consumer rights, reduction of regional and social inequalities, curbing the abuse of economic power, and enhancing public participation in the discussion and conduct of matters of public interest.

The regulation will pursue the following objectives:

- economic development with broad and fair competition among operators, as well as among other economic agents affected by their activities;
- access to information, knowledge, and culture;
- innovation and mass adoption of new technologies and access models;
- incentivized interoperability through open technology standards that enable communication between applications; and

- incentivized and defined mechanisms for data portability.

Definition of gatekeepers and their responsibilities

Digital platform operators will be considered gatekeepers if they generate annual operating revenues equal to or greater than R\$70 million from offering services to the Brazilian public, in accordance with the provisions of the National Telecommunications Agency regulation. The base value established in the header of this article will be updated annually in accordance with the general price index of the previous year.

The following obligations are imposed on platforms with substantial access authority:

- ensuring transparency and providing information to the National Telecommunications Agency about their services;
- maintaining an isonomic and non-discriminatory attitude when offering services to professional users and end users;
- ensuring appropriate use of the data collected in the performance of its activities; and
- prohibiting the unjustified refusal to provide professional users with access to the digital platform.

The National Telecommunications Agency, in carrying out its regulatory and supervisory activities, may impose accounting and functional unbundling obligations on the company if excessive economic concentration is detected, as well as measures to mitigate any abuse of economic power, including those related to data portability and interoperability.

Actions involving digital platforms that seek any form of economic concentration, including mergers or acquisitions of companies, the creation of a company to exercise control over companies, or any form of corporate consolidation to increase market share, are subject to the controls, procedures, and conditions provided for in the general rules for the protection of economic order.

Taxation of gatekeepers: the Digital Platform Tax Revenue Fund (FisDigi)

The draft law implies the creation of a special fund from which, among other things, actions to regulate platforms will be financed.

The fund is formed from the following sources:

- collection of taxes from digital platforms;
- appropriations provided for in the federal budget, special loans, transfers, and favours granted to it;
- revenues from loan transactions it enters into in Brazil and abroad, and revenues from financial transactions it carries out;
- fines imposed, donations, bequests, subventions, and other resources allocated to it; and
- incidental income.

The Digital Platforms Tax is a levy paid annually by operators of digital platforms offering services to the Brazilian public, who are considered gatekeepers. The Digital Platforms Surveillance Tax will be paid annually before 31 March, and its amount will correspond to 2% of the gross operating income generated by the operators of digital platforms offering services to the Brazilian public and having substantial powers to control access. Failure to pay the tax within the time limit set forth in this article shall constitute a default by the non-payer, which shall result in the sanction of an interest payment of 1% of the amount owed for each month of delay.

Punishment for violation

Violation of the rules provided for in the bill shall result in the following penalties, applied separately or cumulatively, as the case may be:

- a warning with a time limit for corrective measures;
- a fine of up to 2% of the turnover of the economic group in Brazil in the last fiscal year, excluding taxes, taking into account the economic situation of the violator and the principle of proportionality between the seriousness of the offense and the severity of the sanctions;
- temporary suspension of activities; and
- prohibition to carry out the activity.

In the case of a foreign company, a subsidiary, branch, office, or establishment located in Brazil shall be jointly and severally liable for the payment of the fine. The fine may be applied to income for the entire period in which the offense was committed and is limited to 1% of that amount.

The draft law submitted by the Workers Party is very general and offers three main innovations. First, it introduces the concept of digital platforms as a category of regulation in the national legislation. All previous legal acts operate with other notions, mainly, online application operator. Second, it introduces the concept of a platform with substantial powers to control access to digital markets and services. In fact, the draft law is aimed only at large platforms and does not regulate small ones in any way. Third, it introduces a 2% tax for large platforms with substantial powers to provide access to services.

The bill also contains a number of obligations imposed on gatekeepers, but these hardly differ from the obligations of any companies providing services on the Internet found in other Brazilian laws, most notably Marco Civil and the LGPD.

If the bill is passed in its current form, the primary responsibility for developing the immediate rules will fall to Anatel. That is, clearer requirements and criteria will be developed after and in the form of recommendations from the agency rather than draft laws. In some public speeches and interviews, representatives of the Workers' Party and the executive branch have

talked about the possible creation of a special body to oversee digital platforms, primarily social media, but no concrete proposals have been made yet.

The presented version of the regulatory act does not introduce additional measures in the field of antitrust regulation and competition protection, does not draw a clear line between the competencies of Anatel and CADE, and simply refers to the existing legislation.

In general, the draft represents an attempt to at least start regulating digital platforms by introducing them as a separate category in national legislation. But the criteria and requirements are not clear, and at this stage it is unclear how problematic the implementation of the law by companies will be if it is introduced. So far, only the payment of tax by large platforms seems obvious. It is also important that the law does not affect small platforms at all, of which there is an absolute majority and of which many are of Brazilian origin. That is, local digital companies will not fall under the regulation, which could be seen as a discriminatory practice.

Internet Freedom, Responsibility, and Transparency Bill

Objective of the bill

Brazil has another draft law aimed at digital platforms regulation, but it is limited to social media and mainly focuses on content moderation. The first version of the so-called fake news law, introduced in 2020, covered many more aspects of social media regulation but, after being rejected and found unconstitutional by the Supreme Court, it underwent many changes, retaining mainly the content moderation component by platforms.

According to the text of the draft, the act would establish standards, guidelines, and transparency mechanisms for social networks and private messaging providers to ensure safety and broad freedom of speech, communication, and expression. The act does not apply to social networks and private messaging providers with fewer than two million registered users, for whom the provisions of the act will serve as a benchmark for a best practice.

According to the text, the law has the following objectives:

- strengthening the democratic process by combating unfair behaviour and artificial content distribution networks and promoting access to diverse information on the Internet in Brazil;
- protecting freedom of expression and preventing censorship in the online environment;
- seeking greater transparency in the practice of moderation of content posted by third parties on social networks, with guarantees of sufficient protection; and
- implementing mechanisms and tools to inform users about the promotional and advertising nature of content.

Responsibilities of social networks and private messaging providers

Providers of social networks and personal messaging services, within the scope and technical limitations of their services, should take the following measures:

- prohibit the operation of unauthorized accounts;
- prohibit automated accounts that are not identified as such (fighting bots); and
- clearly label all promoted and advertised content that has been distributed by the social network provider as a result of payment for such service by advertising agents.

Providers of social networks and personal messaging services should develop ongoing procedures to improve their technical capabilities to fulfil obligations. They should also structure policies for the use of their services in a manner that ensures:

- limiting the number of forwardings of the same message to users or groups and capping the maximum number of participants in a group;
- implementing mechanisms to verify a user's prior consent to be included in message groups, transfer lists, or equivalent mechanisms for forwarding messages to multiple recipients; and
- disabling default authorization for inclusion in groups and distribution lists or equivalent mechanisms for forwarding messages to multiple recipients.

Increasing transparency through reporting

Social media providers must provide quarterly transparency reports on their activities, posted on their websites, in Portuguese, to inform about the procedures and decisions regarding the treatment of content created by third parties in Brazil, as well as the measures taken to comply with the law.

Political and electoral content regulation

Social media providers that participate in promotion of election campaigning or content that mentions a candidate, coalition, or party must make the entire set of advertisements publicly available for the purposes of election court scrutiny and other purposes, including:

- the total amount spent by the candidate, party, or coalition on online advertising by promoting content on the relevant application provider;
- identification of the advertiser through the registration number in the National Register of Legal Entities or in the Taxpayer Register of the person responsible for the contract; and
- broadcasting time.

Sanctions for violation

Providers of social networking and personal messaging services are subject to the following penalties for violations of the law:

- a warning with a deadline for remedial measures; or
- a fine of up to 10% of the income of the economic group in Brazil for the last fiscal year.

In applying the sanction, the judicial authority will observe proportionality, taking into account the economic situation of the offender, the consequences of the offense in the collective

sphere, and recidivism. For the purposes of this law, any person who repeats the previously sanctioned conduct within six months will be considered a recidivist.

The Law on Freedom, Responsibility, and Transparency on the Internet was originally introduced as a reaction to the 2018 presidential election campaign in the country, when it became clear that Bolsonaro's supporters were able to use social media not only to unite and create networks of interaction but also to effectively promote content with large reach. Not all the information they disseminated was accurate. Planning for the 2022 electoral campaign, the Workers' Party, whose candidate, Lula da Silva, became eligible after a Supreme Court ruling, put forward a sweeping bill to regulate social media and messengers in the country as much as possible. The first draft of 2020 covered the management of personal data (although a special law had already been adopted in the country and was about to enter into force), proposed the requirement of landing companies and mandatory data storage in Brazil, and tried to introduce remuneration to the authors of content in social networks, because it is the authors who bring the audience, with the help of which the company then makes a profit.

The current version of the draft law is much narrower and more specialized and concerns only moderation issues. The media's so-called "fake news law" does not contain a definition of what false information is in principle. Its main innovation is enhanced reporting by companies, which must report in as much detail as possible all activities related to the regulation of content from third parties. It was also important for the Workers' Party to retain the provisions on political campaigning and information in general in the text of the law. In its current form, the law is much less demanding than it was originally, but it does impose additional reporting obligations on companies. The question of what information can be labelled as false and what content should be removed automatically, without court proceedings, remains open, apparently in the hope of passing the bill in Parliament without new accusations of censorship. The newly created office in the prosecutor general's office will subsequently make some decisions regarding the banning of content.

It is important to note that small platforms are not covered by the law but should use its provisions as a guideline and best practice. One can imagine a situation in which, once the law is passed, Bolsonaro's supporters or any other activists or citizens will simply create small messenger apps to distribute their content. The law would then be largely redundant, as reporting obligations, albeit not as detailed in the area of content moderation, are already contained in the existing Marco Civil and LGPDs.

Conclusions: Cooperation With Brazil Within BRICS, G20 and Other Institutions on the Digital Platforms Regulation

The introduction of digital platforms regulation is clearly part of the policy priorities of Brazil's new president, Lula da Silva. While still in opposition, his party introduced a bill in parliament that would impose additional control over social networks and messengers and, after the end of the electoral race and Lula's victory, a bill to regulate digital platforms was introduced in the late fall of 2022.

In a letter to the United Nations Educational, Scientific and Cultural Organization (UNESCO), President da Silva called for digital platforms regulation to address the spread of lies and misinformation in the virtual environment. Lula also stated that it is necessary to fight the concentration of the digital market by democratizing the Internet and promoting the autonomy of developing countries in this area. President Lula emphasized the need to reduce the digital divide and promote the autonomy of developing countries. According to the president, the benefits derived from the development of the Internet and digital platforms are disproportionately distributed among people of different income levels, increasing social inequality [Verdélío, 2023].

Lula said developing countries must be able to exercise sovereignty in the modern data economy as agents, not just as data exporters or passive consumers of content. The Brazilian representatives suggested discussing the business model prevalent among digital platforms, "which ends up incentivizing the proliferation of harmful content because it generates more engagement and therefore more profit for companies." It is therefore important to seek to reduce the power of large global digital companies, thus creating a scenario of greater competition.

Fighting misinformation and hate speech is one of the central themes of Brazil's 2024 G20 presidency programme to ensure the integrity of information in the digital environment [G20, 2024]. According to Brazilian officials, preventing the spread of misinformation requires action on four fronts: guaranteeing regulation by holding digital platforms accountable for distributing illegal and harmful content, implementing media education strategies, strengthening professional journalism, and expanding public policies aimed at disseminating correct information to the public [Chade, 2024].

In their speeches, legislative and executive officials often refer to the EU experience and its laws on digital markets and services as positive. However, the relatively short time of implementation, unclear enforcement practices, and growing criticism have encouraged Brazil to take a wait-and-see approach. The authors of the draft law on regulation of digital platforms themselves note that they are not yet ready to introduce full-fledged, ex-ante regulation along the lines of the EU, but they see the need to introduce the concept of digital platforms into regulatory

practice and legislation. Therefore, the draft law represents a loose framework, with the possibility to make amendments in the future or to transfer the main rulemaking to Anatel.

In general, Lula's government and his Workers' Party will seek to tighten regulation of digital platforms in all areas but the presence of other parties in parliament, the obvious divisions in society, and the lack of overwhelming support will prevent the ruling party's version of legislation from being passed. Through a process of debate, compromise, and voting, legislation will be shaped to suit the majority of the public and interest groups, which may lead to its softening. Laws also might be stalled in the case of insurmountable disagreements. However, lenient regulation that rather outlines a framework for digital platforms and in some ways increases their accountability may suit almost everyone.

This approach of the current government, as well as the attitude toward platforms in Brazilian society in general, coincides with the position of many countries that are trying to create a framework to control the actions of global digital companies. These countries and actors include the EU, Russia, and other BRICS partners who strongly disagree with each other on a host of other issues. Countries may have different situations in their domestic digital markets and in the specificities of their own platforms. However, the positions and interests regarding the activities of the largest platforms, most of which are based in the U.S. and China, are very similar. This could be the basis for building international cooperation on digital platforms regulation. Harmonizing approaches within the BRICS to further advance the G20 and adopting principles for the governance of digital platforms would create a more understandable environment for digital companies, marking the boundaries and expectations of the world's largest economies. Brazil's proactive stance within other institutions on platform regulation (the World Trade Organization (WTO), the United Nations Conference on Trade and Development (UNCTAD), and UNESCO) and advocacy of the right of jurisdictions to regulate large multinational companies up to the landing requirement is beneficial to Russia, as the countries hold similar views.

The use of "qualitative assessments of the level of risk in context" proposed by the EU for the methodology of evaluating the effectiveness of platforms' measures against disinformation creates preconditions for the influence of ideological and political considerations on the process and outcome of the evaluation of content and moderation measures and the corresponding impact on the behaviour of platforms, which may prefer strict moderation or blocking of Russian users' accounts rather than fines for violating the commission's recommendations on the requirements of the Digital Services Act (DSA). It is important for BRICS countries to oppose the ideologization of platform regulation criteria.

BRICS has particularly well-developed cooperation in the field of antitrust and competition policy. Representatives of responsible agencies, law firms, and the academic community are in constant interaction. The Brazilian CADE is regularly recognized internationally for its effective antitrust practices. In Brazil, the BRICS Working Group on Competition Research in Digital Markets met in 2018 and 2023. The main objectives of the working group are to share experiences among BRICS regulators in combating anticompetitive practices in the digital economy, to review and discuss cases involving new types of competition in the digital economy, and to review mergers and acquisitions in the digital age [BRICS Competition, 2023]. CADE, with the participation of United Nations Development Programme (UNDP) staff, presented an analysis of antitrust practices in digital markets in the original five BRICS countries at the 2023 meeting. It summarizes practices and draws attention to potential areas of coordination among BRICS countries: platform parity agreements and exclusive dealing agreements present a common challenge; self-referential and differential treatment raise similar concerns in digital markets that are heightened by the emergence of companies controlling multi-product ecosystems; and various theories of harm, usually related to portfolio effects or the acquisition of start-ups and potential competitors. Finally, BRICS countries need to do more work to better understand the importance of different types of efficiencies in digital markets and ecosystems, including innovation and sustainability. Antitrust cooperation can be mutually beneficial for BRICS members [Zingales, 2023].

Continuous exchange of experience and best practices, and the study of Brazilian law enforcement practices could be useful for Russia. Regulatory cooperation could also provide more favourable conditions for Russian platforms, such as Yandex or VK, to enter the Brazilian market. Brazilian universities, especially the School of Law of the Fundação G. Vargas University (FGV), have considerable competence in the regulation of digital markets, especially the antitrust aspect. Cooperation between Russian and Brazilian universities and BRICS in general would help to build up competencies in this area and train personnel for the development of complex multidimensional legislation in the future.

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